

APPEAL No. 78 OF 2009 – FINAL ORDERS

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**APPEAL No. 78 OF 2009
I. A. NO. 172 OF 2009**

Dated: 20th May, 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. A.A. Khan, Technical Member**

**Tamil Nadu Electricity Board ... Appellant(s)
Versus .. Respondent(s)
Neyveli Lignite Corporation Ltd. & Anr.**

Counsel for the Appellant(s) : Mr. P.H. Parekh, Sr. Adv., Mr. Sameer Parekh
Mr. E.R. Kumar, Mr. Subhanshu Padhi,
Mr. Akshat Jain, Mr. Ashish Vaid

Counsel for the Respondent (s): Mr. R. Chandrachud
Mr. R. Suresh, GM (Com.), NLC

ORDER

Heard the learned counsel for the parties. Several issues have been raised by Mr. P.H. Parekh, learned senior counsel assailing the order impugned. One of the points raised by Mr. Parekh is that one of the Commission Members was a party to the proceedings which culminated into the order passed by the Commission earlier on 19.10.2005 and 14.09.2006.

As fairly conceded by Mr. Parekh, this point regarding the bias has never been raised before the Commission. However, on seeing some documents, it is clear that one of the Members of the Commission has had correspondence with the

Appellant through letters. Therefore, it would be appropriate to remand the matter to the Commission to give opportunity to the Appellant to argue the point regarding bias and the Commission can consider the same and decide about the matter in accordance with law.

With regard to the other issues, we are not inclined to give any opinion especially when it is admitted that in respect of the two orders earlier passed on 19.10.2005 and 14.09.2006, the review applications have been filed by the Appellant before the Commission on the basis of some fresh documents. We make it clear, we are not expressing any opinion over the documents referred to above.

Accordingly, the impugned order is set aside and the matter is remanded to the Commission for considering the matter on the aspect above indicated.

No costs.

(A.A. Khan)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson