

**COURT-II**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
**(Appellate Jurisdiction)**

**ORDER IN APPEAL NO. 76 OF 2018**  
**ON THE FILE OF THE APPELLATE TRIBUNAL**  
**FOR ELECTRICITY, NEW DELHI**

**Dated:**     **31<sup>st</sup> August, 2018**

**Present:**   **Hon'ble Mr. Justice N.K. Patil, Judicial Member**  
              **Hon'ble Mr. S.D. Dubey, Technical Member**

**IN THE MATTER OF:**

**Open Access Users Association**

Second floor, Sector-21 Dwarka,  
New Delhi – 482008

.....Appellant

**Vs.**

- 1. Punjab State Power Corporation Ltd.,**  
Through its Chairman-cum-Managing Director,  
The Mall, Patiala,  
Punjab-147 001.
- 2. Punjab State Transmission Corporation Ltd.,**  
Through its Chairman-cum-Managing Director,  
The Mall, Patiala – 147001.
- 3. Punjab Energy Development Agency**  
**Through its CEO,**  
Solar Passive Complex,  
Plot No.1&2,  
Sector 33-D,  
Chandigarh-1600 020.
- 4. Government of Punjab,**  
Through its CEO,  
Solar Passive Complex,  
Plot No. 1 & 2,  
Sector 33-D,  
Chandigarh – 160017.
- 5. Punjab State Electricity Regulatory Commission,**  
Through its Registrar,  
SCO No. 220-221.  
Sector 34-A,  
Chandigarh-160022.

Counsel for the Appellant (s) : Mr. Abhishek Chakraborty for  
Mr. Sanjeet Trivedi

Counsel for the Respondent(s) : Ms. Neha Garg  
for Mr. Anand K. Ganesan for R-1

## **ORDER**

**The Appellant has sought the following reliefs in Appeal No. 76 of 2018:**

- (a) To set aside the impugned order dated 20.07.2017 passed in Petition No. 67 of 2016, by the Hon'ble Punjab Electricity Regulatory Commission; and
- (b) Exemption for captive solar projects from Regulation 28(3) of Punjab State Electricity Regulatory Commission (Terms and Conditions for Intra State Open access) (5<sup>th</sup> Amendment) Regulations 2015;
- (c) Extending facility of banking of power and exemption from scheduling for energy settlement for captive solar energy power plants located in the State of Punjab and supplying power to captive consumers being embedded PSPCL Consumers through intra State Open Access; and
- (b) Pass such other and further orders as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

**The Appellant has presented in this Appeal for consideration the following Questions of Law:**

- (a) Whether the impugned order is a non reasoned one, inasmuch as the Hon'ble State Electricity Commission has failed to assign any reason for denial of the reliefs prayed for by the Petitioner, more specifically the prayer seeking exemption for Captive Solar Projects from operation of Regulation 28(3) of the PSERC (Terms & Conditions for Intra State Open Access) (5<sup>th</sup> Amendment) Regulations 2015?
- (b) Whether the Hon'ble State Commission has failed to appreciate that e Regulation 28(3) runs contrary to the provisions of the Electricity Act 2003 more specifically Section 9, 86. 61 of the said Act as well as Regulation 3 of the PSERC (Harnessing of captive Power Generation) Regulations 2009 and defeats the mandate of the said provisions?
- (c) Whether the Hon'ble State Electricity Commission has erred in disallowing the prayer of the Appellant/Petitioner for grant of banking facility to the Captive Solar Energy Power located in the State of Punjab, on the ground that the provision of banking facility for the power generated by Captive Solar Power plants, already exists in the Punjab State Electricity Regulatory Commission (Harnessing of Captive Power Generation), Regulations, 2009 whereas Respondent PSPCL has not issued any instruction to implement the scheme till date and in absence to the mechanism / operational framework for implementation of the policy for banking, the provisions relied upon by the Commission are effectively non operational and non-existent?

- (d) Whether Respondent PSPCL has not only failed to discharge its duties but has also taken advantage of its own wrong insofar as it has misrepresented before the State Commission that provisions of banking is already there and there is no need for any further provision in this regard?
- (e) Whether the Hon'ble State Commission has failed to appreciate that the "Model Regulations on Forecasting, Scheduling and Deviation Settlement of Wind and Solar Generating Stations at the State level" issued by Forum of Regulators in 2015 have not been put into effect by the PSERC as yet and the prayer of the Appellant / Petitioner has been for grant of exemption from scheduling to Solar generators until regulation catering to banking and energy settlement is in place by treating them at par with Winsome Yarns in the interregnum?

## **ORDER**

**PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER**

We have heard the learned counsel, Mr. Abhishek Chakraborty on behalf of Mr. Sanjeet Trivedi, appearing for the Appellant.

The learned counsel appearing for the Appellant submitted that, relief sought does not survive for consideration. Therefore, he submitted that the instant appeal filed by the Appellant may be disposed of having become infructuous.

Submission made by the learned counsel appearing for the Appellant, as stated above, is placed on record.

In the light of the submissions made by the learned counsel appearing for the Appellant, as stated above, the instant Appeal, being Appeal No. 76 of 2018, filed by the Appellant is dismissed, as having become infructuous.

With these observations, the Appeal filed by the Appellant stands disposed of.

**(S.D. Dubey)**  
**Technical Member**  
Bn/pr

**(Justice N.K. Patil)**  
**Judicial Member**