

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

ORDER IN DFR NO. 529 OF 2019
ON THE FILE OF THE APPELLATE TRIBUNAL FOR ELECTRICITY,
NEW DELHI

Dated: 8th March, 2019

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

Maharashtra State Electricity Distribution Company Ltd.

Through its Chief Engineer

5th floor, Prakashagadh, Plot No. G-9

Anant Kanekar Marg, Bandra (East)

Mumbai – 700051

..... Appellant(s)

VERSUS

1. Central Electricity Regulatory Commission

Through its Secretary

3rd & 4th Floor, Chanderlok Building

36, Janpath,

New Delhi-110001

2. GMR Warora Energy Ltd.

(formerly EMCO energy Ltd.)

Through its Managing Director

701/704, 7th floor, Naman Centre

A-Wing, Bandra-Kurla Complex, Bandra

Mumbai-400051

3. Electricity Department

Union Territory of Dadra and Nagar Haveli

Through its Secretary

Vidyut Bhawan, Opp. Secretariat

Silvassa-396230, Dadra & Nagar Haveli

..... Respondent(s)

Counsel for the Appellant (s)

:

Mr. Sankalp Singh

Mr. Anup Jain

The Appellant has presented the instant Appeal seeking the following reliefs:

- (a) Allow the present appeal and set aside the impugned interim order dated 26.11.2018 passed by the Ld. CERC in IA No. 77/2018 in Petition No. 284/MP/2018; and/or;
- (b) Award cost of this Appeal against Respondent No.2 and in favour of the Appellant herein and/or;
- (c) Pass such other Order (s) as this Hon'ble Tribunal may deem just and proper.

ORDER

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

1. Maharashtra State Electricity Distribution Company Ltd., Mumbai (in short, the "Appellant") is questioning the legality and validity of the impugned Interim Order dated 26.11.2018 passed by the Central Electricity Regulatory Commission, New Delhi (in short, "first Respondent/Central Commission") in IA No. 77/2018 in Petition No. 284/MP/2018, has filed the instant appeal, being DFR No. 529 of 2019, under Section 111 of the Electricity Act, 2003 for considering the following questions of law:

- A. Whether the Ld. CERC while considering the interim relief sought by the Respondent No. 2 herein qua the direction for payment towards the compensation amount, ought to have given due regards to the law as well as the prevalent practice so adopted in the similar circumstances as an interim arrangement by the Hon'ble Supreme Court in Civil Appeal No. 10188/2018 in the

case of “Jaipur Vidyut Vitran Nigam Ltd. & Ors. Vs. Adani Power Rajasthan Ltd. & Anr.”?

- B. Whether the impugned interim order fails the test of balance of convenience and of parity, when compared with a treatment and the liberty so accorded in the similar circumstances to the other procurers?
- C. Whether the grant of 75% of the entire compensation at the threshold, without even going into the merits of such claim, on the face of it, is harsh and gives an undue advantage to the Respondent No. 2 herein when compared with the burden of its implication on the ultimate consumers?

2. We have heard the learned counsel, Mr. Sankalp Singh, appearing for the Appellant.

3. During the course of his submissions, the counsel for the Appellant, at the outset, submitted that, the instant appeal, being DFR No. 529 of 2019, filed by the Appellant may be disposed of reserving liberty to the Appellant to file necessary application before the first Respondent/Central Commission to modify the impugned Interim Order dated 26.11.2018 in IA No. 77/2018 in Petition No. 284/MP/2018 passed by the first Respondent/Central Commission.

4. Submissions of the learned counsel for the Appellant, as stated supra, are placed on record.

5. In the light of the submissions of the learned counsel for the Appellant, as stated supra, the instant appeal, being DFR No. 529 of 2019, on the file of the Appellate Tribunal for Electricity, New Delhi, stands disposed of reserving liberty to the Appellant to file necessary application, if they so advised or need arises, before the first Respondent/Central Commission to modify the impugned Interim Order dated 26.11.2018 passed by the first Respondent/Central Commission in IA No. 77/2018 in Petition No. 284/MP/2018.

6. All the contentions of the Appellant are left open.

7. With these observations, the instant appeal, being DFR No. 529 of 2019, filed by the Appellant on the file of the Appellate Tribunal for Electricity, New Delhi, stands disposed of.

IA NO. 190 of 2019

In view of the Appeal, being DFR No. 529 of 2019, on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, IA No. 190 of 2019 does not survive for consideration and, hence, stands disposed of.

Parties to bear their own costs.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member

vt/js

(Justice N.K. Patil)
Judicial Member