

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

**I.A. No. 223 of 2010 in
D.F.R. No. 1158 of 2010**

Dated: 20th October, 2010

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Mr. Justice P.S. Datta, Judicial Member**

Powergrid Corporation of India Ltd. ... Appellant (s)

Versus

Central Electricity Regulatory Commission & Ors. ...Respondent (s)

Counsel for the Appellant(s): Mr. M.G. Ramachandran, Mr. Ramnesh
Jerath & Anand K. Ganesan

Counsel for the Respondent(s): Mr. Manish Goswami with
Mr. M.K. Adhikary & Mr. B.M. Saikia
(Reps.) for R.2

ORDER

**I.A. No. 223 of 2010
(Condone Delay Application)**

We have heard the learned counsel for the parties.

This is an Application to condone the delay of 804 days in representation of the Appeal.

It is true that the main Order was passed on 01.01.2002 and thereafter, they filed an Appeal before the High Court of Delhi under Section 16 of the Electricity Regulatory Commissions Act, 1998 and the same was pending. Ultimately, an Order was passed by the High Court on 29.01.2008 transferring the matter to this Tribunal. This was intimated to the parties on 31.03.2008 by the Registry of this Tribunal. It is stated in

the affidavit that thereafter they approached the lawyers in September 2009 and ultimately filed the Appeal on 28.07.2010.

This has been stoutly opposed by the learned counsel for the Respondent.

As held by the Hon'ble Supreme Court the number of days delay is not the criteria to consider the application. We are only concerned with the diligence on the part of the party to approach the proper forum to file an Appeal against the Order.

Though there is some explanation offered by the Appellant for the period from September 2009 to November 2009, there is no explanation at all with reference to the period from November 2009 to July 2010, in which month the Appeal has been filed. Similarly, as pointed out by the learned counsel for the respondent, there is no explanation for the period between the date 31.03.2009 on which the communication was received by them and September 2009, in which month they approached the lawyers.

In view of the fact that there is no satisfactory explanation offered for the period, we deem it fit to dismiss the Application to condone the delay. Accordingly, the Application to condone the delay is dismissed. Consequently, the Appeal is also dismissed.

(Justice P.S. Datta)
Judicial Member

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

ts/vs