

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

IA NO. 1821 & 1820 of 2018 IN
DFR NO. 3603 OF 2018

Dated: 6th February, 2019

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

In the matter of:

Indian Wind Power Association Maharashtra State Council **Appellant(s)**
Versus
Maharashtra Electricity Regulatory Commission & Ors. **Respondent(s)**

Counsel for the Appellant(s) : Ms. Swapna Seshadri
Ms. Neha Garg

Counsel for the Respondent(s) : Mr. S.K. Rungta, Sr. Adv.
Mr. Buddy A. Ranganadhan
Mr. Shivasankar for R-1

Mr. Udit Gupta for R-2

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

- (a) Allow the appeal and set aside the Impugned Order to the limited extent of the directions contained in para 11 (d) and 13 (d) affecting the Group-III wind power plant projects of the Impugned Order passed by the State Commission in Case No. 84 of 2015;
- (b) Allow the tariff rate calculated on basis of Average Power Purchase Cost which is the Option-I mentioned in the Discussion Paper dated May 15, 2018 drafted and circulated by the State Commission;
- (c) Pass such other Order (s) as this Tribunal may deem just and proper.

The Appellant has presented this Appeal for considering the following Questions of Law:

- a. Whether the State Commission can ignore that the Ministry of Power guidelines on competitive bidding process for Wind power is applicable for 5 MW and above at one site with minimum bid capacity of 25 MW for

Intra State projects and conclude the said whereas the ceiling may also apply to all projects below 5 MW?

- b. Whether the State Commission can ignore perennial delays in payments by MSEDCL from time to time which impacted the ROE even during the tenure of EPA?

ORDER

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

The instant matter is posted for leave to file the appeal and condonation of delay in filing the Appeal.

The learned counsel appearing for the Appellant Ms. Swapna Seshadri at the outset submitted that in view of the Review Order passed in the matter the question before this Tribunal is under challenge in Appeal No. 32 of 2019. Therefore, she submitted that the prayer sought in the instant appeal and also relief sought in IA No. 1821 of 2018 and IA No. 1820 of 2018 do not survive for consideration. Hence, she requested that the instant Appeal may be disposed of having become infructuous.

Submissions of the learned counsel appearing for the Appellant, as stated above, are placed on record.

In the light of the submissions made by the learned counsel appearing for the Appellant as stated supra, the instant appeal being DFR No. 3603 of 2018 is dismissed as having become infructuous at the risk of the learned counsel appearing for the Appellant.

The relief sought in IA No. 1821 of 2018 and IA No. 1820 of 2018 on account of leave to file the Appeal and for condonation of delay do not survive for consideration and, hence, stand disposed of.

(Ravindra Kumar Verma)
Technical Member

mk/bn

(Justice N.K. Patil)
Judicial Member