

Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)

Appeal No. 88 of 2008

Dated: March 18, 2009

Present: Hon'ble Mrs. Justice Manju Goel, Judicial Member  
Hon'ble Mr. H.L. Bajaj, Technical Member

IN THE MATTER OF:

Karnataka Power Corporation Ltd.  
82, Shakti Bhavan,  
Race Course Road  
Bangalore 560 001  
(A Generating Company)  
Represented by its Managing Director

... Appellant(s)

Versus

1. Karnataka Electricity Regulatory Commission  
6<sup>th</sup> & 7<sup>th</sup> Floor, Mahalaxmi Chambers,  
No. 9/2, Mahatma Gandhi Road,  
Bangalore 560 001.  
Represented by its Chairman
2. Karnataka Power Transmission Corporation Limited  
Kavery Bhavan, Bangalore 560 009  
Represented by its Managing Director
3. Chamundeshwari Electricity Supply Corporation Limited  
(A Government of Karnataka Enterprise)  
Regd. Office: No. 927, LJ Avenue Commercial complex,  
New Kantharaj Urs Road, Saraswathipuram,  
Mysore-570 009.
4. Gulbarga Electricity Supply Company Limited  
(A Government of Karnataka Enterprise)  
Regd. Office: Gulbarga Main Road,  
Gulbarga 585 102.

5. Mangalore Supply Company Limited  
( A Government of Karnataka Enterprise)  
Regd. Office: "Paradigm Plaza",  
AB Shetty Circle,  
Mangalore-575 001

6. Hubli Electricity Supply Corporation Limited  
( A Government of Karnataka Enterprise)  
Corporate Office, Office: Navanagar  
Hubli 25.

7. Bangalore Electricity Supply Company Limited  
( A Government of Karnataka Enterprise)  
Corporate Office,  
Regd. Office : KR circle,  
Bangalore 560 009

**-Respondent(s)**

Counsel for the Appellant(s) : Mr. Pratap Venugopal

Counsel for the Respondent(s) : Mr. S. Balaji and Mr. B. N. Prakash

Mr. Anand K. Ganesan and  
Mr. M. G. Ramachandran for KPTCL

### **ORDER**

Mr. Pratap Venugopal, appearing for the appellant, submits that the principal ground raised in the appeal is denial of principles of natural justice in as much as the appellant was not afforded opportunity of being heard before the impugned order was passed.

2. It is submitted by Mr. Venugopal that the impugned order was passed in the matter of the draft PPA of Alamati Dam Power House between the Karnataka Power Transmission Corporation Limited(KPTCL) and the appellant. Before approval of the PPA, the Commission issued advertisement in the English and Kannad dailies. Pursuant to the advertisement objections were filed by the Shri K. Jayprakash Hegde and the Mysore Grahaka Parishad. It is contended by the

appellant that the impugned order dated 10/4/2003 was passed without affording to the appellant any opportunity to put-forth its views/clarifications and for rebutting the changes proposed to be made by the Karnataka Electricity Regulatory Commission (Commission for short).

3. Mr. Anand K. Ganesan, advocate representing the respondent Karnataka Power Transmission Commission Limited(KPTCL) does not have any objection to the prayer. The Commission represented by Mr. S. Balaji is prepared to take the directions as per the prayer made today. No other respondent has put in appearance.

4. Having heard parties counsel, we think it will be appropriate for the Commission to re-determine the issue of approval of the PPA after affording an opportunity to the appellant an opportunity to present its views/clarifications and submissions to the Commission. Needless to say that the objectors Shri K. Jayprakash Hegde and the Mysore Grahaka Parishad should be duly intimated about the opportunity being given to the appellant.

5. Accordingly, we allow the appeal and set-aside the impugned order and direct the Karnataka Electricity Regulatory Commission (KERC) to pass a fresh order within two months hereof on the PPA between the appellant and the respondent no. 2(KPTCL) after affording an opportunity to the appellant to make its submission vis-à-vis objections to the PPA filed by Shri K. Jayprakash Hegde and the Mysore Grahaka Parishad and its clarifications and views in the matter.

**( H. L. Bajaj )**  
**Technical Member**

**( Justice Manju Goel )**  
**Judicial Member**