

APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI
(APPELLATE JURISDICTION)

IA NO. 1101 OF 2019
&
APPEAL NO. 348 of 2017

Dated : 15th JULY, 2019

PRESENT: HON'BLE MRS. JUSTICE MANJULA CHELLUR, CHAIRPERSON
HON'BLE MR. S.D. DUBEY, TECHNICAL MEMBER

IN THE MATTER OF :

West Bengal Power Development Corporation Ltd.

Bidyut Unnayan Bhaban

3/C, LA Block, Sector – III

Salt Lake City, Kolkata - 700098

.... **APPELLANT**

Versus

West Bengal Electricity Regulatory Commission

Poura Bhavan, 3rd Floor

Block-FD, 415-A, Bidhannagar

Kolkata – 700106

.... **RESPONDENT**

Counsel for the Appellant(s) : Mr. Sajan Poovayya, Sr. Adv.
Mr. Anand Shrivastava
Ms. Anandini Sood
Ms. Priyanka M. P.

Counsel for the Respondent(s) : Mr. Pratik Dhar, Sr. Adv.
Mr. C. K. Rai
Mr. Sachin Dubey

ORDER

PER HON'BLE MRS. JUSTICE MANJULA CHELLUR, CHAIRPERSON

1. The Appellant filed the application No. 1101 of 2019 seeking direction for reconsideration of the issues pending in the Appeal, by the Respondent – Commission in a time bound manner.
2. This Appeal is filed against the Order dated 24.08.2017 passed by the Respondent – Commission. In the impugned Order, Commission determined Fuel Cost Adjustment (FCA) and Annual Performance Review (APR) for the period of Financial Year 2013-2014. According to the Appellant, this is inconsistent and contrary to the various provisions of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff Regulation of 2011). Appellant also contends that it is contrary to other prevailing laws against its own practice and orders. Over and above this, they also contend that the impugned order in this Appeal is also contrary to findings/directions of this Tribunal.
3. During the pendency of the Appeal, Respondent – Commission filed its reply dated 12.07.2018 answering each and every issue raised in the Appeal. While replying, Commission's stand is that it may reconsider the said issues raised by the Appellant and review its order.

4. When this application came up for consideration, Respondent's counsel was heard and they did not oppose the application seriously. On perusal of reply of Respondent – Commission, we do find that majority of issues raised in Commission's reply is to the effect that they may reconsider the issues raised by the Appellant in the Appeal by reviewing its order.
5. In view of the above stand of the Respondent, we are of the opinion that the Respondent Commission must relook into the matter once again afresh and decide the same on merits after hearing the parties.
6. Accordingly, the instant Application and the Appeal are allowed. The impugned order dated 24.08.2017 is set aside. The matter is remitted back to Respondent - West Bengal Electricity Regulatory Commission for fresh consideration on merits only in so far as issues raised in the Appeal.
7. No order as to costs.
8. Pronounced in the Open Court on this 15th day of July, 2019.

(S.D. Dubey)
Technical Member

(Justice Manjula Chellur)
Chairperson

✓
REPORTABLE / NON-REPORTABLE
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