

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 124 of 2025 & IA No. 1754 OF 2025 & IA No. 488 OF 2025

Dated: 24th November, 2025

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

Punjab State Power Corporation Limited Appellant(s)

Versus

Central Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Anand K. Ganesan
Swapna Seshadri
Amal Nair
Shivani Verma
Devyani Prasad
for App. 1

Counsel on record for the Respondent(s) :
for Res. 1

Ashutosh Kumar Srivastava
Manu Tiwari
Shivam Kumar
Shri Venkatesh
Suhael Buttan
Nihal Bhardwaj
Ananya Dutta
Shryeshth Ramesh Sharma
Kanika Chugh
Priya Dhankar
for Res. 2

ORDER

IA-488/2025

(For condonation of delay in filing the Appeal) (387 days)

The Appellant initially moved the Punjab Commission raising the subject dispute. On the Punjab Commission holding that it lacked

jurisdiction, they then approached the Central Commission which, by the impugned order, held that it lacked jurisdiction to adjudicate the dispute. The Appellant then, again, moved the Punjab Commission and thereafter approached this Tribunal. This Tribunal pointed out that they could not avail two parallel remedies simultaneously. The Appellant thereafter withdrew the petition filed by them before the Punjab Commission. This has resulted in the delay in filing the appeal. As the Appellant has been agitating this issue in one or the other fora, we see no reason to non-suit them on the ground of delay. The delay is condoned, and the IA is disposed of.

DFR-124/2025 & IA-1754/2025

While the impugned order passed by the CERC in Petition No 282/MP/2020 dated 21.01.2024, is that it lacked jurisdiction, as the dispute between the parties does not fall within the ambit of clauses (a) to (d) of Section 79(1), it is unnecessary for us to examine this question in the light of events which took place subsequent thereto.

Reliance is placed by Mr. Anand K. Ganesan on the Division Bench judgment of this Tribunal in Appeal No. 309 of 2019 dated 28.08.2024, wherein this Tribunal observed that the words, “and to refer any dispute for arbitration”, used at the end of clause (f) of Section 79(1) of the Electricity Act would confer power on the Central Commission to appoint an arbitrator. This judgment was affirmed in Civil Appeal No. 10480 of 2024 dated 23.09.2024 and the Supreme Court itself appointed the arbitrator. Subsequently, the Delhi High Court, in its judgment in OMP(I)(Comm) 213/2025 dated 03.11.2025, held that the Central Commission is bound to refer the dispute for arbitration if there exists an arbitration clause in the agreement.

While there is no dispute as to the existence of an arbitration clause in the present agreement, the fact remain that neither before the CERC nor in the original appeal filed before this Tribunal, has the appellant sought for appointment of an arbitrator. An application has since been filed in IA No. 1754 of 2025, by the Appellant, making a specific request for appointment of an arbitrator.

While we were initially inclined to remand the matter to the Commission, directing it to appoint an arbitrator, both Mr. Anand K.Ganesan, Learned Counsel for the Appellant and Mr. Shri Venkatesh, Learned Counsel for the 2nd Respondent, would submit that, since an appeal is a continuation of the original hearing, it may not be necessary for this Tribunal to remand the matter to the Commission merely for appointment of an arbitrator and this Tribunal may, if it so chooses, appoint an arbitrator itself. In these circumstances, we deem it appropriate to appoint Mr. Justice K.M. Joseph (retired judge of the Supreme Court) as the arbitrator to adjudicate the dispute inter parties in terms of the agreement.

Both parties are free to put forth their submissions before the Learned Arbitrator for his consideration. Needless to state that the Learned Arbitrator shall consider the rival submissions uninfluenced by any observations made in the orders of the State and Central Commissions or in the order now passed by us.

The appeal and IA stand disposed of accordingly.

Ajay Talegaonkar
Technical Member (Electricity)

mk/sk

Justice Ramesh Ranganathan
Chairperson