

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**COURT-II**

**IA NO. 1717 OF 2019 IN  
DFR NO. 2291 OF 2019 &  
IA NOS. 1719, 1718 OF 2019**

Dated: **15.02.2022**

Present: **Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

**In the matter of:**

**Southern Power Distribution Company of Telangana .... Appellant (s)  
& Anr.**

**Vs.**

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

Counsel for the Appellant (s) : Mr. Deeptiman Acharya  
Ms. Kritika Narayan (proxies)

Counsel for the Respondent (s) : Mr. Sajjan Poovayya, Sr. Adv.  
Mr. Shreshth Sharma  
Mr. Pratibhanu  
Ms. Nehul Sharma for R-2&3

Mr. Aniket Prasoon  
Mr. Md. Aman Sheikh  
Mr. Rishabh Bhardwaj for R-4

Mr. Shri Venkatesh  
Ms. Nishtha Kumar  
Mr. Somesh Srivastava  
Mr. Vikas Maini  
Mr. Suhael Buttan  
Mr. Ashutosh Kumar Srivastava  
Ms. Lasya Pamidi for R-5

**ORDER**

This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

**IA NO. 1718 OF 2019**

*[Application for exemption from filing certified copy of impugned order]*

The application filed by the applicant for exemption from filing certified copy of impugned order is declined. The certified copy of the

impugned order must be filed within two weeks. The application is disposed of.

**IA NO. 1717 OF 2019**

*[Application for condonation of delay in filing the Appeal]*

The application at hand was filed in September 2019 alongwith the main appeal and has remained pending all along, substantially also for the reason that the appellants would not complete the pleadings, though the time was extended more than once.

When the matter was called out there was no appearance on behalf of the appellants and so it was passed over. When it was called out again, Ms. Kritika Narayan, advocate, appeared and submitted that the main counsel Mr. Harsha Peechara was preoccupied before the division bench of High Court. When she was reminded that there is another counsel Mr. Ashish Tiwari, advocate, who has also signed Vakalatnama, she submitted the said other counsel is busy elsewhere. There being no good reason to adjourn, we asked her to arrange the presence of the counsel. Midway the hearing, a proxy counsel Mr. Deeptiman Acharya has joined the proceedings. He submits he has been instructed by his senior to appear and assist.

We have heard the learned counsel for the respondents for some time. The delay computed is of 292 days in filing the appeal on 11.09.2019 against the judgment rendered by the Central Commission on 09.10.2018. During this period one of the respondents (NTPC) has abided by the directions in the judgment of CERC and awaits discharge of its responsibility by the appellants on part of which there have been defaults on the plea that the appeal is pending.

The delay is sought to be explained in the application moved seeking condonation (IA 1717/2019) primarily on the ground that the appellant came to be aware of the judgment of the Central Commission only on 05.02.2019, whereafter time was taken in seeking approvals of the appropriate authorities firstly to file the appeal and then to engage counsel and finally to give approval for the appeal that had been drafted by the counsel who could be contacted only after the court vacations were over. The learned counsel for the respondents pointed out from the material filed with the reply of second, third and fourth respondents that the judgment was not only uploaded by the Central Commission on the website on

10.10.2018 but also its copies were formally communicated immediately, this being followed by certain exchange of communications on 22.11.2018, 24.11.2018 and 17.12.2018, the last said communication having emanated from the office of Telangana State Power Coordination Committee, of which the appellant is a constituent. The communication dated 17.12.2018 seems to show that the appellants had much earlier addressed a letter indicating their decision to file an appeal against the judgment of CERC, similar impression having been communicated formally even to NTPC. In these circumstances, *prima facie*, the stand taken in the application for condonation of delay that the appellant came to acquire knowledge as to the decision of CERC dated 09.10.2018 only on 05.02.2019 seems to be false.

We cannot take the above fact situation lightly, also against the backdrop of the reluctance shown by the counsel to appear and assist. There is no affidavit filed in support of the application. We, thus, direct that the officer who verified the pleadings in the application at hand seeking condonation of delay and the senior most functionary of the appellants who had taken the final decision to approve pleadings as drafted, assumably upon instructions to the counsel, shall remain present in person before us on the next date of hearing, having filed their personal affidavits in advance explaining the conduct seen in above light.

We must also add that we shall expect that the counsel for the appellants appears, duly briefed, ready to assist on the first call of the matter hereafter.

Be listed on **04.03.2022 at 11.00 a.m.** (through video conferencing).

**(Sandesh Kumar Sharma)**  
Technical Member

*pr/TP*

**(Justice R.K. Gauba)**  
Officiating Chairperson