COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

OP No. 1 OF 2025 & IA No. 1403 OF 2025 & IA No. 245 OF 2026 & IA No. 1404 OF 2025 & IA No. 1532 OF 2025 & IA No. 1610 OF 2025 & IA No. 1747 OF 2025 & IA No. 172 OF 2026 & IA No. 173 OF 2026 & IA No. 204 OF 2026

Dated: 11th February, 2026

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson

Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

In Suo-Motu action under Section 121 of the EA	....	Petitioner(s)
Versus		
Forum of Regulators & Ors.	....	Respondent(s)

Counsel on record for the Petitioner(s)	:	Anushree Bardhan Shikha Ohri for App. 1
Counsel on record for the Respondent(s)	:	Poorva Saigal Shubham Arya Pallavi Saigal Reeha Singh Rishabh Saxena Harshvardhan Singh Shirin Gupta for Res. 1 C.K. Rai Shiva Singh Anuradha Roy Vinay Kumar Gupta for Res. 2 C.K. Rai for Res. 3 Anand K. Ganesan

Swapna Seshadri
Utkarsh Singh
Sneha Singh Baghel
for Res. 4
M. T. George
for Res. 5
Sahil Chandra
for Res. 6
Ravi Kishore
for Res. 7
Rutwik Panda
Anshu Malik
for Res. 8
Gargi Kumar
for Res. 9
Abiha Zaidi
for Res. 10
Pratibhanu Singh Kharola
for Res. 11
Sethu Ramalingam
S. Shivshankari
for Res. 12
Pradeep Misra
for Res. 13
C.K. Rai
Shiva Singh
Anuradha Roy
Vinay Kumar Gupta
for Res. 14
Somanadri Goud Katam
for Res. 15

Shlok Chandra
for Res. 16
Suparna Srivastava
for Res. 17
andakini Ghosh
for Res. 18
Gaichangpou Gangmei
Arjun D Singh
Yimyanger Longkumer
Maitreya Mahaley
for Res. 19
Aishwarya Subramani
Harsha V Rao

Anand K. Ganesan
for Res. 20
Suriti Chowdhary
Anuj Bhave
Abiha Zaidi
Pritam Raman Giriya
for Res. 21
Mandakini Ghosh
for Res. 22
Anish Roy
for Res. 23
Farrukh Rasheed
for Res. 24
Rohini Prasad
for Res. 25
Sriram Krishna
Anupama Dhurve
for Res. 26
Shri Venkatesh
Suhael Buttan
Nihal Bhardwaj
Abhishek Nangia
Kartikay Trivedi
Surbhi Kapoor
Shivam Kumar
Punyam Bhutani
Nikunj Bhatnagar
Tarang Saraogi
Ananya Dutta
Shryeshth Ramesh Sharma
Kanika Chugh
Priya Dhankar
Mohit Mansharamani
Mohit Gupta
Indu Uttara
Harsh Vardhan
Vedant Choudhary
Adarsh Singh
Drishti Rathi
Ashutosh Kumar Srivastava
Akash Lamba
Siddharth Nigotia
Vineet Kumar
Manu Tiwari
Kunal Veer Chopra

Tanishka Khatana
Aashwyn Singh
Aniket Kanhaua
Manav Bhatia
for Res. 27
C.K. Rai
Anuradha Roy
Vinay Kumar Gupta
Shiva Singh
for Res. 28
Surabhi Pandey
for Res. 29
Abiha Zaidi
Suriti Chowdhary
Pritam Raman Giriya
Anuj Bhave
for Res. 30
Vishrov Mukerjee
Janmali Gopal Rao Manikala
Nishtha Kumar
Yashaswi Kant
Pratyush Singh
Damodar Solanki
Priyanka Vyas
Juhi Senguttuvan
Anumeha Smiti
Garima Adlakha
Sai Snigdha Nittala
Snehal Upadhyay
for Res. 31
Amit Kapur
Anupam Varma
Rahul Kinra
Aditya Gupta
Aditya Ajay
Girdhar Gopal Khattar
Isnain Muzamil
Adamya Ojha
Yash Srivastava
Vaibhav Sharma
for Res. 32
Amit Kapur
Anupam Varma
Rahul Kinra
Aditya Gupta

Aditya Ajay
Girdhar Gopal Khattar
Isnain Muzamil
Adamya Ojha
Yash Srivastava
Vaibhav Sharma
for Res. 33
Shri Venkatesh
Shryeshth Ramesh Sharma
Kanika Chugh
Ashutosh Kumar Srivastava
Suhael Buttan
Nihal Bhardwaj
Surbhi Kapoor
Adarsh Singh
Siddharth Nigotia
Manu Tiwari
Abhishek Nangia
Abhishek Nangia
Mohit Mansharamani
Akash Lamba
Shivam Kumar
Kartikay Trivedi
Aashwyn Singh
Mohit Gupta
Harsh Vardhan
Aniket Kanhaua
Ananya Dutta
Indu Uttara
Priya Dhankar
Vineet Kumar
Tanishka Khatana
Nikunj Bhatnagar
Kunal Veer Chopra
Punyam Bhutani
Vedant Choudhary
Tarang Saraogi
Manav Bhatia
Drishti Rathi
for Res. 34
Shri Venkatesh
Shryeshth Ramesh Sharma
Kanika Chugh
Ashutosh Kumar Srivastava
Suhael Buttan

Nihal Bhardwaj
Surbhi Kapoor
Adarsh Singh
Siddharth Nigotia
Manu Tiwari
Abhishek Nangia
Mohit Mansharamani
Akash Lamba
Shivam Kumar
Kartikay Trivedi
Aashwyn Singh
Mohit Gupta
Harsh Vardhan
Aniket Kanhaua
Ananya Dutta
Indu Uttara
Priya Dhankar
Vineet Kumar
Tanishka Khatana
Nikunj Bhatnagar
Kunal Veer Chopra
Punyam Bhutani
Vedant Choudhary
Tarang Saraogi
Manav Bhatia
Drishti Rathi
for Res. 35
Shri Venkatesh
Shryeshth Ramesh Sharma
Kanika Chugh
Ashutosh Kumar Srivastava
Suhael Buttan
Nihal Bhardwaj
Surbhi Kapoor
Adarsh Singh
Siddharth Nigotia
Manu Tiwari
Abhishek Nangia
Mohit Mansharamani
Shivam Kumar
Akash Lamba
Kartikay Trivedi
Aashwyn Singh
Mohit Gupta
Harsh Vardhan

Aniket Kanhaua
Ananya Dutta
Indu Uttara
Priya Dhankar
Vineet Kumar
Tanishka Khatana
Nikunj Bhatnagar
Kunal Veer Chopra
Punyam Bhutani
Vedant Choudhary
Tarang Saraogi
Manav Bhatia
Drishti Rathi
for Res. 36
Shri Venkatesh
Shryeshth Ramesh Sharma
Kanika Chugh
Ashutosh Kumar Srivastava
Suhael Buttan
Nihal Bhardwaj
Surbhi Kapoor
Adarsh Singh
Siddharth Nigotia
Manu Tiwari
Abhishek Nangia
Mohit Mansharamani
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Nikunj Bhatnagar
Kunal Veer Chopra
Punyam Bhutani
Vedant Choudhary
Tarang Saraogi
Manav Bhatia
Drishti Rathi

for Res. 37
S. Vallinayagam
for Res. 38

ORDER

1. TATA POWER DELHI DISTRIBUTION LIMITED(TPDDL) : R-34

IA No. 204 of 2026
(for directions)(R-34)

Mr. Shri Venkatesh, Learned Counsel for the 34th Respondent-TPDDL, seeks permission to withdraw IA No. 204 of 2026 with liberty, if need be, to file a separate petition under Section 121 of the Electricity Act later. Granting liberty as sought for, the IA is dismissed as withdrawn.

2. DELHI ELECTRICITY REGULATORY COMMISSION (DERC): R-1

No auditor, as directed by the Supreme Court in para 71(vi) of its order dated 06.08.2025, has been appointed by the DERC till date. Ms. Abiha Zaidi, Learned Counsel for the DERC, would submit that the Commission has already addressed a letter to the Secretary (Power), Government of Delhi on 02.02.2026, and have enclosed, as an Annexure thereto, the scope of the intensive audit of the distribution companies of Delhi.

This letter, which the DERC addressed to the Secretary (Power), is pursuant to its earlier letter dated 22.01.2026 which, in turn, was in response to the letters received by them from the office of the Accountant General (Audit), Delhi dated 20.01.2026 and 19.01.2026. By way of the letter dated 19.01.2026, the Accountant General (Audit), Delhi sought information from the DERC regarding (i) the detailed scope of audit

entailing the areas and the period which were required to be covered under the audit; (ii) the detailed objectives for conducting the audit; (iii) the expected audit product ie what was expected from the audit, and the expected time schedule for completion of audit, to enable them to take an informed view on undertaking the assignment. They further informed that, if audit was taken up, it would be conducted in accordance with the provisions of the CAG (DPC) Act, 1971, and the regulations framed thereunder; and this would require a formal and reasoned proposal from the Lieutenant Governor (LG) of NCT of Delhi citing public interest, statutory authority and scope of audit and indicating that reasonable opportunity was provided to the Discoms by the respective departments, to submit their representation and that the same was duly considered. The said letter also refers to the directions of the Delhi High Court in WP(C) No. 895 of 2011 and batch dated 30.10.2025, and states that the directions therein should also be adhered to.

In its letter dated 02.02.2026 the DERC, while referring to the order of the Supreme Court dated 06.08.2028 and the directions therein being monitored by APTEL in OP-1 of 2025, has however left the query in the said letter dated 19.01.2026, regarding the Delhi High Court judgment, unanswered.

When we asked her to specify the date by which an auditor, in compliance with the directions in Para 71(vi) of the order of the Supreme Court dated 06.08.2025, would be appointed, Ms. Abiha Zaidi, Learned Counsel for the DERC, would state that the DERC is obligated to obtain approval of the LG, and it may not be possible for her to specify a time frame in this regard.

Implementation of the directions of the Supreme Court does not brook delay. The aforesaid order, of the Supreme Court dated 06.08.2025, requires a strict and intensive audit to be conducted of the circumstances in which the distribution companies had continued without recovery of regulatory assets. As to who should conduct the said audit, whether it should be the CAG or a Chartered Accountant, is not specified in the said order. What we must, however, bear in mind is that, in compliance with the aforesaid directions of the Supreme Court in its order dated 06.08.2025, several Regulatory Commissions have chosen to appoint Chartered Accountants to conduct the special audit.

While the submissions urged on behalf of the Delhi Discoms that, in view of the judgment of the Delhi High Court, an audit by the CAG is impermissible, cannot be readily brushed aside, we see no reason to examine this contention in the present proceedings, that too at this stage when no auditor has as yet been appointed. While we may not be understood to have held that the DERC ought not to have the audit conducted by the CAG, we wish to emphasize that appointment of an auditor does not brook any further delay.

In the order passed by us on 14.01.2026, we had noted that the order of the Supreme Court dated 06.08.2025 does not obligate the DERC to have an intensive audit conducted only by the CAG or by an auditor appointed by them; several State Commissions have, in compliance of the order of the Supreme Court dated 06.08.2025, appointed Chartered Accountants to conduct the intensive audit; nothing prevented the DERC from doing so likewise; while the delay on the part of the DERC in appointing the auditor for conducting the intensive audit

does not appear to be justified, we deem it appropriate to permit the DERC, in compliance with the orders of the Supreme Court dated 06.08.2025, to initiate the process for appointment of auditor(s), for conducting the intensive audit, within two weeks. This Tribunal also made it clear that, in case the CAG chooses not to conduct an audit or appoint an auditor or refrains from intimating the DERC in this regard within one week, the DERC shall proceed and initiate the process for appointment of a suitable Chartered Accountant, to conduct the intensive audit in terms of the Supreme Court order dated 06.08.2025, within two weeks. With these observations, the hearing of the OP, with respect to DERC, was deferred till today.

While the Learned Senior Counsel/Learned Counsel for the Discoms contend that the DERC has failed to comply with the directions in the order of this Tribunal dated 14.01.2026, Ms. Abiha Zaidi, Learned Counsel for the DERC, would submit that the said order of this Tribunal only required the DERC to initiate the process for appointment of an auditor to conduct intensive audit, which they have complied by addressing a letter to the Secretary, Power, Government of Delhi; the obligation to appoint a Chartered Accountant would arise only in case the CAG chooses not to conduct the audit or appoint an auditor or refrains from intimating the DERC in this regard within one week; while the timelines stipulated in the order of this Tribunal dated 14.01.2026 may not have been strictly adhered to, the CAG has indicated its in-principle willingness to conduct the audit and, consequently, the DERC must be held to have complied with the order of this Tribunal dated 14.01.2026.

We find considerable force in the submissions urged on behalf of the Delhi Discoms regarding the complete lack of urgency shown by the DERC which is evident from the fact that, despite lapse of seven months from 06.08.2025, when the Supreme Court passed the order, they have not yet appointed an auditor to conduct the intensive audit, though most of the other Commissions in the country have. While failure of the DERC to have an auditor appointed is indeed disconcerting, we may not be able to hold that the DERC has violated the order of this Tribunal dated 14.01.2026, though their justification for non-compliance is on a hyper-technical reading of the said order. The complete lack of urgency shown by the DERC, in appointing an auditor, is possibly because they are aware that this Tribunal lacks jurisdiction, under the Electricity Act, to take appropriate action against them for non-compliance. Neither has the power of contempt been conferred on this Tribunal under the Electricity Act nor has it been conferred even the power to punish, similar to that conferred on the Commissions under Section 142 of the Electricity Act. This Tribunal is not even empowered to file a complaint before the competent criminal court under Section 146 of the Electricity Act, as such recourse is unavailable for proceedings instituted under Section 121 of the Electricity Act.

All that we can possibly do, for the failure of the DERC to ensure timely compliance, is to submit a report to the Supreme Court expressing our inability in law to take action against them for their failure to comply with the directions of the Supreme Court in its order dated 06.08.2025.

With a view to avoid any ambiguity, which the DERC appears to have taken advantage of in the order passed by us on 14.01.2026, we

direct the DERC, irrespective of and notwithstanding any correspondence which they may enter into the authorities concerned, to have an auditor appointed within three weeks from today.

We hope and trust that the DERC acts promptly, and appoints an auditor within the stipulated time frame of three weeks from today. Their failure to do so, may leave us with no other alternative but to submit a report to the Supreme Court regarding their non-compliance.

Post the matter on ***06.03.2026***.

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

sk/mkj