COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 336 OF 2025 & IA No. 1713 OF 2025 & IA No. 1633 OF 2025

Dated: 8th December, 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		
Malwa Power Private Limited & 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)	:	Tajender K. Joshi Rampal Kohle for Res. 1 Gargi Kumar for Res. 2

ORDER

IA NO. 1713 OF 2025
(Urgent listing)

The matter having been listed, has served its purpose. The application is disposed of accordingly as it has become infructuous.

Consequent on expiry of the 20 year period for which the PPA was originally executed, the Appellant herein expressed its readiness to extend the PPA for a further period of 10 years on condition that the 1st Respondent was willing to be paid a tariff of not more than Rs. 3.50 per unit. Aggrieved thereby, the 1st Respondent herein approached the Commission contending that the power to determine tariff lies exclusively with the Regulatory Commission, and the Appellant could not have stipulated such a condition for extension; and, since the Appellant was willing to extend the PPA, the Commission should determine the tariff at which the 1st Respondent should supply power to the Appellant. The Commission, while holding that the exercise of tariff determination was required to be undertaken by it, proceeded to do so after holding that the Appellant had, in fact, agreed for extension of the PPA. Aggrieved thereby the present appeal.

Mr. Anand K. Ganesan, Learned, Learned Counsel for the Appellant, would contend that it was impermissible for the Commission to split the conditional consent given by the Appellant for extension of the PPA period; it could either have been accepted as it is or rejected in its entirety; even if the Commission had rejected the conditional acceptance, it would then still have been open to the Appellant to take a decision on whether or not to extend the PPA; and the Commission erred in holding that, while the Appellant had agreed for extension, it would undertake the task of determining the tariff.

Mr. Buddy Ranganadhan, Learned Senior Counsel appearing on behalf of the 1st Respondent, would submit that it is impermissible for parties to agree to a tariff in the PPA, without such tariff either being determined or

approved by the Regulatory Commission; the Commission was justified in holding that the Appellant had given its consent for extension of its PPA in the light of Section 7 of the Indian Contract Act; as the Appellant is a bio-mass based renewable energy generator, its functioning and supplying power is in furtherance of environmental protection; the 1st Respondent would be unable to survive and operate its plant, since, for large periods of time, the variable cost incurred by them would itself exceed Rs. 3.50 per unit; and forcing the 1st Respondent to supply power at Rs. 3.50 per unit would sound the death-knell of bio-mass based renewable energy generators in general, and the 1st Respondent in particular.

After putting-forth his submissions at length, Mr. Buddy Ranganadhan, Learned Senior Counsel appearing on behalf of the1st Respondent, would submit that, since the Commission is undertaking the task of determining the tariff, the 1st Respondent is willing to continue supplying power to the Appellant in terms of the interim arrangement put in place by the Commission itself on 24.04.2025 at Rs. 3.50 per unit till the exercise of determination of tariff is completed.

The question whether the acceptance conveyed by the Appellant to the 1st Respondent is conditional necessitating either its acceptance or rejection in its entirety, or whether such a consent must be presumed to be an acceptance with respect to extension of the PPA at a tariff to be determined by the Commission, would necessitate detailed examination which exercise we may not be justified in undertaking at the present stage when we are hearing the interlocutory application for grant of stay.

Suffice it, while directing that the interim arrangement put in place by the Commission of payment of Rs. 3.50 per unit, be continued till the main

appeal is finally heard, to also make it clear, with a view to protect the interests of the 1st Respondent, that the order now passed by us shall not disable the 1st Respondent from moving an application in the present appeal seeking modification of the order now passed by us consequent on determination of tariff by the Punjab Electricity Regulatory Commission. Needless to state that the order now passed by us shall not be understood as compelling the 1st Respondent to continue supplying power to the Appellant. All that we have held is that, in case 1st Respondent wishes to supply power to the Appellant, the Appellant shall, for the power so received by them from the 1st Respondent, continue paying them at Rs. 3.50 per unit. The payment so made by the Appellant to the 1st Respondent shall not only be subject to the tariff determination exercise undertaken by the Commission, but shall also be subject to the result of the main appeal. The order now passed by us shall also not be understand as our having expressed any opinion on the consequences of the 1st Respondent filing an application seeking modification.

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Ms. Gargi Kumar, Learned Counsel for the 2nd Respondent-Commission, submits that they do not wish to file any reply. Rejoinder, if any, to the reply filed by the 1st Respondent, may be filed within three weeks. Registry to verify whether pleadings are complete and, thereafter, include this appeal in the '**List of Finals'** to be taken up from there for hearing, in its turn.

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

sk/kns