IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

COURT I
IA NO. 2035 OF 2022 IN
APPEAL NO. 439 OF 2022 &
IA NOS. 2034 & 2131 OF 2022

Dated : 10.01.2023

Present: Hon'ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member

In the matter of:

Jindal Steel and Power Ltd. …. Appellant(s)

Vs.

Chhattisgarh State Electricity Regulatory Commission & Anr. …. Respondent(s)

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Adv.
Mr. Gopal Jain, Sr. Adv.
Mr. Hemant Singh
Mr. Chetan Garg
Ms. Alchi Thapliyal

Counsel for the Respondent(s) : Ms. Swapna Seshadri
Mr. Anand K. Ganesan
Ms. Kriti Soni for R-1

Mr. Vishrov Mukherjee
Mr. Damodar Solanki for R-2

ORDER

IA No. 2035 of 2022
(for Interim Direction)

1. The Interlocutory Application No. 2035 of 2022 in Appeal No. 439 of 2022 & batch is filed by the appellant seeking certain relief, *inter alia,* assailing the Order dated 28.11.2022 passed by the Chhattisgarh State Electricity Regulatory Commission (hereinafter referred to as, 'the State Commission' or 'CSERC') under the directions passed by this Tribunal in Appeal No., 72 of 2016 and Appeal No. 100 of 2016 with the directions that the State Commission shall pass fresh and reasoned orders in a time bound manner, but not later than four weeks from the date of this judgment.

2. The appellant is aggrieved by the said Impugned Order mainly on the counts that:

(i) the tariff determined for the retail consumers.

(ii) the surplus capacity and its pattern as observed and adjusted by the State Commission.

3. It is important to note here that as part of the judgment dated 06.05.2022, this Tribunal has, *inter alia,* directed the State Commission to:

(i) determine the available surplus capacity and its pattern;

(ii) carryout technical analysis for supply of surplus power for the distribution business from the Raigarh CPP and Dongamahua CPP;

(iii) allow JSPL to procure required quantum of electricity through competitive bidding for long term;

(iv) determine the tariff for the Distribution Licensee i.e. JSPL from the FY 2011-12, on the basis of already available data and data further furnished by JSPL or otherwise gathered suo moto by the Commission.

4. Accordingly, the State Commission was directed to determine the surplus capacity along with its pattern of the power available after self-consuming/using the power for captive consumption by the Appellant's industry.

5. By the said directions, the State Commission was also required to consider the data as furnished by JSPL, or as available, or as obtained suo motu, if required.

6. However, during the proceedings in IA, it is observed that the State Commission has not complied with the directions for determining the surplus capacity along with the pattern of injection of such surplus capacity into the grid or as available. We are constrained to note here that the State Commission has totally failed in complying with the said directions.

7. The purpose of the directions as was made clear in the said judgment of this Tribunal is to ensure that the surplus capacity as available is a firm power and is a useful capacity to be supplied to the industries without having adverse impact on the grid as well as on the system connected belonging to the consumers.

8. During the hearing on IA, it was brought to our notice by the learned Counsel for the State Commission that the relevant information as directed to be considered by this Tribunal is not available either with the State Load Despatch Centre (SLDC) or with the State Commission as the system of the distribution licensee and the captive generator is non-transparent for monitoring as carried out by the SLDC under its statutory powers vested by the provisions of the Electricity Act, 2003.

9. We fail to understand that when clear directions were issued, the State Commission and the SLDC has failed to take any action in this regard, even being vested with enough legal powers to ensure that such information is made available to them. Time and again, this Tribunal has directed the State Commission to ensure that the surplus capacity and the pattern is considered for determining the tariff for the distribution system owned by the Appellant.

10. We, under the powers, vested by Section 120(2)(a), find it most appropriate to direct the SLDC to immediately provide the information as available as observed above on an affidavit and submit the same on or before 13.01.2023, specifically in respect of:

(i) the pattern of surplus power;

(ii) the monitoring /information of the power drawn by the distribution licensee from various sources; and

(iii) the surplus capacity and its quality (firm or infirm/intermittency).

11. The State Commission and the SLDC are also directed to furnish the compliance report regarding obtaining such information or ensuring that the said system of the Appellant is monitored under the statutory functions entrusted to the SLDC and the action taken in this regard, the failure of the two should also be reported before the next date of hearing.

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Be listed on 16.01.2023.

(Sandesh Kumar Sharma)
Technical Member

(Justice Ramesh Ranganathan)
Chairperson

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COURT I

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ORDER

IA-2034/2022

(For exemption from filling certified copy of impugned order)

Mr. Hemant Singh, Learned Counsel for the Appellant undertakes to file a certified copy of the impugned order within two weeks. Consequently, no order need be passed in the application seeking exemption. The application is closed.

IA-2131/2022

(For impleadment/ intervention)

The application for impleadment is not opposed by the Learned Counsel on the other side. The application is allowed and NRTMT (India) Private Limited, NR Steel and Ferro Private Limited, Ajay Ingot Rolling

Mill Private Limited, Shri Nirmanand Steel Casting Private Limited and Tirumala Balaji Alloys Private Limited shall stand impleaded as third, fourth, fifth, sixth and seventh Respondents. The appellant is directed to carry out necessary amendments in the memo of appeal.

Let notice be issued to the impleaded third, fourth, fifth, sixth and seventh Respondents returnable on 16.01.2023. Dasti is permitted.

Post the matter on ***16.01.2023.***

(Sandesh Kumar Sharma)
Technical Member

(Justice Ramesh Ranganathan)
Chairperson

mk/ks/dk