

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

**Shri S.Jayaraman, Member &
Adjudicating Officer**

Adjudication Case No. 1/2009

In the matter of

Non-compliance with the directions of Northern Regional Load Despatch Centre (NRLDC).

And in the matter of

1. State Load Despatch Centre, Delhi, New Delhi
 2. Shri A.K. Kaul, General Manager,
State Load Despatch Centre, Delhi, New Delhi
- ...Respondents**

Adjudication Case No. 2/2009

In the matter of

Non-compliance with the directions of Northern Regional Load Despatch Centre (NRLDC).

And in the matter of

1. State Load Despatch Centre, Punjab, Patiala
 2. Shri R.K. Duggal, Chief Engineer, (System Operation & Control),
State Load Despatch Centre, Punjab, Patiala
- ...Respondents**

Adjudication Case No. 3/2009

In the matter of

Non-compliance with the directions of Northern Regional Load Despatch Centre (NRLDC).

And in the matter of

1. State Load Despatch Centre, Jammu & Kashmir, Srinagar
 2. Shri Khurshid Ahmed Untoo, Superintending Engineer
(Commercial & Survey)
State Load Despatch Centre, Jammu & Kashmir, Srinagar
- Respondents**

In the matter of

Non-compliance with the directions of Northern Regional Load Despatch Centre (NRLDC).

And in the matter of

1. State Load Despatch Centre, Rajasthan, Jaipur
 2. Shri M.K. Jain, Superintending Engineer,
State Load Despatch Centre, Rajasthan, Jaipur
- ...Respondents**

Following were present

1. Shri Anand K. Ganesan, Advocate, Delhi SLDC
2. Shri B.C. Mathur, Delhi SLDC
3. Shri V. Venugopal, Delhi SLDC
4. Shri B.K. Paliwal, Delhi SLDC
5. Shri V. K. Agarwal, GM, NRLDC
6. Shri S.R. Narsimhan, NRLDC
7. Shri Jyoti Prasad, CE, NRLDC
8. Shri Rajiv Porwal, NRLDC
9. Shri A.K. Rajput, SE, NRPC
10. Shri Vikram Singh, NRPC
11. Shri M.K. Jain, RVPNL
12. Shri Ehtisham Andrabi, PDD, J&K

ORDER
(Date of Hearing : 29.4.2009)

Para 5.4.2 (b) of the Indian Electricity (the Grid Code) provides as –

“Further, in case of certain contingencies and/or threat to system security, the RLDC may direct an the State Load Despatch Centre to decrease its drawal by a certain quantum. Such directions shall immediately be acted upon.”

2. Northern Regional Load Despatch Centre (NRLDC), under its letter No. NRLDC/Grid Security/Petition/1655 addressed to the State utilities in Northern

Region dated 1.12.2008 furnished the instances of its directions to the State Load Despatch Centres, first respondent in each case, issued under para 5.4.2 (b) of the Indian Electricity Grid Code (the Grid Code) read with sub-section (2) of Section 29 of the Electricity Act, 2003 (the Act). The details of the specific directions issued to restrict over-drawl during the month of October 2008, in the interest of grid security when frequency was below 49.0 Hz.

3. NRLDC reported that the State Load Despatch Centres concerned did not take any action on its directions to curtail over-drawls from the regional grid.

4. It was found by the Commission that prima facie the State Load Despatch Centres concerned were guilty of non-compliance of the directions of NRLDC and had made themselves liable for penalty under sub-section (6) of Section 29 of the Act. In the circumstances, by the Commission's order dated 9.1.2009, the State Load Despatch Centres concerned were directed to show cause as to why penalty for non-compliance of each of the directions issued by NRLDC be not imposed.

5. The officers managing the State Load Despatch Centres concerned, the second respondent in each case, were, under Section 149 of the Act, also directed to show cause as to why they, as a persons responsible for conduct of affairs and business of the State Load Despatch Centres concerned should also not be deemed to be guilty of non-compliance of the directions of NRLDC as aforesaid, along with the State Load Despatch Centre concerned, and not punished accordingly, for each non-compliance.

6. By the same order dated 9.1.2009 I was appointed as the adjudicating officer under Section 143 of the Act, to hold an inquiry for adjudging the allegation of non-compliance of directions of NRLDC by the State Load Despatch Centres concerned. I have been assisted by General Manager, NRLDC in conducting the inquiry. As the enquiry could not be completed within the original period of sixty days because of my pre-occupation with other official work and also for the reason that I remained on leave, the Commission extended the period by another sixty days.

7. The respondents in each case have shown cause.

Preliminary Objections

8. In the reply some of the respondents have raised a preliminary legal issue. It has been stated that the State Load Despatch Centre performs a statutory functions. Therefore, according to the reply, the State Load Despatch Centre cannot be proceeded against for any of the offences made punishable under Chapter XIV - Penalties and Offences of the Act. It has been argued that the Regional Load Despatch Centre cannot issue any directions to the State Load Despatch Centre under sub-section (2) of section 29 of the Act since the expression "any other person connected with the operation power system" in sub-section (2) does not include the State Load Despatch Centre, a statutory body discharging the statutory functions under section 32 of the Act. It is further stated that under sub-section (3) of section 29 of the Act, the directions to be issued by the Regional Load Despatch Centre to various utilities are to be passed through the State Load Despatch Centre and in this manner the State Load Despatch Centre is responsible for coordination with the Regional Load

Despatch Centre in the discharge of its functions. As regards the officers heading the State Load Despatch Centres, it has been stated that section 149 of the Act can be invoked when the company is found guilty of, and punished for, offences under sections 135 to 148 of the Act, which do not include the allegation of non-compliance of the directions of the Regional Load Despatch Centre under sub-section (6) of section 29 of the Act.

9. Section 29 of the Act is extracted hereunder -

29. Compliance of directions: --- (1) *The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.*

(2) *Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centres under sub-section (1).*

(3) *All directions issued by the Regional Load Despatch Centres to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter State transmission system) or sub-station in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centres shall ensure that such directions are duly complied with the licensee or generating company or sub-station.*

(4) *The Regional Power Committee in the region may, from time to time, agree on matters concerning the stability and smooth operation of the integrated grid and economy and efficiency in the operation of the power system in that region.*

(5) *If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given under sub-section (1), it shall be referred to the Central Commission for decision:*

Provided that pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.

(6) If any licensee, generating company or any other person fails to comply with the directions issued under sub-section (2) or sub-section (3), he shall be liable to a penalty not exceeding rupees fifteen lacs.

10. Under sub-section (1) of section 29 of the Act, the Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control. Sub-section (2) mandates every licensee, generating company, generating station; sub-station and **any other person connected with the operation of the power system** shall comply with the directions issued by the Regional Load Despatch Centre under sub-section (1). According to sub-section (3), all directions issued by the Regional Load Despatch Centre to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter State transmission system) or sub-station in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centre shall ensure that such directions are duly complied with the licensee or generating company or sub-station. Any licensee, generating company or any other person who fails to comply with the directions issued under sub-section (2) or sub-section (3), is liable to be punished with a penalty not exceeding Rs. 15 lakh.

11. The first question that arises for my consideration is whether the expression “any other person connected with the operation of the power system” used in sub-section (2) includes the State Load Despatch Centre. For an answer to this question, it is necessary to consider two basic issues. These are -

(a) whether the State Load Despatch Centre is connected with the operation of the power system?

(b) whether the State Load Despatch Centre is “person”?

12. The term “power system” as defined in sub-section (50) of section 2 of the Act means all aspects of generation, transmission, distribution and supply of electricity and includes, among others, the load despatch activities. Thus, the functions performed by the State Load Despatch Centre are included in the power system and in this manner the State Load Despatch Centre is connected with the operation of the power system. This conclusion gets strength from sub-section (1) of Section 32 of the Act which states that the State Load Despatch Centre is an apex body “**to ensure integrated operation of the power system**” in the State.

13. The next issue framed for finding answer to the first question is whether the State Load Despatch Centre is “person” so as to fall within the purview of sub-section (2) of section 29. This term is defined in sub-section (49) of section 2 of the Act to “include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person” The definition of “person” is inclusive and thus very wide. An artificial juridical person is included within the definition of “person”. The artificial juridical person, or legal person as the term is commonly used, is any subject-matter other than a human being to which the law attributes personality. *Analytical and Historical Jurisprudence*, 3rd Edn., at page 357 thus describes “person” -

“We may, therefore, define a person for the purpose of jurisprudence as any entity (not necessarily a human being) to which rights or duties may be attributed.”

14. In *Som Prakash Rekhi v. Union of India* [(1981) 1 SCC 449] the Hon'ble Supreme Court held that “a legal person” is any entity other than a human being to which the law attributes personality. It was stated: -

“Let us be clear that the jurisprudence bearing on corporations is not myth but reality. What we mean is that corporate personality is a reality and not an illusion or fictitious construction of the law. It is a legal person. Indeed, ‘a legal person’ is any subject-matter other than a human being to which the law attributes personality. ‘This extension, for good and sufficient reasons, of the conception of personality ... is one of the most noteworthy feats of the legal imagination.’¹ Corporations are one species of legal persons invented by the law and invested with a variety of attributes so as to achieve certain purposes sanctioned by the law.”

15. The State Load Despatch Centre is the creation of the statute. According to sub-section (66) of the Act, "State Load Despatch Centre" means the centre established under sub-section (1) of section 31. Sub-section (1) of section 31 enjoins upon every State Government to establish the State Load Despatch Centre for the purposes of exercising the powers and discharging the functions under Part. V titled “Transmission of Electricity”. Sub-section (1) of Section 32 of the Act declares the State Load Despatch Centre as the apex body to ensure integrated operation of the power system in the State. Sub-section (2) of Section 32 of the Act lists the duties and responsibilities of the State Load Despatch Centre. Sub-section (3) of Section 32 of the Act empowers the State Load Despatch Centre to levy and collect such fee and charges. Under sub-section (1) of section 33 of the Act, the State Load Despatch Centre is empowered to give such directions and exercise such supervision and control as may be required for

ensuring the integrated grid operations and for achieving the maximum economy and efficiency in the operation of power system in the State and these directions are to be complied with by intra-State entities connected with the operation of power system. Non-compliance of the directions of the State Load Despatch Centre has been made punishable under sub-section (5) of Section 33 of the Act. The State Load Despatch Centre can sue and be sued in the proceedings. Some of the respondents have asserted that the State Load Despatch Centre has filed petition against the distribution companies within the State before Delhi Electricity Regulatory Commission. Thus, the law clothes the State Load Despatch Centre with rights and liabilities. Accordingly, the State Load Despatch Centre is a "person" as defined in sub-section (49) of Section 2 of the Act.

16. Some of the respondents, by placing reliance upon sub-section (3) of Section 29 of the Act have argued that the directions issued by the Regional Load Despatch Centre to the State Load Despatch Centre are only required to be conveyed to the intra-State entities and this amounts to compliance of the directions of the Regional Load Despatch Centre for the purpose of sub-section 6() of section 29 of the Act. Accordingly, it has been urged, the penalty proceedings cannot be taken against the State Load Despatch Centre once the directions of the Regional Load Despatch Centre have been passed on to the entities concerned.

17. I do not consider that the interpretation placed by the concerned respondents to be correct. Sub-section (2) of Section 29 mandates the persons named therein to comply with the directions of the Regional Load Despatch

Centre, the inter-State entities as well as intra-State entities. However, in terms of sub-section (3), the directions meant for the entities such as the transmission licensee of State transmission lines or other licensee of the State or generating company (other than those connected to inter-State transmission system) or sub-station in the State have to be routed through the State Load Despatch Centre. The State Load Despatch Centre is commanded to “ensure” that the directions are duly complied with. The provision has been for the reason that by virtue of clause (e) of sub-section (2) of Section 32 of the Act the State Load Despatch Centre is responsible for carrying out real time operations for grid control and despatch of electricity within the State through secure and economic operation of the State grid, apart from being the apex body within the State to ensure integrated operation of power system within the State.

18. On the above analysis I hold that whereas sub-section (2) of section 29 enjoins upon all persons, including the generating companies, the licensees and others connected with the operation of power system to comply with the directions of the Regional Load Despatch Centre, sub-section (3) thereof indicates the manner in which the directions of the Regional Load Despatch Centre are to conveyed to the intra-State entities. Sub-section (3) does not encompass within its scope any direction to the State Load Despatch Centre.

19. Accordingly, I have no doubt that by virtue of sub-section (2) of Section 29 the State Load Despatch Centre which is a person connected with the operation of the power system, has necessarily to comply with the directions of the Regional Load Despatch Centre issued under sub-section (1) of Section 29. The

conclusion that the State Load Despatch Centre falls within the ambit of sub-section (2) of section 29 is made explicit by sub-section (3) of Section 33 when it declares that the State Load Despatch Centre shall comply with the directions of the Regional Load Despatch Centre. By virtue of sub-section (6) of Section 29 of the Act, non-compliance of the directions of the Regional Load Despatch Centre by a licensee, generating company or any other person connected with the operation of power system, which includes the State Load Despatch Centre has been made punishable. Therefore, proceedings for non-compliance of the directions of the Regional Load Despatch Centre against the State Load Despatch Centre are maintainable. I accordingly overrule the preliminary objection raised by some of the respondents.

20. Another preliminary objection raised by some of the parties is that the provisions of Chapter XIV - Penalties and Offences cannot be invoked for non-compliance with the directions of the Regional Load Despatch Centre. For deciding this preliminary objection it may be appropriate to have a look at sections 143 and 144 of the Act, which for part of Chapter XIV - Penalties and Offences. They are extracted below –

“143. Power to adjudicate: --- (1) For the purpose of adjudging under this Act, the Appropriate Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government ,after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 29 or section 33 or section 43, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

144. Factors to be taken into account by adjudicating officer:

While adjudicating the quantum of penalty under section 29 or section 33 or section 43, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the repetitive nature of the default”.

21. It is noted that the procedure for imposition of penalty for failure to comply with the directions of the Regional Load Despatch Centre issued under sub-section (1) of Section 29 of the Act has been provided in Section 143 of the Act. For this purposes, the Appropriate Commission (the Central Commission in case of non-compliance of the directions of the Regional Load Despatch Centre) has to appoint any of its members as the adjudicating officer who after giving the person concerned a reasonable opportunity of being heard, may impose penalty under Section 29 of the Act. Section 144 of the Act further lays down the factors to be taken into account by the adjudicating officer while adjudicating upon the quantum of penalty. Therefore, in my view, the adjudicating officer appointed under Section 143 of the Act has the jurisdiction to hold an inquiry against the person charged with non-compliance with the directions of the Regional Load Despatch Centre and adjudicate upon the quantum of punishment, if found guilty. Accordingly, I do not find any force in the preliminary objection.

22. The next question raised by some of the parties is of maintainability of proceedings under Section 149 of the Act against the in-charge of the State Load Despatch Centre. It has been argued that Section 149 cannot be invoked in the present proceedings taken under section 29 of the Act for non-compliance of the

directions of the Regional Load Despatch Centre. The argument made is two-fold. Firstly, it has been suggested that offences referred to in section 149 of the Act refer to offences tried by the special court and therefore, this section does not apply where the proceedings have been taken under sub-section (6) of section 29 of the Act by the Commission. The other leg of argument is that the State Load Despatch Centre is not a company.

23. For proper appreciation of the issue, I reproduce hereunder section 149 in its entirety –

“149. Offences by companies.—*(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.”

24. Sub-section (1) of Section 149 of the Act legislates that where an offence under the Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of its

business, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly: The question is whether the term “offence” includes contravention or non-compliance of the directions of the Regional Load Despatch Centre made punishable under sub-section (6) of section 29 of the Act. The term has not been defined in the Act. Sub-section (38) of section 3 of the General Clauses Act defines the “offence” as “any act or omission made punishable by any law for the time being in force”. In terms of the definition given, any act or omission which is punishable by any law in force is an offence, irrespective of the authority competent under the law to award punishment. The definition does not confine to acts or omissions punishable by a criminal court. Failure to comply with a direction of the Regional Load Despatch Centre is an omission punishable under the Act and is as such an offence. When a company is found guilty of non-compliance with the directions of the Regional Load Despatch Centre and punished, any person referred to in section 149 of the Act can be proceeded against.

25. The question similar to above has been considered by the Hon’ble Supreme Court in Standard Chartered Bank Vs Directorate of Enforcement [(2006) 4 SCC 278]. While construing the provisions of section 56 of the Foreign Exchange Regulation Act, 1973 the Hon’ble Supreme Court held that an offence only means the commission of an act contrary to or forbidden by law. It is not confined to the commission of a crime alone. It is an act committed against law or omitted where the law requires it and punishable by it. In its legal signification, an offence is the transgression of a law; a breach of the laws established for the protection of the public. I extract below the observations of the Hon’ble Supreme Court:

“29. Both, Section 50 providing for imposition of penalty and Section 56 providing for prosecution, speak of contravention of the provisions of the Act. Contravention is the basic element. The contravention makes a person liable both for penalty and for prosecution. Even though the heading to Section 56 refers to offences and prosecutions, what is made punishable by the section is the contravention of the provisions of the Act and the prosecution is without prejudice to any award of penalty. The award of penalty is also based on the same contravention. Section 63 confers the power of confiscation of currency, security or any other money or property in respect of which a contravention of the provisions of the Act has taken place conferred equally on the adjudicating authority and the court, whether it be during an adjudication of the penalty or during a prosecution. Whereas Section 64(1) relating to preparation or attempt at contravention is confined to Section 56, the provision for prosecution, sub-section (2) of Section 64 makes the attempt to contravene or abetment of contravention, itself a contravention, for the purposes of the Act including an adjudication of penalty under the Act. Section 68 relating to offences by companies, by sub-section (1) introduces a deeming provision that the person who was in charge of and was responsible to the company for the conduct of the business of the company, shall also be deemed to be guilty along with the company of the contravention of the provisions of the Act and liable to be proceeded against and punished accordingly. The proviso, no doubt, indicates that a person liable to punishment could prove that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention. Sub-section (2) again speaks only of a contravention of the provisions of the Act and the persons referred to in that sub-section are also to be deemed to be guilty of the contravention and liable to be proceeded against and punished accordingly. The word “offence” is not defined in the Act. According to *Concise Oxford English Dictionary*, it means, “an act or instance of offending”. Offend means, “commit an illegal act” and illegal means, “contrary to or forbidden by law”. According to *New Shorter Oxford English Dictionary*, an offence is “a breach of law, rules, duty, propriety, etiquette, an illegal act, a transgression, sin, wrong, misdemeanour, misdeed, fault”. Thus, an offence only means the commission of an act contrary to or forbidden by law. It is not confined to the commission of a crime alone. It is an act committed against law or omitted where the law requires it and punishable by it. In its legal signification, an offence is the transgression of a law; a breach of the laws established for the protection of the public as distinguished from an infringement of mere private rights; a punishable violation of law, a crime, the doing that which a penal law forbids to be done or omitting to do what it commands (see *P. Ramanatha Aiyar’s Advanced Law Lexicon*, 3rd Edn., 2005, p. 3302). This Court in *Depot Manager, A.P. SRTC v. Mohd. Yousuf Miya* stated that the word “offence” generally implies infringement of a public duty, as distinguished from mere private rights punishable under criminal law. In *Brown v. Allweather Mechanical Co.*¹⁶ it was described as: (All ER p. 476 A-B)

“A sanction—such as a fine, penalty, confinement, or loss of property, right, or privilege—assessed against a person who has violated the law.”

According to *Jowitts Dictionary of English Law*, Vol. 2, (2nd Edn. by John Burke), punishment is the penalty for transgressing the law. It is significant to notice that Section 68, both in sub-section (1) and in sub-section (2) uses the expression, shall be liable to be proceeded against and punished accordingly. There does not appear to be any reason to confine the operation of Section 68 only to a prosecution and to exclude its operation from a penalty proceeding under Section 50 of the Act, since the essential ingredient of both is the contravention of the provisions of the Act. A company is liable to be proceeded against under both the provisions. Section 68 is only a provision indicating who all in addition can be proceeded against when the contravention is by a company or who all should or could be roped in, in a contravention by a company. Section 68 only clarifies the nature and mode of proceeding when the contravention of any of the provisions of the Act is by a company, whether it be by way of adjudication to impose a penalty or by way of prosecution leading to imprisonment and a fine.

31. There does not appear to be any reason to confine the operation of Section 68 of the Act as was done by the High Court. Merely because the expression “punished” is used, it does not mean that it is confined to a prosecution under Section 56 of the Act, since the element that attracts the imposition of penalty and the prosecution is the same, namely, the contravention of any of the provisions of the Act. Moreover, there is nothing in the Act which confines the expression “punished” only to a punishment for a criminal prosecution. An imposition of a penalty can also be a punishment. The second part of the reasoning appears to be self-contradictory. If a person includes a company, there is no reason to confine Section 68 to a prosecution only, because the company as a person is liable to be proceeded against under Section 50 and Section 56 of the Act, though in a criminal prosecution the punishment by way of imprisonment can be imposed only on the officer or officers of the company referred to in Section 68 of the Act. Section 68 only indicates the manner in which a contravention by a company can be dealt with and it does not show that it is confined in its operation only to prosecutions against a company. It is a general provision relating to a contravening company, which is to be proceeded against whether it be under Section 50 or under Section 56 of the Act. The fact that a fine alone can be imposed on a company in a prosecution under Section 56 of the Act, cannot enable us to confine the operation of Section 68 to criminal prosecutions alone under the Act. We see no reason to whittle down the scope of Section 68 of the Act.

26. I find that the preliminary objection raised by some of the respondents to the effect that section 149 of the Act cannot be invoked in case of failure of a

company to comply with the directions of the Regional Load Despatch Centre to be without any legal basis.

27. I now consider the second leg of argument on the applicability of section 149, as noted above, is that the State Load Despatch Centre cannot not be said to be company and therefore person in charge of its affairs is not liable. The explanation .below Section 149 of the Act, for the purposes of this section, defines a "company" as a body corporate and includes a firm or other association of individuals. It appears to me that the commercial entities are intended to be covered under the provisions of Section 149 of the Act. In my view, these State Load Despatch Centres as functioning presently cannot be said to be a body corporate or firm or an association of individuals so as to be a company within the scope of section 149 of the Act. The State Load Despatch Centre is a statutory body, performing specific statutory functions assigned under the Act. Therefore, I am of the considered opinion that the person in charge of and responsible to the State Load Despatch Centres as functioning presently for the conduct of its business is not within the contemplation of Section 149 of the Act. Therefore, notices issued to the second respondent in each case stand discharged

28. After having analysed the preliminary issues on the maintainability of the proceedings, I now proceed to consider the individual cases on merits.

Adjudication Case No 1/2009

29. The details the directions of NRLDC to the Delhi State Load Despatch Centre, non-compliance of which has been alleged are given hereunder, along

with necessary information regarding the grid frequency and the quantum of over-drawl at the relevant time:

Ser No.	Reference No.	Date	Time	Over-drawl (MW)	Frequency (Hz.)
1.	NRLDC/OD/Message-B/101	3.10.2008	1016 hrs	245	48.87
2.	NRLDC/OD/Message-B/174	14.10.2008	1719 hrs	160	48.86
3	NRLDC/OD/Message-C/16	1.10.2008	0107 hrs.	341	48.97
4	NRLDC/OD/Message-C/20	3.10.2008	1140 hrs.	245	48.90
5	NRLDC/OD/Message-C/39	14.10.2008	0754 hrs.	248	48.78

30. In the reply it has been submitted that two stage Under Frequency Relay Settings have been implemented to make certain automatic load shedding at the frequency level of 48.8 Hz as decided at the meeting of the constituents of Northern Region at the meeting held on 11.8.2006 and for this purpose df/dt relays have been in the areas identified by the distribution licensee concerned in accordance with the instructions of NRLDC. Further automatic load-shedding is resorted to on additional pre-identified feeders when frequency reaches the level of 48.6 Hz, it has been stated. As regards the grid frequency within the range of 49.0 Hz to 48.8 Hz, the distribution licensees are reportedly called upon to reduce the load as they draw power from the grid and not the State Load Despatch Centre. It has been further stated that the State Load Despatch Centre has filed a petition against distribution licensees before the Delhi Electricity Regulatory Commission on 7.10.2008 because of their persistent over-drawl. General Manager, State Load Despatch Centre, by letter dated 1.10.2008 further advised the distribution licensees to arrange for more power to curb over-drawl. The State Load Despatch Centre by its letter dated 16.10.2008 is said to have further informed the distribution licensees that under low frequency conditions liquid fuel fired costlier

generating stations were automatically booked and stand allocated to the over-drawing distribution licensee.

31. The reply further points out that on receipt of intimation from NRLDC, fax message to Control Centres of the distribution licensees was immediately sent advising them to reduce the over-drawls. Elaborating the genesis for passing on the directions of NRLDC to the distribution licensees, It has been pointed out that the State Load Despatch Centre could not have switched off supply of power to them, as it would affected a very large areas without any discrimination and sensitivity and would have included in its sweep vital support and emergency services like transportation network, metro rail services, construction work, traffic signals, street lights, hospital, day care centres, fire brigade stations, police stations and lot of other sensitive establishments. It has been explained that only the distribution licensees can decide on the specific lines for resorting to load-shedding so that the sensitive establishments and vital networks/institutions remain unaffected by such unscheduled load-shedding. The State Load Despatch Centre has argued that if switching off power supply to the distribution licensees was an option available to the State Load Despatch Centre such option could be said to be available to NRLDC who could have switched off the supply to Delhi in the given situation when case frequency was going down to an unacceptable levels. The State Load Despatch Centre has called upon NRLDC to devise mechanism of manual load-shedding on vital aspects such as identification of feeders, etc in case the latter feels that there should be automatic cutting off the feeders at frequency below the threshold level. The state Load Despatch Centre has expressed its inability to identify the specific feeders to be subjected to cutting electricity since it is stated to be the function of the distribution licensees. Thus, it has been urged, the State Load Despatch Centre acted with due diligence since it has

communicated the directions of NRLDC to the distribution licensees, who are responsible for operating their sub-systems through the control centres.

32. NRLDC has submitted that on 1.10.2008, 3.10.2008 and 14.10.2008 directions were issued to the State Load Despatch Centre under clause 5.4.2 (b) of Indian Electricity Grid Code (the Grid Code) and sub-section (1) of section 29 of the Act (in the form of 'B' message) to restrict drawl to schedule. However, it is evident from the drawl pattern that the drawl exceeded the schedule even at frequency below the tolerance limit, but over-drawl was not reduced in any significant manner or rather at some instances it further increased after 'B' message. NRLDC has pointed out that on finding the situation more vulnerable, 'C' messages were issued to the State Load Despatch Centre as SOS. NRLDC has, based on these facts, alleged that no action had been taken by the State Load Despatch Centre and as a result the latter is guilty of violation of the directions of the former issued under of section 29 of the Act.

33. I proceed to examine the matter in the light of material on record. The steps narrated by the State Load Despatch Centre and taken note of at para 30 above are too general. Therefore, this part of the defence of the State Load Despatch Centre should not detain me. In these proceedings I am really examine the state of compliance with the directions of NRLDC issued under 'B' and 'C' messages on 1.10.2008, 3.10.2008 and 14.10.2008 which form the basis for these proceedings. The State Load Despatch Centre has not denied receipt of these messages. Rather their copies have been placed on record as a part of their reply. The State Load Despatch Centre also not denied that there was no improvement of the frequency profile or reduction in over-drawl after receipt of the messages.

34. 'B' message after referring to the state of grid and quantum of over-drawl by the particular State continues with the directive. A typical 'B' message is reproduced below:

"MESSAGE B

Reference: NRLDC/OD/Message-B/101 Date: 03-Oct-2008 Time : 1016
hrs

**From: SHIFT INCHARGE
NRLDC**

**To: SHIFT INCHARGE< SLDC
Delhi**

**CC; CE/CGM/GM
Delhi**

CC: Member Secretary, NRPC

CC: ED, NLDC, POWERGRID

SUB: Intimation regarding violation of Clause 5.4.2(a) and clause 6.4.4 of the IEGC and directions under clause 5.4.2(b) and 29(1) of Indian Electricity Act 2003 for immediate action; for restriction of overdrawl by your State in order to avert threat to system security.

This has reference to our earlier message and discussions on the above subject. In spite of our requests, the overdrawl by your State is not reduced and at present the overdrawl is as follows:

**Quantum of overdrawl
245 MW**

**Frequency
48.87 Hz**

In this regard we would bring to your reference the clauses 5.4.2 (a) and 6.4.4 of the IEGC which states that when the frequency falls below 49.0 Hz, requisite load shedding (manual) would be carried out by the concerned State(s) to curtail the overdrawl. We would therefore point out that by continuing to overdraw at frequency below 49.0 Hz, you have violated the clauses 5.4.2(a) and 6.4.4 of the IEGC.

Further, it is a matter of serious concern that despite the low frequency conditions in the grid, the overdrawl by your State is continuing. You would agree that operation of the grid at present level of frequency is a threat to system security and in order to ensure stability of the Grid, NRLDC directs you to act immediately to increase the generation and/or carry out manual load-shedding in your system in order to restrict your drawal within schedule and also inform the details of action taken, Please note that these directions are being issued in line with Clause 5.4.2(b) of IEGC and Section 29(1) of Indian Electricity Act 2003 and non-compliance of the same would be construed as violation of IEGC and Indian Electricity Act 2003.

It is also stated that under the present situation, we may be constrained to initiate other regulatory measures to restrict the overdrawal by your State. This would include scheduling upto your entitlement in the different Inter-State Generating Stations (including liquid fuel) in case such a possibility exists.

Please treat this message as 'most urgent' and act immediately."

35. The typical 'C' message provides that

"MESSAGE C

Reference: NRLDC/OD/Message-C/20 Date: 03-Oct-2008 Time : 1140
hrs

**From: SHIFT INCHARGE
NRLDC**

**To: SHIFT INCHARGE< SLDC
Delhi**

(Engg)

CC: Member/Dev. Commissioner/Director/Secretary

**CC; Delhi
CE/CGM/GM
Delhi**

CC: Member Secretary, NRPC

CC: ED, NLDC, POWERGRID

SUB: Intimation of violation of Clause 5.4.2(b) of IEGC and 29(2)29 (3) of Indian Electricity Act 2003 and request for immediate action; for curtailing the overdrawal, in the interest of grid safety and security.

Please refer NRLDC directions issued directing you to increase the generation and / or carry out manual load shedding in your system, in order to restrict over drawal by your State, in the interest of the grid security. These directions were issued to you in line with Clause 5.4.2 (b) of IEGC and Section 29(1) of Indian Electricity Act 2003.

However, the overdrawal by your state at low frequency is continuing resulting in threat to system security and you have violated clause 5.4.2(b) of IEGC and section 29(2)/29(3) of the IE Act 2003 by not complying with NRLDC 's instructions

At the moment the overdrawal by your State is as follows:

**Quantum of overdrawal
245 MW**

**Frequency
48.90 Hz**

We once again request you to curtail the overdrawal by your State in the interest of grid stability and security. We would also point out that under these conditions and

disintegration / disturbance in the grid due to persistent low frequency condition, the responsibility would rest on you.

It is also stated that under the present situation, in the event of continued overdrawal by your State, we may be constrained to initiate other regulatory measures to restrict overdrawal by your State. This would include disconnection of your feeders to your system. As a result of this the loss of load / network security in a particular area of your system shall entirely be your responsibility.

Please treat this message as 'most urgent' and act immediately."

36. The State Load Despatch Centre has stated that it passed on these messages to the distribution licensees, but took no other action thereafter. These messages were meant for compliance by the State Load Despatch Centre. It was nowhere indicated that the directions contained therein were meant to be passed on to the distribution licensees in the State for compliance. The directions were direct command to the State Load Despatch Centre who under section 32 of the Act is responsible for real time operation of the grid in the State to curtail over-drawl so as to bring the drawl within schedule. However, despite the various kinds of messages, over-drawls continued at frequency below 49.0 Hz against the optimum and ideal frequency level of 50.0 Hz. A response to these messages was expected from the State Load Despatch Centre within the reasonable time considering the state of the grid. However, it has been noticed that the directions contained in 'B' messages remained unanswered and without the needed action for long times, necessitating issuance SOS in the form of 'C' messages. The State Load Despatch Centre claims to have passed on the directions of NRLDC to the distribution licensees and felt contented with this action on the supposition that it had no further role to play. It reflects the state of helplessness. The approach is clearly fallacious and reflects a complete lack of understanding and appreciation of role of the State Load Despatch Centre as an apex body for operation of power system in the State. I do not think that the grid can be operated in real time in this manner. The State Load Despatch

Centre has clearly abdicated its basic statutory responsibilities. Even if for sake of argument only it is presumed that the State Load Despatch Centre correctly passed on the directions of NRLDC to the distribution licensees under sub-section (3) of section 29 of the Act, yet it failed to “ensure” that those directions were complied with. In case the State Load Despatch Centre found that action to curtail over-drawl was not being taken by the distribution licensees after its directions it ought to have intervened. The drawl position of the individual distribution licensee against the schedule is known very well to the State Load Despatch Centre. Similarly, the information in regard to various feeders is always available with the State Load Despatch Centre. It was, therefore, expected of the State Load Despatch Centre to play proactive role in real time operation and maintenance of grid discipline. In case the distribution companies were not cooperating action should have been taken by the State Load Despatch Centre

37. The State Load Despatch Centre’s contention that NRLDC could itself open lines, fails to recognize the adverse impact of such an action. Opening of 400 kV or 220 kV lines by NRLDC could have led to a much larger area getting affected within the State, resulting in blackout in a large part of the territory of the State. It is only the State Load Despatch Centre (and not the Regional Load Despatch Centre) which has knowledge of non-so-important feeders at the distribution level, that is, 33 kV and 66 kV lines and the State Load Despatch Centre can open the feeders at this level. Opening of lines by NRLDC could cause dislocation in larger area with important loads. The State Load Despatch Centre has further sought to impress upon NRLDC to devise a scheme for opening of feeders in case of necessity on its behalf on the ground of its inability to do so. The contention is contradictory and self-defeating and appears to be a clever attempt to pass the buck. In case the State Load Despatch Centre cannot identify the feeders for

cutting off supply it should not expect NRLDC to perform the feat. These feeders have to be identified by the State Load Despatch Centre, if not already done. However, in situation of extreme emergency, the Regional Load Despatch Centres can open lines serving the States to bring the situation to normalcy.

38. In the reply filed it has been emphasised that the State Load Despatch Centre had through fax messages immediately passed on the directions of NRLDC to the distribution licensees in the State. This aspect has been dealt with in earlier part of the matter. I consider it appropriate to dwell upon this aspect further. The copies of the fax messages sent were said to have been annexed as Annexure B to the reply. However, no such messages claimed to have been sent by the State Load Despatch Centre were found annexed. Subsequently, another affidavit was filed on behalf of the State Load Despatch Centre reiterating the averment, but without any evidence to support its contention that the messages were actually faxed to the distribution licensees. Therefore, at the hearing on 29.5.2009 the State Load Despatch Centre was directed to place on record documentary evidence as well as the records of oral messages to vindicate its stand.

39. From the documents placed on records by the State Load Despatch Centre, it is noted that the messages sent by NRLDC bear endorsements by the officials on the body of the messages themselves. There is no evidence that these messages were in fact sent to the distribution licensees and if sent, timings of the messages sent. There are circumstances which raise doubts regarding the veracity of the statement made in the affidavits. The State Load Despatch Centre has annexed copies of NRLDC messages, in addition to those referred to in the Commission's order dated 9.1.2009 and given at para 29 above. Two messages bearing references NRLDC/Message-A/108 and

NRLDC/OD/Message-B/70 (Pages 67 & 68 of reply), both dated 30.9.2008 sent at 2209 hrs and 2237 hrs respectively bear endorsements dated 29.9.2008. Another message No NRLDC/OD/Message-A/92 dated 30.9.2008 sent at 0903 hrs in the morning, copy annexed at page 13 of the additional affidavit dated 30.4.2009, bears endorsement dated 1.10.2008, of the next day. Yet in two other messages both dated 4.10.2008, No NRLDC/OD/Message-A/210 sent at 1614 hrs and NRLDC/OD/Message-B/121 sent at 1814 hrs , copies annexed at pages 26 and 27 of the additional affidavit dated 30.4.2009, date in the endorsement has been corrected from 5.10.2008 to 4.10.2008, the corrections being too obvious on the message sent at 1814 hrs. These circumstances indicate that the stand being taken in these proceedings is an after thought, not worthy of acceptance. From the oral message records placed at Annexure–B of the of the affidavit of the State Load Despatch Centre filed on 1.5.2009, it appears that against the specific instances mentioned by NRLDC, at one instance, after 'C' message on 14.10.08 at 1754 hrs, voice recorded message was sent. But here again there is no evidence of any substantive action by the State Load Despatch Centre, on the directions by NRLDC.

40. From above, I conclude that the State Load Despatch Centre is guilty of non-compliance with the directions of NRLDC as contained in the messages noted above.

Adjudication Case No 2/2009

41. The details the directions of NRLDC to the Punjab State Load Despatch Centre non-compliance of which has been alleged are given hereunder, along with necessary information regarding the grid frequency and the quantum of over-drawl at the relevant time:

S. No.	Reference No.	Date	Time	Over-drawal (MW)	Frequency (Hz.)
1	NRLDC/OD/Message-B/72	1.10.2008	0016 hrs.	267	48.98
2	NRLDC/OD/Message-B/106	4.10.2008	0016 hrs.	235	48.99
3	NRLDC/OD/Message-B/172	14.10.2008	1718 hrs.	110	48.80
4	NRLDC/OD/Message-C/15	1.10.2008	0106 hrs.	142	48.88
5	NRLDC/OD/Message-C/23	4.10.2008	0058 hrs.	356	48.79
6	NRLDC/OD/Message-C/40	14.10.2008	1755 hrs.	139	48.85

42. Two replies filed state that the State Load Despatch Centre was working under the control of CE (SO&P) as a part of the integrated utility, the Punjab State Electricity Board (PSEB). The power cuts in the State are enforced by the State Load Despatch Centre and regulatory measures are also being decided and implemented by the State Load Despatch Centre. Normally the power cuts are imposed through switching off 11 kV feeders. Due to large scale human involvement there are some time delays in flashing of messages and resultant relief to the system is also delayed. As per the reply, load variation in demand of Punjab is on seasonal as well as on day to day basis, mainly because of agricultural load. PSEB is stated to have arranged power for paddy season presuming that there would not be power requirement after 30.9.2008. But due to shift in sowing and consequent maturity of paddy crop, the power demand existed even thereafter and had not reduced in October, against the anticipation. PSEB reportedly made efforts to get more power from its own generating stations but due to poor inflow of water for hydro generating stations and delay in commissioning of unit 4 of GHTP, availability of power was less than expected. It has been informed that after each of the instances of over-drawl cited in the order dated 9.1.2009, PSEB took immediate action to reduce over-drawl by switching off tube well loads and imposing unscheduled power cuts in general. PSEB is also said to have requisitioned full share of RLNG and liquid fuel shares of Anta, Aurayia and Dadri gas-based generating stations, which are otherwise

considered to be costly sources of power. The replies state that PSEB had continued the contracts with Uttarakhand and Kerala to get power under banking system. It has pointed out that many a time in October 2008 PSEB had under-drawn to support the grid.

43. It has been further explained that there was heavy mismatch between UI draws based on SCADA data being displayed in control room and the weekly UI account issued by NRPC. It has been reported that SCADA data displayed that PSEB over-drew about 333 LU in the month of September 2008 whereas the UI account indicated under-drawl of 15.17 LU. This gave an impression that PSEB while over-drawing about 50 MW on real time basis as per SCADA was in fact under-drawing from the grid. This situation persisted in October as well, it has been averred.

44. The State Load Despatch Centre has submitted that over-drawls during the periods mentioned in the messages issued by NRLDC was not wilful or deliberate and steps were taken every to curb these over-drawls by imposing unscheduled power cuts and curtailing tube well supply.

45. I seek to consider the matter in the light of replies submitted by the State Load Despatch Centre. On 1.10.2008 'B' message was issued at 0016 hrs when frequency was 48.98 Hz and over-drawl was of 267 MW. When NRLDC found that there was not sufficient curtailment of load, it issued a 'C' message 0106 hrs, that is, after one hour of issue of 'B' message. At that time frequency was at 48.88 HZ, on the lower side, and over-drawl, though reduced was still as high as 142 MW. The second instance of over-drawl forming subject matter of these proceedings is 'B' message issued on 4.10.2008 at 0016 hrs when frequency was at 48.99 Hz informing of over-drawl of 235 MW. This was

followed up by 'C' message at 0058 hrs when over-drawl increased to 356 MW and frequency fell to 48.79 Hz. The third situation, equally grave, is reflected through the data of 14.10.2008. On that date 'B' message was issued at 1718 hrs at frequency of 48.80 Hz when over-drawl was to the tune of 110 MW. However, by 1755 hrs over-drawl instead of reducing increased to 139 MW when 'C' message was issued. These instances lead to an unequivocal conclusion that the State Load Despatch Centre made no efforts to curtail load, despite claims to the contrary made in the replies.

46. The State Load Despatch Centre has raised an issue regarding discrepancy between real time Supervisory Control and Data Acquisition System (SCADA) data and Special Energy Meter (SEM) data. This comparison is not apt. The SCADA values record instantaneous drawls in MW while the SEMs record the energy drawn in each 15-minute time block from which the average MW in each time-block is computed. Real time operations have to be based on SCADA data only since SEM data becomes available *post facto*. Ensuring correctness of SCADA data is a collective responsibility of NRLDC and the State Load Despatch Centre and requires continuous efforts on their part. NRLDC is checking and sharing with the constituents on a monthly basis the consistency between average 15-minute drawl computed from SCADA and that from SEMs. Nevertheless, apart from making a general statement that there was mismatch between the SCADA data and SEM data, the State Load Despatch Centre has not pinpointed any discrepancy in the data (which is based on SCADA values) included in the order dated 9.1.2009 and which is the basis of the present proceedings.

47. As noticed above, the State Load Despatch Centre has filed two responses. Neither of these responses disputes the correctness of the data based on which the

messages were issued by NRLDC. There is no denial that over-drawl was resorted to. The over-drawls did not terminate even after issue of 'B' messages and this indicates that no serious efforts were made by the State Load Despatch Centre to reduce over-drawl and confine to the schedule. Rather over-drawls increased in two situations as noted from the data included in subsequent 'C' messages. The situation clearly demanded that more load-shedding in real time was needed to obviate the problems of low frequency and shortages needed to be handled in a planned fashion. The magnitude of load-shedding needed to be increased in such cases.

48. Based on the above discussion, my conclusion is that the State Load Despatch Centre has not complied with the specific directions of NRLDC. It is thus clear that the State Load Despatch Centre is worthy of blame and liable to be penalised under sub-section (6) of section 29 of the Act.

Adjudication Case No 3/2009

49. The details the directions of NRLDC to the Jammu & Kashmir the State Load Despatch Centre of which has been alleged are given hereunder, along with necessary information regarding the grid frequency and the quantum of over-drawal at the relevant time:

S. No.	Reference No.	Date	Time	Over-drawl (MW)	Frequency (Hz.)
1	NRLDC/OD/Message-B/68	30.9.2008	2213 hrs.	354	48.95
2	NRLDC/OD/Message-B/128	4.10.2008	2303 hrs.	134	48.81
3	NRLDC/OD/Message-C/18	1.10.2008	0114 hrs.	224	48.98
4	NRLDC/OD/Message-C/27	4.10.2008	2317 hrs.	128	48.78

50. In the reply it has been submitted that the State Load Despatch Centre is not fully functional as the control of putting off the load does not lie with the State Load Despatch Centre. It has been stated that the State Load Despatch Centre has to instruct Chief Engineer M&RE Wing, Jammu/Kashmir and Chief Engineer S&O Jammu/Kashmir etc to put the load off as the transmission and distribution functions are under their control under the overall supervision and control of the Development Commissioner (Power), J&K, Power Development Department. The State Load Despatch Centre has stated that immediately after receiving the directives from NRLDC the instructions are communicated to the concerned system operators for necessary action and thereafter the matter rested with them.

51. In the reply it has been pointed out that the holy month of Ramzan fell during September 2008 with Shab-I-Qadar on 28th Sept., 2008, and Id-ul-Fitter on 2nd October, 2008. During these intervening days the load could not be shed by the transmission and distribution agencies during peak hours. It has been further stated that with the start of the Navratras 1st/2nd Oct., 2008 there were congregations in temples during morning and evening peak hours and as such the transmission and distribution agencies could not put off load on these days too. The State Load Despatch Centre has sought to underscore that shedding of load on festive days creates law and order problems because of the sensitivities involved. The State Load Despatch Centre has, like the respondents in Adjudication Case No. 1/2009, sought to absolve itself of its responsibility to undertake load-shedding by stating that NRLDC could itself have opened the lines feeding the State of Jammu & Kashmir as it normally does to contain over-drawl and in the interest of grid discipline.

52. NRLDC has stated that issue of two 'C' messages substantiates that there was violation of its directions in the 'B' messages issued earlier..

53. I have considered the reply of the State Load despatch Centre. The issues raised are generally similar to those raised in Adjudication Case No 1/2009 which I have already considered and have found without merit. Further, I find that 'B' message was issued on 30.9.2008 at 22.13 hrs under clause 5.4.2 (b) of the Grid Code and sub-section (1) of section 29 the Act pointing out that the State was over-drawing to the extent of 354 MW and directing the State Load Despatch Centre to restrict its drawl so as to be within the schedule. However from the drawl pattern it is evident that drawl was not brought within schedule. Therefore, NRLDC issued 'C' message at 0114 hrs of 1.10.2008 when over-drawl was to the extent of 224 MW. Again, on 4.10.2008 at 2303 hrs directions in the form of 'B' message were issued by NRLDC when the extent of over-drawl was 134 MW. However, these directions also appear to have fallen on deaf years as observed from the drawl pattern that over-drawl was still at 128 MW, in the close vicinity of that conveyed earlier, and a 'C' message had to be rushed at 2317 hrs. These facts are sufficient to prove that the State Load Despatch Centre had failed to comply with the directions of NRLDC.

54. The reasons in support of continued over-drawl do not seem to be very satisfying. The State Load Despatch Centre has sought to explain because of festival season in the State, there was increased demand at mornings and evenings. I find that over-drawls were not during morning and evening peak hours but were in the dead of night, even after 0100 hrs. India is a country of festivals. These festivals are known well in advance. It was therefore necessary for the State to make advance planning and arrangements for

requisitioning additional supply, for which a number of opportunities are available in the short-term also. In the absence of proper planning for arrangement to meet additional requirement, only viable alternative before the State Load Despatch Centre was to shed load, which does not seem to have been done in right earnest.

55. As regards the State Load Despatch Centre's contention that NRLDC could open the feeders, the matter has already been adequately considered while dealing with a similar contention raised in Adjudication Case No 1/2009. For the reasons already given, I reject the contention. I do not consider it necessary to reiterate my views on this aspect.

56. From above account, it is very clear that the State Load Despatch Centre has clearly violated the directions of NRLDC.

Adjudication Case No 4/2009

57. The details the directions of NRLDC to the Rajasthan State Load Despatch Centre, non-compliance of which has been alleged are given hereunder, along with necessary information regarding the grid frequency and the quantum of over-drawl at the relevant time:

S. No.	Reference No.	Date	Time	Over-drawl (MW)	Frequency (Hz.)
1.	NRLDC/OD/Message-B/99	3.10.2008	1006 hrs	135	48.85
2	NRLDC/OD/Message-C/21	3.10.2008	1240 hrs.	135	48.78

58. In the reply, the State Load Despatch Centre has submitted that on 3.10.2008 when messages were issued by NRLDC, there was sudden loss of generation of 500 MW due to tripping of two units of 250 MW each in quick succession, at 0947 hrs and 0952 hrs, leading to compulsive over-drawl. It has been stated that immediately before that the State was under-drawing. It has been stated that after tripping of units, unscheduled load-shedding was resorted to even before receipt of the message from NRLDC (at 1011 hrs.). Thus, the State Load Despatch Centre has claimed to have taken action in advance to control the over-drawl. Further, it has been stated, when 'C' message at 12.51 hrs was received on 3.10.2008, the action for reducing over-drawl was continuing through unscheduled load-shedding and over-drawl was substantially reduced consequently resulting in under-drawl at 14.15 hrs. It has been stated that the instructions of the State Load Despatch Centre for load-shedding are passed through 220 kV, 132 kV and then to 33 kV and 11 kV feeders from which actual load relief comes. Thus, this process of communication and implementation of load-shedding takes about 15-20 minutes to materialise. In this instant case, the instructions of NRLDC have been complied and over-drawl was started abating even prior to the receipt of the messages from NRLDC, it has been asserted.

59. From the details of the messages issued by NRLDC it is evident that at 1006 hrs on 3.10.2008 there was over-drawl of 135 MW of power from the grid at frequency of 48.85 Hz, when 'B' message was issued by NRLDC. Over-drawl of 135 MW continued till 1240 hrs when frequency came down to 48.78 Hz, compelling NRLDC to issue 'C' message. In this manner, despite the direction of NRLDC, over-drawl at frequency below 49.0 Hz continued. This belies the statement of the State Load Despatch Centre to the effect that there was continuous reduction in over-drawl after receipt of 'B' message. This

is the sufficient evidence to establish the failure of the State Load Despatch Centre to comply with the direction of NRLDC. . I have, however, been informed by NRLDC that after receipt of 'C' message, the State Load Despatch Centre substantial curtailed over-drawl.

60. The tripping of 250 MW units in quick succession cannot be used as an alibi for non-compliance of the direction of NRLDC issued in the interest of safety, security and stability of the grid. In such situations, quick action on the part of the State Load Despatch Centre is the need of the hour. One expects the State Load Despatch Centre to rise to the occasion and take action immediately for load control. Therefore, the State Load Despatch Centre ought to have been more vigilant to manage the load after tripping of the units and in stead of continuing with over-drawl of power from the grid

Penalty

61. Lastly I consider the question of penalty, Section 144 of the Act lists the following factors to be taken into account while adjudicating upon the quantum of punishment, namely -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; and
- (b) the repetitive nature of the default

62. The State Load Despatch Centres in all the case have been found to be guilty of non-compliance of the directions of NRLDC. This is the first time that proceedings under sub-section (6) of section 29 of the Act read with section 143 thereof have been taken. There is no previous record of the concerned State Load Despatch Centres having been

found guilty of such non-compliance. The over-drawls were to meet the demand of the consumers of the respective State. Under these circumstances, it is difficult to say that any one of them has made a disproportionate gain. Though the State Load Despatch Centres by overlooking the directions of NRLDC have earned advantage, and to an extent, unfair because other States in the region were deprived of their legitimate share, yet the amount of unfair advantage cannot be quantified based on evidence available before me. In my opinion, ends of justice will be served for imposing penalty of Rs.50,000/- for each violation recorded in show cause notices.

63. Keeping in view the totality of circumstances, I impose penalty as under -

(a) Delhi State Load Despatch Centre	Rs.2.5 lakh
(b) Punjab State Load Despatch Centre	Rs.3.0 lakh
(c) Jammu & Kashmiri State Load Despatch Centre	Rs.2.0 lakh
(d) Rajasthan State Load Despatch Centre	Rs.1.0 lakh

64. The penalty shall be deposited by the concerned State Load Despatch Centres latest by 31.5.2009.

65. With the above, the above adjudication cases stand disposed of.

Sd/-
(S.JAYARAMAN)
Member
Adjudicating Officer

New Delhi dated the 8th May 2009