

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Record of Proceedings

PETITION NO.121/2008 (Suo-motu)

Subject: Unlawful and arbitrary denial by the Tamil Nadu Electricity Board for granting concurrence for Open Access sought by Tata Power Trading Company Limited.

Coram : Dr. Pramod Deo, Chairperson
Shri Bhanu Bhushan, Member
Shri R.Krishnamoorthy, Member
Shri S.Jayaraman, Member

Date of Hearing : 16.12.2008

Petitioners : 1. Tata Power Trading Company Ltd, Mumbai
2. DCW Ltd, Mumbai

Respondent : Tamil Nadu Electricity Board, Chennai

Parties present : Shri Mansoor Ali, Advocate, Petitioners,
Shri Ambrish Kumar, TPTCL,
Shri M.S. Ramachandran, DCW, Ltd.
Shri Kovilan Poongkuntran, TNEB
Shri P.S. Ganesan, TNEB
Shri R. Krishnaswamy, TNEB

At the outset, representatives of the respondent submitted that the copy of the petition was not received by it and they were not able to respond. On examination of the records, it emerged that the petitioners had dispatched the petition to the wrong address. The petitioners agreed to provide fresh copy of the petition to the respondent. Learned counsel for the petitioners, however, added

that the entire paper book relating to the petition formed part of proceedings before the TNERC wherein the respondent entered appearance.

2. The Commission decided to hear learned counsel for the petitioners with liberty to learned counsel for the respondent to file written submissions.

3. Learned counsel for the petitioner submitted that the petitioner had filed an application dated 24.4.2008 seeking open access for the period 1.5.2008 to 31.5.2008 and the same was not decided by the respondent. A subsequent application dated 1.10.2008 seeking open access for the period 10.10.2008 to 31.10.2008 was rejected on 4.10.2008 without assigning any reason. According to him, the above mentioned actions of the respondent were arbitrary and illegal.

4. Learned counsel added that subsequent to the filing of the present petition, the respondent, vide its letter dated 18.11.2008 required the second petitioner to incorporate the phrase "*and the sale of balance surplus power to Board*" in the agreement. He submitted that he had filed these details under an affidavit dated 8.12.2008 wherein he had prayed for action under Sections 142 and 149 of the Electricity Act, 2003 (the Act) against the respondent. It was informed by the office that the affidavit dated 8.12.2008 filed by the second petitioner on 15.12.2008 was registered as a separate petition and was to be listed subsequently.

5. The Commission directed learned counsel for the petitioners to file written submissions within a week with an advance copy to the respondent who may

also file its written submissions within a week thereafter. The case shall be listed for further directions on 22.1.2009.

Sd/-
(K.S.Dhingra)
Chief (Legal)