

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 211/MP/2016

Subject : Petition under Section 19 of the Electricity Act, 2003 read with Regulations 14 and 7 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 seeking revocation of the inter-State Trading licence granted to M/s Global Energy Private Limited.

Date of hearing : 31.5.2018

Coram : Shri P.K. Pujari, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : Jindal Power Limited

Respondent : Global Energy Private Limited

Parties present : Shri Buddy Ranganathan, Advocate, JPL
Shri S. Venkatesh, Advocate, JPL
Shri Pratyush Singh, Advocate, JPL
Shri Somesh Srivastava, Advocate, JPL
Shri Jagdeep Dhankar, Senior Advocate, GEPL
Shri Hemant Singh, Advocate, GEPL
Shri Nishant Kumar, Advocate, GEPL
Shri Matrugupta Mishra, Advocate, GEPL
Ms. Ankita Bafna, Advocate GEPL
Ms. Shikha Ohri, Advocate, GEPL
Ms. Surbhi Agarwal, GEPL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present petition is listed for hearing pursuant to the matter remanded by the Hon'ble High Court of Delhi. Learned counsel for the petitioner argued at length and submitted that the issues raised in the petition is limited to Section 19 of the Act and does not purport to any dispute between Section 79 (1) (f) of the Act and the present petition is exclusively for revocation of licence. Learned counsel referred to the judgment of Hon'ble Delhi High Court dated 21.3.2017 [CS (Comm) 174 of 2016] and submitted that there is no stay in this case and pendency of this suit does not bar the other authorities to act within its jurisdiction. Accordingly, Section 10 of the Civil Procedure Code, 1908 does not override the provisions under Section 19 of the Act and therefore, the licence granted by the Commission can only be revoked by this Commission. Learned counsel further referred to judgment of the Hon'ble Supreme Court dated 19.2.2014 [CTO Vs. Binani Cements Limited (2014) 8 SCC 319] and submitted if at all there is conflict between Section 19 and

Section 79 of the Act, then Section 19 of the Act being a special provision will prevail over Section 79 of the Act. Learned counsel submitted that the Appellate Tribunal vide judgment dated 21.8.2017 in Appeal No. 64 of 2015 (Western Electricity Supply Company of Odisha Ltd. & Ors. Vs. Odisha Electricity Regulatory Commission & Ors.) has observed that the Appellants (Discoms) cannot renege from its contractual obligation through different alibis and accordingly, Section 19 (1) (a) of the Act will be applicable to the cases under contractual violation regarding non-payment of dues/ securitization amount.

2. Learned Senior counsel for GEPL argued at length and submitted that the dispute in the present petition is money claim and does not come within the scope of Section 79(1)(a) to (d) of the Act. In support of his contentions, learned Senior counsel referred the judgment of Hon'ble Supreme Court in Carona Limited vs. Parvathy Swaminathan & Sons [(2007) 8 SCC 559]. Learned Senior counsel further submitted that the subject matter of present case is similar to the matter pending for adjudication before the Hon'ble High Court of Delhi. Accordingly, the present proceeding under Section 19 of the Act is barred by Section 10 of the Civil Procedure Code 1908 and the Commission cannot adjudicate the present petition prior to the disposal of the aforesaid matter which is pending before the Hon'ble High Court of Delhi.

3. Learned Senior counsel further submitted that GEPL had initiated a Civil Suit on 28.9.2015, against the Petitioner for fraudulent termination of the Letter of Intent/ Settlement dated 18.8.2015. The above Civil Suit was dismissed by the Ld. Single Judge of the Hon'ble Delhi High Court on 28.9.2015 on the grounds of maintainability. Meanwhile, GEPL filed an appeal before the Division Bench of the Hon'ble Delhi High Court, wherein by order dated 6.10.2015 [RFA (OS) No. 93/2015], the Division Bench restored the above suit filed by GEPL and held that the issue of jurisdiction of the Central Commission has to be decided by the Single Judge of the Hon'ble Delhi High Court. Learned Senior counsel submitted that the order passed by a single judge or the directions of the Division Bench of the Hon'ble High Court of Delhi cannot be subverted, bypassed or disregarded, directly or indirectly.

4. After hearing the parties at length, the Commission directed the Petitioner and respondents to file their written submissions with copy to each other, on or before 11.6.2018.

5. Subject to above, the Commission reserved order in the petition.

By order of the Commission

**-Sd/-
(T. Rout)
Chief (Law)**