

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 54/2018
In Petition No. 169/MP/2016**

Subject : Interlocutory Application for recall of Record of Proceeding dated 15.11.2016 and listing of Petition for hearing.

Date of Hearing : 21.8.2018

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

Petitioner : KSK Mahanadi Power Company Limited

Respondents : Eastern Power Distribution Company of Andhra Pradesh Limited and Others

Parties present : Ms. Swapna Seshadri, Advocate, KSK
Shri Ananad K. Ganeshan, Advocate, KSK
Shri S.Vallinayagam, Advocate, TANGEDCO & AP Discoms
Shri Rakesh K. Sharma, Advocate, TSSPDCL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Interlocutory Application (IA) has been filed to recall the Commission's direction dated 15.11.2016 wherein the Commission directed to adjourn the Petitions filed by the Petitioner sine die till the issue of jurisdiction is decided by the Hon'ble High Court of Andhra Pradesh. Learned counsel further submitted as under:

- a) The issue of jurisdiction before the Hon'ble High Court of judicature at Hyderabad primarily arose only in those cases wherein the generators pursuant to bifurcation of the State of Andhra Pradesh are now supplying power to both the new States of Andhra Pradesh and Telangana and issue arose as to the jurisdiction of the Regulatory Commission to adjudicate upon disputes between such generators and the distribution licensees of Andhra Pradesh and Telangana.
- b) The Petitioner is not even party to the writ petition pending before the Hon'ble High Court of judicature at Hyderabad.
- c) The Petitioner's generating station is located in the State of Chhattisgarh and the Petitioner has PPA for the supply of power to the distribution licensees of undivided State of Andhra Pradesh, which pursuant to the bifurcation had been divided into distribution licensees of Andhra Pradesh and Telangana. The

Hon'ble Supreme Court in Energy Watchdog Judgment has held that even a generator supplies power to a single State but involving inter- State supply of electricity, the Central Commission shall have exclusive jurisdiction to adjudicate the disputes of such generators. Therefore, even assuming that the undivided State of Andhra Pradesh continued without bifurcation, the supply by the Petitioner would involve inter-State supply from Chhattisgarh to Andhra Pradesh and the Commission shall have exclusive jurisdiction in the light of Hon'ble Supreme Court judgment in Energy Watchdog Judgment case.

2. Learned counsels for the TANGEDCO, Andhra Pradesh Discoms and Telangana Discoms submitted as under :

a) The Hon'ble High Court of judicature at Hyderabad in the Writ Petition pending before it has stayed all the matters pertaining to Andhra Pradesh and Telangana discoms.

b) The Hon'ble High Court of judicature at Hyderabad vide its interim order dated 14.7.2016 stayed the Commission's order dated 15.6.2016 in Petition No. 183/MP/2015 (Meenakshi Energy Private Limited versus Telangana State Power Coordination Committee and others) pending disposal of the Writ Petition.

c) Pursuant to Energy Watchdog Judgment, several developers approached Hon'ble Supreme Court to transfer their cases from respective High Courts to the Supreme Court and to pass similar order as passed in Energy Watchdog judgment. However, the Hon'ble Supreme Court vide order dated 20.4.2017 did not pass any order on the transfer Petitions and directed the Hon'ble High Court of Andhra Pradesh and Telangana to dispose of the matters pending before them

3. The Commission directed the learned counsel for the respondents to place on record the judgments relied upon by them in support of their contention within three days.

4. After hearing the learned counsel of the parties, the Commission admitted the I.A. and directed to issue notices to the respondents. The Commission directed the respondents to file their replies, by 18.9.2018, with an advance copy to the Petitioner, who may file its rejoinders, if any, by 28.9.2018. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

5. The I.A. shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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