

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**
3. **Shri Bhanu Bhushan, Member**
4. **Shri A.H. Jung, Member**

Petition No. 9/2004

In the matter of

Application for grant of licence for inter-state trading in electricity.

And in the matter of

TGV Projects and Investments Pvt. Ltd.

... **Applicant**

The following were present:

1. Shri Hemant Sahai, Advocate, TGVPL
2. Shri Sitesh Mukherjee, Advocate, TGVPL
3. Shri Shri Ajay K. Jain, Advocate for Objector Shri M.A. Gafoor
4. Shri Atanu Mukherjee, Advocate for Objector Shri M.A. Gafoor

**ORDER
(DATE OF HEARING: 17.5.2005)**

The application is made under sub-section (1) of Section 15 of the Electricity Act, 2003 (the Act) for grant of licence for trading in electricity in whole of India, except the State of Jammu and Kashmir.

2. In exercise of powers conferred under Section 178 of the Act, the Commission has notified the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2004. In accordance with Clause (3) of Regulation 4 of these regulations, the applicant is mandated to post complete application along

with annexures and enclosures on the website to facilitate access to the application to any person through internet. In accordance with Clause (4) thereof, the applicant, within 7 days after making the application, is required to publish notice of his application in the newspapers in conformity with sub-section (2) of Section 15 of the Act. In such notices, the statement to the effect that complete application is available on the website, along with the details of the website is to be included.

3. In response to the public notices published by the applicant, one Shri M.A. Gafoor has filed his objections.

4. At the hearing on 10.3.2005, it was noticed that the copies of the application in possession of the learned counsel for the applicant and the objector were different from the application made before the Commission. Therefore, the Commission had ordered an inquiry by the Secretary of the Commission into the matter. The enquiry has revealed that the copies of the application in possession of the learned counsel for the parties was never filed before the Commission. It was further noted that the application, the copies of which were in possession of the learned counsel, was posted on the applicant's website under the title "Application for Inter-state power trading licence before CERC". A copy of the Secretary's report was furnished to the applicant as also the objector.

5. We have heard Shri Hemant Sahai, Advocate for the applicant and Shri Ajay K. Jain, Advocate for the objector.

6. Learned counsel for the applicant vehemently argued that there has been substantial compliance of the procedural requirements specified by the Commission inasmuch as, the applicant has also posted on the website a copy of the application made by it before the Commission, in addition to the application titled "Application for Inter-state power trading licence before CERC" though actually not filed. He made strenuous efforts to persuade us to accept the application for consideration on merits. Learned counsel for the objector has urged that in view of the deficiencies above noted, the application is not maintainable and is liable to be dismissed.

7. We have very carefully considered the submission made by the learned counsel for the applicant, but we are not satisfied with his arguments. It is conceded by the learned counsel that the application on the applicant's website under the title "Application for Inter-state power trading licence before CERC" was never filed before the Commission. Thus, the statement put on the website is clearly misleading. Any person who may access the applicant's website in search of the application made before the Commission could go astray and for this reason perhaps the objector could not lay his hands on the application actually made. We are of the opinion that the applicant has failed to comply with the essential procedural requirement of posting the application on its website.

8. In the light of foregoing discussion, in our opinion, the applicant has failed to comply with the requirements of the regulation notified by the Commission on the subject. The application has been lying pending for over one year and used to

be adjourned from time to time generally on the request of the applicant to enable it to ensure compliance with the specified procedure. We do not consider it appropriate to keep the application pending any longer. The application is accordingly dismissed.

9. We make it clear that we have not considered in detail the other objections received from Shri Gafoor.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 24th May, 2005