

Appellate Tribunal for Electricity (Appellate Jurisdiction) APPEAL No.184 of 2011
Dated:27th Feb, 2013 Present: HON'BLE MR. JUSTICE M KARPAGA
VINAYAGAM, CHAIRPERSON HON'BLE MR. RAKESH NATH, TECHNICAL
MEMBER

In the Matter of:

**Delhi Transco Limited,
Shakti Sadan, Kotla Road,
New Delhi-110 002**

...Appellant

Delhi Electricity Regulatory Commission & Others

.....Respondents

Extracts

.....Delhi Transco Limited is the Appellant herein. The Appellant is the Transmission Licensee for the National Capital Territory of Delhi. The Appellant also discharges the statutory functions of a State Transmission Utility and State Load Despatch Centre for the National Capital Territory of Delhi.

The very purpose of the creation of the Regulatory Commissions is to distance the Government from the tariff determination process and to ensure that the tariff is determined on a viable basis to recover the cost of expenditure of the licensees. In other words, the Government has no obligation to pay any amount, except for the amounts expressly admitted and agreed to be paid by the Government for a particular purpose.

In any event, the fastening of the DVB collected to the account of the Appellant is as much as uncontrollable factor to the Appellant as the power purchase cost. Therefore, there is no merit whatsoever in the submissions made by the R-4.

In this case, as indicated above, the State Commission has ventured to decide not to follow the dictum laid down by this Tribunal which would show the attitude of the State Commission to violate the judicial discipline to be maintained by the subordinate authorities.

It is well settled law that the characteristic attribute of the judicial act or a decision of the Appellate Authority would bind the subordinate authorities whether it be right or wrong. In other words, the alleged error of law or error of fact for the Government of Delhi to pay the amount claimed by the Appellant is misconceived.

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In view of the above, the impugned order is set aside on this point with the directions to the State Commission to comply with the directions without fail as given in Appeal No.133 of 2007 in which no stay has been granted by the Hon'ble Supreme Court and the directions given in Appeal No.28 of 2008 against which no Appeal has been filed.

If the directions given in this judgment are not followed by the State Commission in the future, then this Tribunal would be constrained to take suitable action by resorting to imposition of exemplary cost on the State Commission as well as by resorting to other penal provisions like Section 146 etc. Thus, this issue is decided accordingly.....

The complete copy of the Judgment can be accessed on the website of Appellate Tribunal of Electricity