

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act, 2003

Central Act 36 of 2003)

PRESENT:-

Thiru S. Akshayakumar

.... Chairman

Thiru T.Prabhakara Rao

.... Member

P.R.C. No.1 of 2019

M/s.Lanco Tanjore Power Company Limited ...

Petitioner

(Thiru Rahul Balaji, Advocate)

Versus

TANGEDCO & Another

...

Respondents

(Thiru M.Gopinathan, Standing Counsel)

Hearing dated : 07-03-2019

DAILY ORDER

Orders pronounced in the open court.

(Sd.....)

(T.Prabhakara Rao)

Member

(Sd.....)

(S.Akshayakumar)

Chairman

/ True Copy /

Secretary

Tamil Nadu Electricity

Regulatory Commission

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act, 2003

Central Act 36 of 2003)

PRESENT:-

Thiru S. Akshayakumar

.... Chairman

Thiru T.Prabhakara Rao

.... Member

I.A.No.2 of 2019

In

D.R.P.No.16 of 2012

TANGEDCO

...

Petitioner

(Thiru M.Gopinathan, Standing Counsel)

Versus

M/s.Samalpatti Power Company Pvt. Limited ...

Respondent

(Thiru Rahul Balaji, Advocate)

Hearing dated : 07-03-2019

DAILY ORDER

Thiru. Rahul Balaji, Advocate appeared for the Respondent and sought time for making additional submissions on the orders already reserved in I.A.No.2 of 2019 in D.R.P.No.16 of 2012 on the issue of re-opening the main petition in D.R.P.No.16 of 2012 which was also reserved for orders.

2. At the time when the order in I.A.No.2 of 2019 was due for pronouncement today i.e., 07-03-2019, the counsel for the respondent submitted that he had made only written submissions on the plea of TANGEDCO for re-opening of D.R.P.No.16 of 2012 and he was not given opportunity to make his oral submissions on the legal issues on the question of re-opening of the reserved matter. The respondent's counsel further submitted that the Daily Order did not contain his request for time for making oral submissions on the issue of re-opening and in fact, the orders were reserved without taking into account such request for oral submissions. He further prayed that the orders may be passed after hearing the additional submissions. The Counsel for TANGEDCO pleaded that inasmuch as the respondent had filed the counter on the matter of re-opening and the orders have been reserved on the issue of re-opening of the case, the Commission need not accede to the request of the respondent. If at all if Commission considers to entertain the respondent's plea, TANGEDCO may be given opportunity to respond to the additional submissions of the respondent. In the light of the said submissions, the earlier daily order has been perused.

3. On perusal, it is seen that the daily order dated 14.2.2019 in I.A.No.2 of 2019 in D.R.P.No.16 of 2012 passed by the Commission earlier states that "Thiru Rahul Balaji, Advocate appeared for respondent and filed counter. Arguments heard" which means that the respondent's counsel was given opportunity to make both written and oral submissions. The Commission is of the view that even assuming

if there is an omission in the daily order of the Commission to make specific reference to the respondent's counsel request for making further submissions on legal issues, the learned counsel had sufficient time to bring the same to the notice of the Commission for about 20 days from the date of daily order dated 14-02-2019 in which case, the Commission would not have listed the matter at all for today. Even otherwise, the respondent also had nearly a week's time from the date of hosting of the cause list (which indicated the pronouncement of the orders in the instant case) to bring it to the knowledge of the Commission to have the hearing postponed or at least make a formal request to the Secretary of the Commission to place the matter before the Commission. However, we do not find any such request on record from the respondent.

4. In view of the same, the last minute submission in regard to the alleged omission or request for making legal submissions on a case which is due for pronouncement of orders does not find favour with the Commission in principle. However, Commission is inclined to accede to the submission of the petitioner for advancing further arguments to avoid misgiving that fair opportunity was not given.

5. To further ensure that no party to the case is aggrieved or dissatisfied on purely a procedural issue and on the question of natural justice, the Commission has to necessarily re-open the I.A. No.2 of 2019 in D.R.P.No.16 of 2012 for hearing the respondent as well as the applicant who has objected to the submission of the

respondent. There is no provision in the TNERC – Conduct of Business Regulations, 2004 for keeping an order on hold which is due to be pronounced. Therefore, by invoking its inherent powers under Regulation 48 of the Conduct of Business Regulation, the Commission is inclined to consider the submissions of the respondent in view of the fact that the pronouncement of the order cannot be kept on hold.

6. Accordingly, the I.A.No.2 of 2019 in D.R.P.No.16 of 2012 is re-opened. The respondent is directed to file its written submissions and serve the same on TANGEDCO within 5 days from the date of this order and thereafter TANGEDCO, the applicant shall file its written submission and serve the same on the respondent within 5 days.

The matter is further posted for hearing on 21.3.2019.

(Sd.....)
(T.Prabhakara Rao)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act, 2003

Central Act 36 of 2003)

PRESENT:-

Thiru S. Akshayakumar **Chairman**

Thiru T.Prabhakara Rao **Member**

I.A.No.1 of 2019
in
D.R.P.No.19 of 2012

TANGEDCO

...

Petitioner

(Thiru M.Gopinathan, Standing Counsel)

Versus

M/s.Madurai Power Corporation Pvt. Limited...

Respondent

(Thiru Rahul Balaji, Advocate)

Hearing dated : 07-03-2019

DAILY ORDER

Thiru. Rahul Balaji, Advocate appeared for the Respondent and sought time for making additional submissions on the orders already reserved in I.A.No.1 of 2019 in D.R.P.No.19 of 2012 on the issue of re-opening the main petition in D.R.P.No.19 of 2012 which was also reserved for orders.

2. At the time when the order in I.A.No.1 of 2019 was due for pronouncement today i.e., 07-03-2019, the counsel for the respondent submitted that

he had made only written submissions on the plea of TANGEDCO for re-opening of D.R.P.No.19 of 2012 and he was not given opportunity to make his oral submissions on the legal issues on the question of re-opening of the reserved matter. The respondent's counsel further submitted that the Daily Order did not contain his request for time for making oral submissions on the issue of re-opening and in fact, the orders were reserved without taking into account such request for oral submissions. He further prayed that the orders may be passed after hearing the additional submissions. The Counsel for TANGEDCO pleaded that inasmuch as the respondent had filed the counter on the matter of re-opening and the orders have been reserved on the issue of re-opening of the case, the Commission need not accede to the request of the respondent. If at all if Commission considers to entertain the respondent's plea, TANGEDCO may be given opportunity to respond to the additional submissions of the respondent. In the light of the said submissions, the earlier daily order has been perused.

3. On perusal, it is seen that the daily order dated 14.2.2019 in I.A.No.1 of 2019 in D.R.P.No.19 of 2012 passed by the Commission earlier states that "Thiru Rahul Balaji, Advocate appeared for respondent and filed counter. Arguments heard" which means that the respondent's counsel was given opportunity to make both written and oral submissions. The Commission is of the view that even assuming if there is an omission in the daily order of the Commission to make specific reference to the respondent's counsel request for making further submissions on legal issues,

the learned counsel had sufficient time to bring the same to the notice of the Commission for about 20 days from the date of daily order dated 14-02-2019 in which case, the Commission would not have listed the matter at all for today. Even otherwise, the respondent also had nearly a week's time from the date of hosting of the cause list (which indicated the pronouncement of the orders in the instant case) to bring it to the knowledge of the Commission to have the hearing postponed or atleast make a formal request to the Secretary of the Commission to place the matter before the Commission. However, we do not find any such request on record from the respondent.

4. In view of the same, the last minute submission in regard to the alleged omission or request for making legal submissions on a case which is due for pronouncement of orders does not find favour with the Commission in principle. However, Commission is inclined to accede to the submission of the petitioner for advancing further arguments to avoid misgiving that fair opportunity was not given.

5. To further ensure that no party to the case is aggrieved or dissatisfied on purely a procedural issue and on the question of natural justice, the Commission has to necessarily re-open the I.A. No.1 of 2019 in D.R.P.No.19 of 2012 for hearing the respondent as well as the applicant who has objected to the submission of the respondent. There is no provision in the TNERC – Conduct of Business Regulations, 2004 for keeping an order on hold which is due to be pronounced. Therefore, by

invoking its inherent powers under Regulation 48 of the Conduct of Business Regulation, the Commission is inclined to consider the submissions of the respondent in view of the fact that the pronouncement of the order cannot be kept on hold.

6. Accordingly, the I.A.No.1 of 2019 in D.R.P.No.19 of 2012 is re-opened. The respondent is directed to file its written submissions and serve the same on TANGEDCO within 5 days from the date of this order and thereafter TANGEDCO, the applicant shall file its written submission and serve the same on the respondent within 5 days.

The matter is further posted for hearing on 21.3.2019.

(Sd.....)
(T.Prabhakara Rao)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act, 2003

Central Act 36 of 2003)

PRESENT:-

Thiru S. Akshayakumar Chairman

Thiru T.Prabhakara Rao Member

I.A.No.1 of 2019

in

M.P.No.27 of 2016

M/s.SEPC Power Pvt. Limited

...

Petitioner

(Thiru Rahul Balaji, Advocate)

Versus

TANGEDCO

...

Respondent

(Thiru M.Gopinathan, Standing Counsel)

Hearing dated : 07-03-2019

DAILY ORDER

Pronouncement of the orders deferred.

(Sd.....)
(T.Prabhakara Rao)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under Section 82 (1) of the Electricity Act, 2003

Central Act 36 of 2003)

PRESENT:-

Thiru S. Akshayakumar **Chairman**

Thiru T.Prabhakara Rao **Member**

M.P.No.9 of 2017

TANGEDCO ... **Petitioner**
(Chief Engineer/NCES, TANGEDCO)

Nil Versus ... **Respondent**
(Thiru Rahul Balaji, Advocate)

Hearing dated : 07-03-2019

DAILY ORDER

Thiru M.Gopinathan, Standing Counsel for TANGEDCO appeared and filed additional affidavit. On impleadment of Government of Tamil Nadu, the Counsel for TANGEDCO submitted that the same may not arise as pleaded in their submissions. Orders reserved.

(Sd.....)
(T.Prabhakara Rao)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission