IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P. No.22312 of 2010

Power Engineers Society of Tamil Nadu
Rep. by its President
Mr.S.Gandhi
4/256, S.N. Nagar
Uyyankondan Thirumalai
Trichy – 620 102.

.... Petitioner

Vs

1. The State of Tamil Nadu
   Rep. by its Secretary
   Public Department
   Fort St. George
   Chennai – 600 009.

2. The Secretary
   Energy Department
   Government of Tamil Nadu
   Fort St. George
   Chennai – 600 009.

3. Mr.S. Nagalsamy
   Principal Accountant General
   Anna Salai
   Chennai – 600 002.

4. The Tamil Nadu Electricity Regulatory Commission
   Rep. by its Secretary
   No.19A, Lakshmipathy Rukmani Salai
   Egmore
   Chennai – 600 008. … Respondents

COUNTER AFFIDAVIT OF TAMIL NADU ELECTRICITY REGULATORY COMMISSION, THE FOURTH RESPONDENT HEREIN

1. I, R.V. Rajah, son of Mr.R.Venkatraman, Hindu aged about 59 years, residing at Door No.1A/3, Raman Avenue, Vandikaran Street, Velachery Check Post, Chennai – 600 042, do hereby solemnly affirm and sincerely state as follows :

2. I am the Secretary to the Tamil Nadu Electricity Regulatory Commission, the 4th Respondent herein and as such I am competent to swear this affidavit. I have read the contents of the Writ Petition and I deny all the averments / allegations made by the Writ Petitioner except those that are specifically admitted herein. Thiru S. Nagalsamy assumed charge as Member of the Tamil Nadu Electricity Regulatory Commission on 21st September 2010 and has been functioning in that capacity since then.

3. Electricity Act, 2003 is a Central Act (36 of 2003) enacted by the Parliament and administered by the Ministry of Power, Government of India. Tamil Nadu Electricity Regulatory Commission was constituted on 17-3-1999 under Section 17 of the Electricity Regulatory Commissions Act, 1998 (Central Act 14 of 1998). The Commission has continued to function in terms of proviso to Section 82 (1) of Electricity Act, 2003. The qualifications for Chairperson and Members of State Commission are prescribed in Section 84. The Chairman and Members are selected by a Selection Committee constituted under Section 85. The functions of the State Commission are specified in Section 86. The State Commissions are empowered to make regulations by Section 181. These Sections are extracted below:

Section 84 - Qualifications for appointment of Chairperson and Members of State Commission.

(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.
(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

(3) The Chairperson or any other Member of the State Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the State Commission.

Section 85 Constitution of Selection Committee to select Members of State Commission.

(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of –

(a) a person who has been a Judge of the High Court…. Chairperson;

(b) the Chief Secretary of the concerned State… … … … . ….Member;

(c) the Chairperson of the Authority or the Chairperson of the Central Commission … … … … .. Member:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

(2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within three month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

<u>Section 86 Functions of State Commission –</u>(1) The State Commission shall discharge the following functions, namely :-

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State ;

(c) facilitate intra-state transmission and wheeling of electricity ;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State ;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act ;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of subsection (1) of section 79 ;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees ;

(j) fix the trading margin in the intra-State trading of electricity , if considered, necessary ;

(k) discharge such other functions as may be assigned to it under this Act.

(2). The State Commission shall advise the State Government on all or any of the following matters, namely :-

(i) promotion of competition, efficiency and economy in activities of the electricity industry ;

(ii) promotion of investment in electricity industry ;

(iii) reorganization and restructuring of electricity industry in the State ;

(iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government ;

(3). The State Commission shall ensure transparency while exercising its powers and discharging its functions.

(4). In discharge of its functions, the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy published under section 3."

"Section 181 Powers of State Commissions to make regulations –

(1) The State Commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely :-

(a) period to be specified under the first proviso of section 14 ;

(b) the form and the manner of application under sub-section (1) of section 15 ;

(c) the manner and particulars of application for licence to be published under sub-section (2) of section 15 ;

(d) the conditions of licence under section 16 ;

(e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18 ;

(f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18 ;

(g) levy and collection of fees and charges from generating companies or licensees under sub-section (3) of section 32 ;

(h) rates, charges and the terms and conditions in respect of intervening transmission facilities under proviso to section 36 ;

(i) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (d) of sub-section (2) of section 39.

(j) Reduction of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;

(k) Manner and utilization of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;

(l) Payment of the transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40 ;

(m) Reduction of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (c) of section 40 ;

(n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 40 ;

(o) proportion of revenues from other business to be utilized for reducing the transmission and wheeling charges under proviso to section 41 ;

(p) reduction of surcharge and cross-subsidies under the third proviso to sub-section (2) of section 42 ;

(q) payment of additional charges on charges of wheeling under sub-section (4) of section 42;.

(r) Guidelines under sub-section (5) of section 42;

(s) the time and manner for settlement of grievances under sub-section (7) of section 42.

(t) the period to be specified by the State Commission for the purposes specified under sub-section (1) of section 43 ;

(u) methods and principles by which charges for electricity shall be fixed under sub-section (2) of section 45 ;

(v) reasonable security payable to the distribution licensee under sub-section (1) of section 47 ;

(w) payment of interest on security under sub-section (4) of section 47;

(x) electricity supply code under section 50 ;

(y) the proportion of revenues from other business to be utilized for reducing wheeling charges under proviso to section 51;

(z) duties of electricity trader under sub-section (2) of section 52;

(za) standards of performance of a licensee or a class of licensees under sub-section (1) of section 57 ;

(zb) the period within which information to be furnished by the licensee

under sub-section (1) of section 59;

(zc) the manner of reduction of cross-subsidies under clause (g) of section 61.

(zd) the terms and conditions for determination of tariff under section 61 ;

(ze) details to be furnished by licensee or generating company under sub-section (2) of section 62;

(zf) the methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;

(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;

(zh) issue of tariff order with modifications or conditions under sub-section (3) of Section 64 ;

(zi) the manner by which development of market in power including trading specified under section (66) ;

(zj) the Powers and duties of the Secretary of the State Commission under Sub-section (1) of section 91 ;

(zk) the terms and conditions of service of the secretary, officers and other employees of the State Commission under sub-section (2) of section 91;

(zl) rules of procedure for transaction of business under sub-section (1) of section 92 ;

(zm) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128 ;

(zn) the manner of service and publication of notice under section 130 ;

(zo) the form of preferring the appeal and the manner in which such form shall be verified and the fee for preferring the appeal under sub-section (1) of section 127;

(zp) any other matter which is to be, or may be, specified.

(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication".

4. A reading of Sections 86 and 181 of the Electricity Act, 2003, makes it amply clear that the Respondent Commission has to exercise not only adjudicatory function under section 86(1) (f) of Electricity Act, 2003 but also executive and legislative functions. A major function of the

Respondent Commission, as specified in section 86(1)(a) namely determination of tariff for generation, supply, transmission and wheeling of electricity within the State is purely of a technical nature, which invariably calls for knowledge of and experience in finance, commerce, economics and engineering. In regard to the said function of determination of tariff, the Respondent Commission needs to determine the capital cost of the project, which, again, is a highly technical job.

5. In arriving at the capital cost, the Respondent Commission has to follow the procedure specified in clauses 26, 37 and 43 of the TNERC Tariff Regulations 2005. The said clauses stipulate mathematical formula and as such they are purely technical in nature. The legislative function of specifying the State Grid Code as set out in Section 86 (1) (h) of the Electricity Act, 2003 is also purely of a technical nature, which calls for knowledge of and experience in electrical engineering. The functions as set out under Section 181 of the Electricity Act, 2003 are legislative in nature, which calls for sound technical knowledge. These functions can be effectively discharged only by experts, who have knowledge of and experience in finance, commerce, economics and engineering. The impugned order is perfectly legal. It is in accordance with Section 84.

6.1. At the very outset, I submit that the appointment of the third Respondent Thiru.S. Nagalsamy as the Member of the Respondent Commission is in accordance with Sections 84 and 85 of the Electricity Act 2003.

6.2 It is submitted that the Government of Tamil Nadu have issued the impugned order appointing the third respondent, Thiru.S. Nagalsamy, as a Member of the Respondent Commission in accordance

with the above provisions of law. It is, therefore, submitted that unless the said Sections 84 & 85 of the Electricity Act 2003, under which the third respondent was appointed as Member of the Respondent Commission, are declared ultra vires, the appointment itself cannot be challenged in this Writ Petition. The petitioner ought to have impleaded the Ministry of Power, Government of India, who are administratively concerned with Electricity Act 2003, as a respondent of this Writ Petition. In the absence of impleadment of the Union of India as a necessary respondent in this Writ Petition and in the absence of challenge of the said Sections 84 and 85 of the Electricity Act 2003, this Writ Petition is liable to be dismissed in limine, that is to say at the stage of admission itself for non-joinder of a necessary party.

6.3. The Petitioner in paragraph 3 of the Writ Petition has stated that the Registry of this Hon'ble Court returned the papers by quoting judicial Notification Ref. No. ROC. No.670-A/2010/F-1 and SRO C-2/2010 that a Public Interest Litigation cannot be filed in service matters. The present petitioner, Power Engineers Society of Tamil Nadu, has no locus standi in filing this writ petition because the Selection Committee headed by Justice P. Shanmugam recommended two persons for the post of Member and the petitioner is not one of them. They are not an aggrieved party. Therefore, the present writ petition needs to be treated as a public interest petition in a service matter and therefore is liable to be dismissed. Without prejudice to the above contentions, the following reply is furnished below to the various averments made in this Writ Petition :-

7. <u>Reply to pargraph 2 at page 2 of the Writ Petition</u>

7.1. In this paragraph 2, the petitioner has stated that the issues raised in the writ petition involve the rights of the

consumers and members of the society since the appointment of the third respondent is contrary to the decision rendered by the constitution bench of the Hon'ble Supreme Court.

7.2. With reference to the above contention, it is submitted that none of the issues involved in this Writ Petition relates to consumer interest as stated by the petitioner. It is submitted that the petitioner is to be put to strict proof as to how the issues raised in this Writ Petition involve consumer interest.

8. <u>Reply to Paragraph 3 at pages 2-3 of the Writ Petition</u>

In this paragraph 3, the petitioner has inter-alia stated that the Members of the petitioner association are aggrieved by the appointment of the third respondent as a Member of the Respondent Commission. As stated in the above Paragraph 3.3, the petitioner association cannot be said to be an aggrieved person and this Writ Petition is a disguise to champion the cause of the person, who has been rejected by the Government for the post of Member.

9. <u>Reply to Paragraph 4 at page 3 of the Writ Petition</u>

In regard to Writ Petitions 311 and 312 of 2010 as referred to in this paragraph 4, it is submitted that the Respondent Commission has filed counter affidavits to the above Writ Petitions effectively meeting all the allegations / averments raised in the above Writ Petitions. These petitions are pending disposal by the Hon'ble High Court and in any case they have no relevance to the present case.

10. Reply to Paragraph 5 at page 4 of the Writ Petition

As already stated above, the petitioner has no locus-standi to file this Writ Petition. The petitioner in disguise seeks to espouse the cause of the person, who has been rejected by the Government.

11. Reply to Paragraph 8 at pages 5-6 of Writ Petition

In this paragraph 8, it has been stated that the third respondent is not eligible to be appointed as Member of the Respondent Commission. With regard to the above statement, it is submitted that Section 84 as extracted above stipulates the qualifications of Chairperson and Members of the State Commission. The expression "adequate knowledge of, and have shown capacity in dealing with problems relating to engineering, finance, commerce, economics, law or management" occurring in the said Section 84 is significant. The third respondent, who is a Member of Indian Audit and Accounts Service, has adequate knowledge of finance, commerce, law and management. He has served as the Accounts Member in Tamil Nadu Electricity Board for long five years. He is also a graduate in law. He is one of the two selected by the Selection Committee constituted under the said section 85 of Electricity Act 2003, which comprised Hon'ble Justice P.Shanmugam, former High Court Judge, Chief Secretary to Government of Tamil Nadu and Chairman of the Central Electricity Regulatory Commission. It is submitted that the third respondent is eminently suitable for appointment as Member of the Respondent Commission.

12. <u>Reply to Paragraph 9 at page 6 of Writ Petition</u>

12.1 In this paragraph 9, it has been inter-alia stated that the adjudication process requires adequate knowledge of law and practical experience and that the second respondent ought to have appointed a judicial Member instead of the third Respondent, who is from the accounting field and who has no legal knowledge.

12.2. With regard to the above contention, it is submitted that Section 84 of Electricity Act, 2003 extracted above does not mandate the appointment of a judicial Member. Further, it is submitted that the functions of the Respondent Commission as set out in Section 86 of the Electricity Act, 2003 are multifarious. In other words, it is submitted that most of the functions as set out in Section 86 excepting Section 86 (1) (f) are executive in nature, which were previously performed by the State Government or the Tamil Nadu Electricity Board or the Central Electricity Authority. It is only the function in Section 86(1) (f) viz. adjudication of disputes between licensees and generating companies, which can be said to be a judicial function.

13. <u>Reply to paragraph 10 at pages 6-7of Writ Petition</u>

In this paragraph 10, the petitioner has stated as follows:-

> *"Under the adjudication process under Section 86 (1) (f) rights and liabilities of the litigants are adjudicated without a judicial member by the Respondent Commission. The various litigations being disposed by the fourth respondent Commission involved several hundred crores".*

The reply given in paragraph 12 above would equally hold good to the contentions raised in this paragraph 10 also.

14. <u>Reply to paragraph 11 at page 7of Writ Petition</u>

14.1. The allegations in para 11 are defamatory and contemptuous. They cast aspersions on the functioning of the Commission. The Petitioner has misused this public interest litigation to malign and defame the Respondent Commission and make contemptuous remarks.

14.2. The so called loss of Rs.1645 crores to the TNEB as estimated by the Petitioner is, perhaps, the sum total of the financial impact of the various orders rendered by the Tamil Nadu Electricity Regulatory Commission over the years. These orders have been challenged by the aggrieved parties before the Hon'ble High Court, the Appellate Tribunal for Electricity, New Delhi and the Hon'ble Supreme Court. These matters are subjudice and therefore any comment on the issues involved would constitute contempt of court. The Petitioner is not an aggrieved party in any of these cases. The pronouncement of the petitioner that a loss has been caused to the TNEB amounts to prejudging the outcome of the cases and therefore constitutes contempt of court.

15. <u>Reply to paragraph 13 at pages 9-10 of Writ Petition</u>

15.1. **<u>Reply to ground "a"</u>** As already stated above, the impugned order cannot be said to be arbitrary, as it is fully in accordance with the Sections 84 and 85 of the Electricity Act, 2003. It is submitted that unless the said Sections 84 and 85 are declared ultra vires, the impugned order cannot be challenged in this Writ Petition.

15.2. Reply to Ground "b" at Page No.8 of Writ Petition

It is submitted that the petitioner has not correctly interpreted the decision of the Hon'ble Supreme Court referred to in this ground "b". It is submitted that the judgement of the Hon'ble Supreme Court relates to constitution of a Tribunal. The fourth Respondent Commission is not a Tribunal. It is an expert body vested with quasi-judicial powers. Further, as already stated above, most of the functions as set out in Section 86 of the Electricity Act, 2003 are executive in nature, which were previously performed by the Government of Tamil Nadu or the Tamil Nadu Electricity Board or the Central Electricity Authority.

15.3. Reply to Ground "d" at Page Nos.8-9 of Writ Petition

As already stated above, the third respondent is fully qualified to hold the office of Member of the Respondent Commission, in view of his vast knowledge and experience in dealing with problems of finance, accounts, law and management.

15.4. Reply to Ground "f" at Pages. 9-10 of Writ Petition

(a) The Petitioner has misused this public interest litigation to cast aspersions and defame this Respondent Commission on the modalities of arriving at decisions.

(b) (i) The first contention in this ground "f" is that the Respondent Commission while adjudicating a dispute is obtaining written opinions of lawyers for rendering judgments involving serious questions of law. With regard to this contention, it is submitted that as per Clause 27 of Tamil Nadu Electricity Regulatory Commission Conduct of Business Rules 2004, the

Respondent Commission is empowered to refer any matter to any person including but not confined to officers and consultants of the Commission, whom the Commission considers as qualified to give expert or specialised advice or opinion and the said opinion received from such person shall form part of the record of the case and the parties shall be given the copies of the said opinion so as to enable them to file their version either in support or in opposition to the said opinion.

(ii) The second contention in this ground "f" is that most of the judgments of the Respondent Commission are based on the advice given by the legal consultants and there is no independent judicial approach due to the absence of a legally qualified judicial member. With regard to the above contention, it is submitted that as per section 91 (4) of the Electricity Act, 2003, the appropriate Commission may appoint consultants to assist the Commission in the discharge of its functions on terms and conditions as may be specified. The services of legal consultants are utilised to assist the Commission in the discharge of its functions.

(c) The third contention in this ground "f" is that judicial powers are distinct and they cannot be delegated to legal consultants. This contention is absolutely baseless. There is no delegation to legal consultants. The petitioner should be put to strict proof of this contention. It is submitted that in many cases conducted by the Respondent Commission, the Chairman of the Respondent Commission has dictated orders in the presence of litigants and counsels for the litigants. In some cases, counsels for litigants have sought the assistance of technical experts to supplement their arguments. In this context, it is submitted that the Hon'ble Supreme Court in the case of West Bengal Electricity Regulatory Commission Vs. CESC Limited (2002 (7) S C C 206) has inter-alia held that Electricity Regulatory Commissions are an expert

body. In the case of BSES Ltd. Vs. Tata Power Company Limited and others (2004) 1 S C C Page 195, the Hon'ble Supreme Court at paragraph 12 inter-alia has ruled as follows:-

> *"The changed scenario may give rise to problems of highly complex and technical nature between the generator, supplier and distributor of energy, which can be better resolved by technically qualified people who may constitute the aforesaid Regulatory Commission. They will have the additional advantage of taking assistance from consultants, experts and professional persons. Therefore, it will be proper to interpret the Act in a broad manner and not in a narrow or restrictive sense in so far as the jurisdiction of the Commission is concerned, so that the purpose for which the Act has been enacted may be achieved".*

(d) From the above judgements of the Hon'ble Supreme Court, it will be clearly seen that the cases which give raise to problems of technical nature can be better resolved only by technically qualified people and the Commission can take the assistance from consultants, experts and professionals.

15.5. Ground "g" at Pages 10-11 of Writ Petition

It has been contended that in several other States, the State Commission has been constituted with a judicial member. This statement is a vast exaggeration. It has been officially ascertained from the Central Electricity Regulatory Commission constituted by the Government of India and the 26 State Electricity Regulatory Commissions constituted by the respective State Governments (Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Joint Commission for Goa and Union Territories, Joint Commission for Manipur and Mizoram, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand and West Bengal) that there have been only 8 instances

between 1998 and 2010, when Judges or Advocates were appointed as Chairmen or Members of State Electricity Regulatory Commissions. Currently, only one Member in Karnataka is an Advocate. Significantly, no Chairman or Member of the Central Electricity Regulatory Commission constituted by the Government of India has been a Judge or an advocate. There is no State, except Karnataka, where currently an Advocate is a Member. It needs to be mentioned that each State has a Chairman and two Members. The Central Electricity Regulatory Commission has a Chairman and three Members. The total number of Chairman and Members of the Central Electricity Regulatory Commission and State Electricity Regulatory Commission is 82. Out of this number of 82, only one Member is an advocate.

15.6. Ground "h" at Page 11 of Writ Petition

The petitioner has stated in ground "h" that several judgements have been remanded for affording reasonable opportunity to the aggrieved persons. This statement is a travesty of facts. Of the 580 orders delivered by the Commission, so far only one has been remanded for re-consideration. The petitioner has misused the public interest litigation to defame the Respondent Commission and distort facts.

15.7. Ground "i" at Page 11 of Writ Petition

(i) The Petitioner has misused this public interest litigation to cast aspersions on, malign and defame the Commission on the powers available to the Commission under the Law.

(ii) Ground "i" mentions that Sections 142 and 146 of the Electricity Act 2003 empower the Commission to initiate proceedings for violation of the Orders or Regulations of the Commission. These are analogous

to the contempt powers of the Hon'ble High Court. These powers are necessary to ensure that no litigant dares to defy the Orders of the Commission. If any litigant is aggrieved by an Order of the Commission under these Sections, the Electricity Act, 2003 affords ample opportunity for challenging the Orders before the Appellate Tribunal for Electricity, New Delhi and the Supreme Court.

16. Reply to paragraph 16 of the Writ Petition

No prima facie case has been made by the petitioner so as to justify the grant of stay. The impugned order is in pursuance of the statutory provisions contained in Sections 84 and 85 of the Electricity Act, 2003 extracted above. It is submitted that unless the said Sections 84 and 85 of Electricity Act, 2003 are stayed by this Hon'ble Court, the petitioner is not entitled to the benefit of stay.

17. In the above circumstances, it is respectfully prayed by the Respondent Commission that this Hon'ble Court may be pleased to dismiss the above Writ Petition and thus render justice.

DEPONENT

Solemnly Affirmed on this the 4th
day of October 2010 and the
deponent has affixed his signature
in my presence.

Before me,

Advocate, Chennai.