

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**RP No. 5 of 2009 in
Appeal No. 181 of 2008**

Dated: 17th December, 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. H.L. Bajaj, Technical Member**

**Delhi Electricity Regulatory Commission Appellant (s)
Versus
BSES Rajdhani Power Pvt. Ltd. ... Respondent (s)**

Counsel for the Appellant(s): Mr. Meet Malhotra & Mr. Swagat Sharma &
Mr. Ravi S. Singh

Counsel for the Respondent(s): Mr. Amit Kapur for BSES RPL

ORDER

1. By the order dated 09.10.2009 this Tribunal gave some directions to the Secretary to the Forum of Regulators. These directions were of the three categories.
 - i. The Secretary to the Forum of Regulators shall take up the issue of constitution, appointment and operationalization of the State Electricity Regulatory Commissions in the State of Sikkim, Nagaland and Arunachal Pradesh by taking suitable steps with the cooperation of the authorities concerned.

- ii. The Secretary shall ensure the compliance of the provisions of the Electricity Act in respect of Section 42(5) regarding Consumer Grievances Redressal Forum and also appointment of Ombudsman.
 - iii. The Secretary shall evaluate the standard of performance and the supply codes.
2. On these directions the Secretary to the Forum of Regulators had contacted the authorities concerned in obedience to the directions of this Tribunal and took genuine steps to comply with these directions.
3. After collecting the information, regarding the development in respect of these directions, the Secretary to the Forum of Regulators has submitted the report dated 07.12.2009 before this Tribunal.
4. Mr. Amit Kapoor and Mr. Meet Malhotra, the learned counsel who are appointed as amicus curie in this matter, were requested to go through the reports and the documents and submit their suggestions. Accordingly, they submitted their note before this Tribunal.

5. On perusal of the report as well as the note, it is noticed that in respect of the first direction there is a partial compliance. Though this direction has been complied with by the State of Nagaland, in the States of Sikkim and Arunachal Pradesh, no steps have been taken by the respective Governments to constitute the Regulatory Commissions in those states to make it functional. As a matter of fact in the order dated 09.10.2009 we have directed the Secretary to the Forum of Regulators to get cooperation of the authorities in regard to compliance of these directions not only from the States but also from the Secretary to the Union Ministry of Power.
6. It is noticed that copy of the said order had also been sent to the Secretary to the Union Ministry of Power for his information and consideration.
7. The report submitted by the Secretary shows that he has contacted only the Chief Secretaries of Sikkim and Arunachal Pradesh for the constitution of the Regulatory Commissions but he never approached the Secretary to the Union Ministry of Power. Therefore, he is now directed to pursue the matter in respect of Sikkim and Arunachal Pradesh for constitution of the Commission

in those states by getting sufficient help and cooperation from Secretary to the Union Ministry of Power.

8. In respect of second direction, it is noticed from the report of the Secretary, vacancies of the CGRF have been filled up in the State of Goa and some Union Territories. But it is pointed out by the Amicus Curie counsel that this has not been completely implemented in the Union Territories of Daman and Diu, Dadara and Nagar Haveli, Andaman and Nicobar and Lakshdweep. It is also pointed out that the JERC had directed for the compliance in May and June 2009. But despite this, no action has been taken for filling up the CGRF vacancies in these areas.
9. In Jharkhand CGRF is functioning with only two members and the Tata Steel has not yet appointed the Members in the CGRF. In fact Tata Steel has sent a report that it would be completing the process within a fortnight. As far as the State of Bihar is concerned it is noticed that the process of appointment of independent member has not yet been over. Therefore, the Secretary of the Forum is directed to ensure full compliance with reference to the CGRF.
10. In the very same order dated 09.10.2009, this Tribunal directed to the Secretary of the Forum of Regulators to ensure compliance

with the direction with regard to the constitution and appointment of Electricity Ombudsman. In so many States and Union Territories the Ombudsman have not been appointed. Therefore, this Tribunal again directs the Secretary to ensure that the Ombudsmen are appointed in all the States as well as in the Union Territories. At any cost, the Secretary of the Regulatory Commission should not be allowed to function as Ombudsman incharge. However, the Secretary to the Forum of Regulators has not given particulars with regard to the compliance of the directions with regard to the Ombudsman. Therefore, the Secretary shall ensure the compliance of this direction fully.

11. We must mention, in this context, that the development which took place in pursuance of the various orders of this Tribunal with reference to the constitution and appointment of the officials, has been made successful only due to the effective steps taken by the Secretary of the Forum of Regulators. So we record our appreciation for his services. The Secretary of the Forum of Regulators shall continue to take effective steps to see that the order passed by this Tribunal on 09.10.2009 is fully complied with without any default. This Tribunal directs the Secretary to the

Forum to send a report with reference to the said compliance to this Tribunal within one month from the date of this order.

12. Post the matter on 18th January, 2010.
13. Registry is directed to send the copy of this order to the Secretary00, Ministry of Power, Govt. of India and to all the Commissions.

(H.L. Bajaj)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson