

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2104 OF 2006 (For prel. hearing)

CENTRAL POWER DISTRIBUTION CO. & ORS.

Appellant (s)

VERSUS

CENTRAL ELECTRICITY REGULATORE COMM.&ANR

Respondent(s)

(With appln(s) for ex-Parte stay)

Date: 01/05/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Appellant(s)

Mr. Gopal Subramaniam, ASG.

Mr. Arnav Patnaik, Adv.

Mr. Sanjay Jain, Adv.

Mr. Rana S. Biswas, Adv.

Mr. MPS Chauhan, Adv.

Mr. Vishal Anand, Adv.

For Respondent(s)

Mr. G.E. Vahanvati, SG.

For R-2

Mr. K.V.Mohan, Adv.

UPON hearing counsel the Court made the following

O R D E R

Admit.

The Appeal shall be heard on the following questions of law:

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of

A. Whether the application of Availability Based Tariff (ABT) in relation to Unscheduled Interchange (UI) charges, which otherwise is not a component of tariff in terms Regulation 15 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 and they are liable to be held as beyond the jurisdiction of the Central Electricity Regulatory Commission (CERC)?

B. As such the impugned order passed by the Appellate Tribunal for Electricity has completely ignored the

fact that the CERC order, which was passed suo moto and ex parte, is non est and without jurisdiction?

C. Can the Availability Based Tariff, as established and provided in the order of the CERC by its order dated 4.1.2000 be implemented under the provisions of Electricity Act, 2003, particularly when there is no provision under the statute that allows the CERC to levy Unscheduled Interchange Charges? and

G. Whether in the present facts and circumstances as regards the Simhadri SPTS thermal station of the National Thermal Power Corporation (NTPC), which admittedly supplies power to the State Grid and has no connection with the management of the National Grid, can the CERC in such circumstances exercise, particularly when matters relating to the State Grid falls within the role and function of the State Electricity Regulatory Commission?

Mr. K.V. Mohan, Adv. accepts notice for Respondent No.2. Service on

Respondent No.1 be effected. Dasti service in addition. Learned Solicitor General appearing for Respondent No.2 states that the counter-affidavit shall be filed within eight weeks. Rejoinder be filed within two weeks thereafter.

Let the appeal be listed for hearing in the last week of July, 2006.

However, counter-affidavit to the application for stay be filed within three days. Let the stay application be listed next week. Service on Respondent No.1 be effected in the meantime.

(J.S. Rawat)

AR-cum-PS

(Pushap Lata Bhardwaj)

Court Master