

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(APPELLATE JURISDICTION)

COURT-I

APPEAL NO. 306 OF 2022 &  
IA NOS. 242 & 926 OF 2022

Dated: 21.12.2022

Present: Hon'ble Mr. Justice Ramesh Ranganathan Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member

In the matter of :

Heavy Water Plant (Manuguru) & Anr. .... Appellant(s)

Vs.

Telangana State Electricity Regulatory Commission  
& Ors. ....Respondent(s)

Counsel for the Appellant(s) :

Mr. Shoumendu Mukherji  
Ms. Megha Sharma

Counsel for the Respondent(s):

Ms. Somandri Goud Katam for R-1  
Mr. Anand K. Ganesan  
Ms. Swapna Seshadri  
Ms. Sugandh Khanna for R-2 & R-3

ORDER

IA-926 OF 2021

*[For vacating the order]*

&

IA-242 OF 2022

*[For interim relief]*

The interim order was passed by this Tribunal on 18.02.2022 whereby disconnection of power supply, pursuant to the notice dated 03.02.2022 issued by the second and third Respondents, was stayed till the next date of hearing. An Interlocutory Application is now filed to vacate the said interim order.

The Appellant herein, is a part of the Department of Atomic Energy of the Government of India. Mr. Shoumendu Mukherji, Learned Counsel for the Appellant places reliance on Section 184 of the Electricity Act, 2003 (“the Act” *for short*), which reads thus:

*“Section 184. (Provisions of the Act not to apply in certain cases):*

*The provisions of this Act shall not apply to the Ministry or Department of the Central Government dealing with Defence, Atomic Energy or such other similar Ministries or Departments or undertakings or Boards or institutions under the control of such Ministries or Departments as may be notified by the Central Government.”*

According to the Learned Counsel, since the provisions of the Act are inapplicable to the Appellant, the action of the Respondents, in seeking to disconnect power supply to them on the ground that they did not pay grid support charges, is illegal.

Mrs. Swapna Seshadri, Learned Counsel for the second and third Respondents, however, refers to the judgment of the Supreme Court, in Civil Appeal No. 4569 of 2003 and batch dated 29.11.2019, to contend that grid support charges are payable by all those who have installed captive power plants; the Appellant is paying charges for consumption of electricity; it is only with respect to grid support charges that they are claiming immunity under Section 184; accepting the submission, urged on behalf of Appellant, would require them to be excluded from the benefits of the Acts also; the Appellant cannot be selective in contending that, while they cannot be held liable for the amounts payable by them

under the Act, they are entitled to claim the benefits provided to them under the Act; since the Appellant continues to make use of the grid, they are liable to pay the grid support charges; the liabilities, of the Appellant computed for the period 2002-2009, is in excess of Rs. 289 crores (which is only the principal amount); and they have not been able to raise bills for the subsequent period, because of the interim order passed by this Court.

When we asked Learned Counsel whether there were any judicial pronouncements on the scope and ambit of Section 184, she fairly states that she has not come across any.

A literal construction of Section 184, prima facie, makes the provisions of the Act inapplicable to those Ministries/Departments of the Government of India which deal with Defence and Atomic Energy. In so far as other Ministries are concerned, it is only if they are notified by the Central Government, would the provisions of the Act then not be applicable to them. The said provision is, prima facie, unconditional and absolute.

We are satisfied, prima facie, that Parliament, in its wisdom, has chosen not to make the Act applicable to the Ministries/Department of Defence and Atomic Energy. The scope and ambit of the said provision, and the question whether these Ministries/Departments can claim exemption of the benefits available under the Act, while at the same time avoid discharging their liability thereunder, are all matters for examination in the main appeal.

Needless to state that, in case the Appeal were to be dismissed later, the second and third Respondents would be entitled to recover the

amounts payable by the Appellant as grid support charges, plus interest, if any, thereon, in accordance with law.

Mrs. Swapna Seshadri, learned counsel for the second and third Respondents would then submit that, with a view to avoid a possible defense being taken by the Appellant later that any claims which the second and third Respondents may make by raising bills is barred by limitation, they may be permitted to raise bills, without prejudice to their rights in this appeal, and without insisting on the Appellant making payment of the bills. We see no reason to deny such a request. While it is open to the second and third Respondents to raise bills, periodically, on the Appellant, they shall not insist on payment thereof, pending disposal of this Appeal.

The interim stay is made absolute and the applications are disposed of accordingly.

**APPEAL NO. 306 OF 2022**

It is represented by the Learned Counsel on both sides that the pleadings are complete. We direct the appeal to be included in the “List of Finals of Court - I” to be taken up from there, in its turn.

**(Sandesh Kumar Sharma)**  
**Technical Member**

**(Justice Ramesh Ranganathan)**  
**Chairperson**

*mk/mg/dk*