

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 27th day of May, 2004

Present

- | | | |
|----------------------------------|----------|-----------------|
| 1. Sri. Philipose Matthai | - | Chairman |
| 2. Sri. H.S. Subramanya | - | Member |
| 3. Sri. S.D.Ukkali | - | Member |

CaseNo.OP- 40 to 49/2003

Between

BATCH - A

OP-40/2003

Santhoshimata Power Projects Ltd.,
No.2, First Floor,
Srikantan Layout,
Crescent Road,
BANGALORE -560 001.

OP-41/2003

Raja Bhaskar Power Generation Ltd.,
No.2, First Floor,
Srikantan Layout,
Crescent Road,
BANGALORE -560 001.

OP - 42/2003

M/s. Dheeru Power & Projects (P) Ltd.,
#62, 10th Main,
HMT Layout,
R.T.Nagar,
BANGALORE - 560 032.

BATCH - B

OP - 43/2003

M/s Mangalam Energy (P) Ltd.,
#84, 1st D Cross,
3rd Main, 3rd Stage,

4th Block, Basaveshwaranagar,
BANGALORE - 560 079.

OP-44/2003

M/s Gangavalli Power Company (P) Ltd.,
#44, Bharat Apartments,
Ground Floor, Race Course Road,
BANGALORE - 560 001.

OP-45/2003

M/s Ravikiran Power Projects (P) Ltd.,
Near Devinagar Camp,
Kampli Road,
Gangavati - 583 227.
Koppal Dist.

BATCH -C

OP - 46/2003

M/s Hassan Biomass Power Company (P) Ltd.,
D1-003, White House,
6th Main, 15th Cross,
R.T.Nagar,
BANGALORE - 560 032.

OP - 47/2003

Kodagu Biomass Power Co.(P) Ltd.,
D1-003, White House,
6th Main, 15th Cross,
R.T.Nagar,
BANGALORE - 560 032.

OP - 48/2003

Mandya Biomass Power Co.(P) Ltd.,
D1-003, White House,
6th Main, 15th Cross,
R.T.Nagar,
BANGALORE - 560 032

OP - 49/2003

Dev Powergen (P) Ltd.,
2203/D12 New Santhepet,
MYSORE - 570 021.

Petitioners

(Sri. M.S.Narayan, Adv. for OPs-40 to 42, Sri Uday Holla Adv. for OPs 43 to 48)

AND

(In all cases)

Karnataka Power Transmission Corporation Ltd.,
Kaveri Bhavan,
K.G.Road,
BANGALORE

Respondents

These cases were posted for hearing for their admissibility. Before the petitions were heard, the petitioner of OP - 45/2003, M/s Ravikiran Power Projects (P) Ltd., sought to withdraw his petition with liberty to file a fresh petition before the Commission or any other appropriate forum. The plea was considered and the said petition was allowed to be withdrawn. The remaining petitions were heard in three batches on admissibility. Sri. M.S.Narayan, learned Counsel, argued the cases from OP - 40 to 42/2003. Sri. Adithya Sondhi, learned Counsel, argued on behalf of the remaining cases.

2. Sri. M.S.Narayan, learned Counsel for Batch A petitions, stated that the petitioners are generating companies producing power from biomass power projects and that they have entered into power purchase agreements with the Respondent. He stated that the respondent has abruptly terminated the PPAs on the ground that the petitioners have not achieved the financial closure as stipulated in the agreements. He further informed that the petitioners have approached the Hon. High Court of Karnataka and obtained stay orders against the terminations. He pleaded that the petitioners have approached the

Commission to set aside the termination of PPAs by the Respondent, since the Commission has powers under section 86(f) of the Electricity Act, 2003 to adjudicate upon the disputes between the licensees and the generating companies and to refer any dispute for arbitration. He also stated that the Commission could determine the tariff for generation under section 86(a) of the said Act, and the real issue behind the termination is to fix the new tariff for biomass energy by the respondents and the financial closure is only a pretext. He pleaded that the petitions may be admitted and heard on merit.

3. Sri. Adithya Sondhi, learned Counsel for the cases OP-43 to 48/2003, stated that the Petitioners are generating companies and have power purchase agreements (PPAs) with the Respondent for selling the biomass power generated by them to the respondent. He further stated that the Respondent has unilaterally terminated the PPAs with the Petitioners without assigning any reasons and stipulated conditions like revised tariff etc., for fresh agreements. He also claimed that the Commission is empowered to adjudicate upon the disputes between the generating companies and the licensees and therefore pleaded that the cases be admitted and heard on merit. He also advocated that the Commission might fix the tariff for their generation under section 86(a) of the Electricity Act, 2003.

4. We have carefully considered the points raised by the learned Counsels. The Power Purchase Agreements, which have been unilaterally terminated by the Respondent Company were signed and entered into much before the Electricity Act, 2003, came into force. The agreements have built-in mechanism for dispute redressal. Therefore the Commission declines to admit and hear them on merit, under the provisions of the Electricity Act, 2003.

5. The petitions are **not admitted**.

(Philipose Matthai)

(H.S.Subramanya)

(S.D.Ukkali)

