

No.N/13/10

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 6th January 2011

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Case No. RP 05/2010

Between

M/s. Ravikiran Power Projects Pvt. Ltd.
Plot No.1071, Road No.44, Jubilee Hills
H Y D E R A B A D – 500 033
(Represented by its Advocate Sri Shridhar Prabhu)

.... **Petitioner**

And

1. The Managing Director
GESCOM, Main Road
GULBARGA – 585 102
2. The Managing Director
Karnataka Power Transmission Corpn. Ltd.
Kaveri Bhawan, Kempegowda Road
Bangalore – 560 009
(Represented by its Advocate Sri Sriranga)

.... **Respondent**

1. This review petition is filed by the petitioner to review the orders of this Commission dated 25.11.2009 issued in OP No.14/2008.
2. The respondents have put in appearance and have filed their statement of objections dated 27.5.2010.
3. We have heard both the counsels and perused the review petition as well as the statement of objections filed by the respondents.

4. The only question that arises in this review petition is whether the order of this Commission dated 25.11.2009 in OP 14/2008 suffers from any error apparent on the face of the record so as to warrant a review of the order.

5. It is contended by Sri Shridhar Prabhu, appearing for the Review Petitioner, that while deciding the case, the Commission has not decided the question whether the termination of PPA by KPTCL on 5.7.2003 was valid and legal. Further this Commission has not considered the effect of the interim order of the Hon'ble High Court of Karnataka staying the termination order and also the effect of the judgment of this Commission in the case of M/s. R.K. Powergen and another Vs. KPTCL on the petitioner's case.

6. We have relooked into the orders passed by this Commission on 25.11.2009 in order to examine the points raised in the Review Petition.

7. At Para (9) of the Order, the Commission had framed the following questions for consideration and determination :

(1) Whether termination of PPA dated 10.06.2002 by the 2nd Respondent KPTCL is valid or not ?

(2) Whether the Supplemental Agreement executed by the petitioner was under economic duress and hence is void ?

(3) For what relief the petitioner is entitled to ?

8. At Para (10) of the order, this Commission had observed as follows :

"In our considered view, the answer to 1st question has to be considered only if the Supplemental Agreement dated 14.11.2006 is held to be under duress and void".

9. Keeping in view the observations made at Para (10) of the order, the Commission went on to consider whether the supplemental agreement executed by the petitioner was under economic duress and hence void and answered that question in the negative after elaborately considering the

provisions of the PPA, the supplemental agreement and the arguments advanced by both the parties.

10. Once the supplemental agreement executed between the parties on 14.11.2006 read along with the original PPA dated 10.6.2002 is held to be not executed under duress and valid and legal, and binding on both the parties, the question of examining whether the earlier termination of the PPA was valid or not did not arise at all. Similarly once the supplemental agreement is held to be valid, question of applying the judgment rendered by this Commission in the R.K.Powergen's case also did not arise. As regards the effect of Interim Orders of the Hon'ble High Court, in our view, that also did not require a decision as it is well settled law that the interim order merges with the final order and in this case, the final order of the Hon'ble Court was to get the matter decided by this Commission. This Commission, after considering the supplemental agreement signed by the parties, has approved the same and with that the earlier dispute ended.

11. In view of the above findings, we hold that the order passed by this Commission on 25.11.2009 does not suffer from any error which requires review or modification. Accordingly this Review Petition stands dismissed.

Sd/-
(M.R. SREENIVASA MURTHY)
CHAIRMAN

Sd/-
(VISHVANATH HIREMATH)
MEMBER

Sd/-
(K. SRINIVASA RAO)
MEMBER