
**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 21st December, 2017

Present:

Shri M.K. Shankaralinge Gowda	..	Chairman
Shri H.D. Arun Kumar	..	Member
Shri D.B. Manival Raju	..	Member

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BETWEEN:

Brindavan Hydo Power Private Limited,
No.103, Eden Park,
No.20, Vittal Mallya Road,
Bengaluru – 560 001

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PETITIONER

[Represented by Shri M.S. Raghavendra Prasad, Advocate]

AND:

- 1) Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru-560 001.
- 2) Gulbarga Electricity Supply Company Limited,
Station Road,
Kalaburagi – 585 101.
- 3) Hubli Electricity Supply Company Limited,
P.B. Road, Navanagar,
Hubballi – 580 025.
- 4) Karnataka Power Transmission Corporation Limited,
Cauvery Bhavan,
K.G. Road,
Bengaluru – 560 009.

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RESPONDENTS

*[Respondents 1 & 3 are represented by Justlaw Advocates,
Respondent 2 is represented by Induslaw, Advocates]*

ORDERS

- 1) The Petitioner has filed a Memo dated 16.11.2017 in this Petition, seeking deletion of Respondent No.3 (HESCOM) from the Petition, on the ground that Respondent No.3 (HESCOM) has remitted the entire claim made against it to the Petitioner on 17.07.2017.
- 2) The Petitioner has filed this Petition on 24.05.2017, claiming different amounts, individually, as against Respondent No.1 (BESCOM), Respondent No.2 (GESCOM) and Respondent No.3 (HESCOM).
- 3) In the present Memo dated 16.11.2017, the Petitioner has stated that, Respondent No.3 (HESCOM) has paid the claim made against it on 17.07.2017, therefore Respondent No.3 (HESCOM) be deleted from the Petition.
- 4) The learned counsel for Respondent No.3 (HESCOM) opposed the request for deletion of Respondent No.3 (HESCOM) from the Petition, on the ground that, the payment of the amount, which was made to the Petitioner on 17.07.2017 towards the claim made against it in the Petition, was made under a mistake of fact and law or such payment was made wrongly and that Respondent No.3 (HESCOM) is intending to file a counter-claim in the present Petition against the Petitioner for getting back the amount so paid.

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- 5) We have heard the learned counsel for the parties on the said controversy.
- 6) Respondent No.3 (HESCOM) intends to make a counter-claim stating that, certain amount was paid wrongly to the Petitioner. The cause of action for such counter-claim arises on making the payment wrongly, i.e., on 17.07.2017. The counter-claim is nothing but a fresh Petition, that could be filed by a Respondent against a Petitioner in a proceeding. The trial of such a counter-claim is nothing but the trial of a fresh Petition. For determination of the claims made against Respondent No.1 (BESCOM) and Respondent No.2 (GESCOM), the Respondent No.3 (HESCOM) is neither a necessary party nor a proper party. The claim against Respondent No.3 (HESCOM) made in the Petition is admittedly satisfied.
- 7) On the present facts and in the circumstances of the case, Respondent No.3 (HESCOM) cannot insist that, in the present Petition itself, its counter-claim should be tried. In view of the above facts, the different decisions relied upon by the learned counsel for Respondent No.3 (HESCOM) are not relevant.
- 8) We note that, the Petitioner has made individual claims in the present Petition against each of the Respondents 1 to 3. This is nothing but joining these different Respondents in a single Petition, for the sake of

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convenience, though against each of the Respondents 1 to 3, the cause of action for recovery of the amounts is different. This observation is made to hear the parties on the question, whether the Petitioner is liable to pay three sets of filing fee towards the claims made against the Respondents 1 to 3.

9) For the foregoing reasons, we pass the following:

ORDER

- (a) Respondent No.3 (HESCOM) shall be deleted from the Petition, as requested by the Petitioner in its Memo dated 16.11.2017; and,
- (b) The case be heard regarding the sufficiency or otherwise of the payment of the filing fee by the Petitioner, in respect of the claims made by it in the Petition as against each of the Respondents 1 to 3.

Sd/-
(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-
(H.D. ARUN KUMAR)
MEMBER

Sd/-
(D.B. MANIVAL RAJU)
MEMBER