



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th & 5th Floors, Singareni Bhavan, Red Hills, Hyderabad 500 004

I.A. No.8 of 2013
in
O.P. No.12 of 2008

Dated 28.03.2013

Present

Sri A.Raghotham Rao, Chairman
Sri C.R.Sekhar Reddy, Member

Between:

1. Eastern Power Distribution Company of A.P. Ltd
2. Southern Power Distribution Company of A.P. Ltd
3. Central Power Distribution Company of A.P. Ltd
4. Northern Power Distribution Company of A.P. Ltd
5. Andhra Pradesh Power Coordination Committee (APPCC)

... Petitioners
(Respondents in main O.P.)

AND

M/s. GVK Industries Limited.
Paigah House, 156-159, Sardar Patel Road,
Secunderabad – 500 003.

...Respondent
(Petitioner in main O.P.)

This petition has come up for hearing on 20.03.2013 in the presence of Sri P.Shiva Rao, Advocate for the petitioners and Sri L.Venkateswara Rao, Advocate for the respondent, the Commission passed the following:

ORDER

This petition is filed u/s 55 of APERC (Conduct of Business) Regulations, 1999 to reopen main petition.

2. The contention of the petitioners is briefly as follows:
 - i) The above case was filed by M/s. GVK Industries Ltd., seeking adjudication on several claims. In the above petition, the Commission was pleased to hear the arguments of both parties and reserved the

same on 28.04.2012 for passing orders. It is pertinent to submit that 10 months have elapsed from the date of reserving the orders by this Commission. But orders are not passed till date.

- ii) The Hon'ble High Court of Andhra Pradesh has settled the position of law that after reserving the orders, as far as possible orders shall be passed early, and that if the orders are not passed beyond reasonable period, the same will be a good ground in the appeal to get the matter remanded to the lower court.
- iii) The said principle of law is evolved based on precedents of Supreme Court, to the effect that if there is delay in passing the orders, it may cause prejudice to the parties and that parties are entitled for rehearing / further hearing of the matter.
- iv) In view of the above facts in this case, justice demands to reopen the case and hear the parties further.

3. It is prayed that the Commission may be pleased to reopen the case and hear the parties further.

4. The petitioner filed the above said petition to reopen the matter by projecting the following grounds:-

- (i) The Commission heard the arguments on 28.04.2012 and even after a lapse of 10 months, the orders are not pronounced and when the orders are not pronounced as per the decisions of the Hon'ble High court it is a settled position of law that the orders are to be finalised after reserving the matter as early as possible and if they are not passed beyond reasonable period, the same will be a good ground to reopen the matter.
- (ii) The above said principle is precedent by Hon'ble Supreme Court decisions wherein the Hon'ble Supreme Court held that the delay in passing the orders, it may cause prejudice to the parties and that parties are entitled for rehearing.
- (iii) The Commission reopened the matter on the ground that there are connected matters OP 4/2008 and OP 19/2009 and there are interconnected issues which are raised in this petition and hence it was

posted for hearing along with OP No.4/2008, OP No.19/2009. Again the matter was heard and reserved for order on 28.04.2012 along with other matters.

- (iv) There are about 6 claims on which OP is filed seeking the claims. They have to be discussed item wise with complete data. Due to lapse of time, in pronouncing the order, there is every possibility of vanishing the material from the minds and it is proper and justifiable to reopen the matter once again to hear the arguments afresh to refresh the memory.

5. Though the respondents did not submit written submissions to the petition filed by the petitioner but they simply addressed arguments by narrating the following grounds:

- (i) Mere delay in pronouncing the order, it is not a good ground to reopen the matter as it is not envisaged no where in the Conduct of Business Regulations to pronounce the judgment on a particular date.
- (ii) The claims which are clearly mentioned in each head and there is no ground to reopen the matter and the petition is liable to be dismissed.

6. Now, the point for consideration is, "Whether the petitioner is entitled to reopen the matter as prayed for?"

7. It is clear from the record that the matter was posted for reopen once on 27.03.2010 and again posted along with OP No.4/2008, OP 19/2009 and all the matters were reserved for orders. In OP No.4/2008, the petitioner filed IA 7/2013 on the ground of filing additional documents in addition to the ground of delay in pronouncing the judgment. Though the counsel for the petitioner stated that there are several High Court judgments followed by the decisions of Hon'ble Supreme Court but he has not submitted copies of the judgments. However, in the case of Anil Rai v. State of Bihar JT2001 (6) SC 515. In this it was held that

"if the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as deems fit in the circumstances."

8. No doubt, there is no procedure contemplated in the Conduct of Business Regulation to pronounce the judgment within a particular time. However, when the petitioner approaches this Commission with a request to reopen the matter on the ground of refreshing the memory of the Commission on all the points afresh, there is no point in rejecting the same solely on the ground that there is no time limit in the Conduct of Business Regulation. In addition to this when fresh material is filed in OP No.4/2012 and when the same is allowed for rehearing, there is no point in rejecting this petition, since the Commission has also expressed its opinion that there are interconnected issues in between the three matters i.e., OP 4/2008, OP 12/2008 and OP 19/2009.

9. In the light of the above said discussion, we are of the considered opinion that it is a fit case to reopen the matter for further hearing of the case.

10. In the result, this petition is allowed. The registry is directed to give a date of hearing. No order as to costs.

This order is corrected and signed on this 28th day of March, 2013.

Sd/-
(C.R.SEKHAR REDDY)
MEMBER

Sd/-
(A.RAGHOTHAM RAO)
CHAIRMAN