

BEFORE THE TAMIL NADU ELECTRICITY REGULATORY  
COMMISSION

11<sup>th</sup> September 2007

M.P.No. 5 of 2007

IN

D.R.P.No. 5 of 2006

M/s. PPN Power Generating Company Pvt. Ltd.

III Floor, Jhaver Plaza,

1-A, Nungambakkam High Road,

Chennai – 600 034.

Represented by its Managing Director

..... Petitioner

Vs.

1. Chairman,  
Tamil Nadu Electricity Board,  
800, Anna Salai  
Chennai – 2.
2. The Superintending Engineer,  
Nagapattinam Electricity Distribution Circle,  
Tamil Nadu Electricity Board,  
36, Sattiappar East Street,  
Nagapattinam – 611 001.

..... Respondents

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The above petition coming up for final hearing on 11<sup>th</sup> September 2007, the Commission upon perusing the petition and the Counter affidavit of the respondents and all other connected records of the case and upon hearing the arguments of both sides and having stood over for the consideration of this Commission till this day, hereby pronounces the following

ORDER

1. **Prayer of the Petition**

The prayer of the petition is to issue directions, directing the Secretary to the

Commission to ensure that the respondents immediately forthwith comply with the Order of this Commission dated 2<sup>nd</sup> April 2007 passed in D.R.P.No. 5 of 2006.

## **2. Facts of the Case**

In D.R.P.No.5 of 2006 filed by the petitioner, the operative portion of the Order is that the respondent board is directed to refund a sum of Rs. 70, 21,017 without interest to the petitioner. The petitioner has stated that subsequent to the aforesaid order, he wrote two letters dated 03-04-2007 and 30-05-2007 to the respondents requesting them to comply with the order of the Commission. The 2<sup>nd</sup> respondent in his letter has stated that in pursuance to the legal opinion they have filed an appeal to the Appellate Tribunal for Electricity, New Delhi. The petitioner has further stated that he has not received the aforesaid sum so far.

## **3. Counter of the Respondents**

The respondents in their counter affidavit have stated that they filed an appeal to the aforesaid order and the same has been registered in D.No. 709 of 2007 in the office of the Appellate Tribunal for Electricity. The respondents have filed additional counter affidavit in which they have stated that the appeal filed by them has been numbered as 709 of 2007 and that the Appellate Tribunal for Electricity has posted the case on 13-09-2007.

## **4. Arguments of the Petitioner**

During the hearing of the petition the learned counsel for the petitioner contended that no Stay has been granted by the Appellate Tribunal for Electricity, New Delhi and the Orders of this Commission will have to be implemented by the respondents.

## **5. Arguments of the Respondent Board**

The learned counsel for the respondent board has pleaded that the Commission may await the outcome of the appeal pending before the Appellate Tribunal for Electricity. He further pleaded for awaiting the orders of the Appellate Tribunal until the next date of hearing i.e., 13-09-2007. He pleaded for short adjournment of the case till 13-09-2007.

## **Conclusion**

The orders of the Commission in D.R.P.No. 5 of 2006 have been passed on 02-04-2007. The said order has not been stayed by the Appellate Tribunal for electricity in

the appeal filed by the respondent board. Unless the orders of the Commission are stayed by Appellate Tribunal for Electricity, the respondent board is legally bound to implement the orders. In the above circumstances it is hereby ordered that the aforesaid order of the Commission dated 02-04-2007 be implemented by the respondent board by 17.09.2007. However, in order to protect the interests of the board, it is hereby ordered that the petitioner should give an undertaking to the respondent board that they will refund the amount, in the event of the appeal of the board before the Appellate Tribunal being allowed.

**(R. RAJUPANDI)**  
**Member**

**(B. JEYARAMAN)**  
**Member**

**(S.KABILAN)**  
**Chairman**

**Regulatory Commission**