

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005  
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**Case No. 50 of 2015**

**Dated: 16 September, 2016**

**CORAM: Shri Azeez M. Khan, Member  
Shri. Deepak Lad, Member**

**In the matter of  
Petition of The Tata Power Company Ltd. for approval of commissioning and  
capitalizing of ongoing work on Distribution Network Development**

The Tata Power Company Ltd.(TPC) .....Petitioner

V/s.

Reliance Infrastructure Ltd. (RInfra) .....Respondents  
BEST undertaking

Representative for the Petitioner: Shri. Amit Kapur (Advocate)

Representative for the Respondent (RInfra): Shri. J J Bhatt (Advocate)

Representative for the Respondent (BEST): Shri. Harindar Toor (Advocate)

**Daily Order**

Heard the representatives of the Petitioner and Respondents.

Advocate for the Petitioner stated that TPC has filed additional submission on 7 September, 2016 providing detailed physical progress of in-principle approved capex schemes. Out of Rs. 978.86 crore in-principle approved capex schemes, work of Rs. 294 crore was completed as on date of issuance of ATE Judgment i.e. 28 November, 2014 and work of Rs. 200.77 crore was in progress. These work in progress schemes have been completed on 31 March, 2016.

RInfra submitted that present Petition was filed pursuant to para 59 of the ATE Judgment for approval of commissioning and capitalization of considerable investments that have already been made by TPC in pursuance of the directions of the Commission for constructing the

distribution system. However, in its recent submission dated 7 September, 2016, TPC has stated that it has already commissioned Rs. 200.77 crore investment which was work in progress as on the date of the ATE Judgment. This capex has been capitalized without waiting for the outcome of the present Petition, which is contrary to the mandates and directions of ATE. Therefore, the present proceeding becomes futile and is liable to be dismissed. Rinfra also stated that TPC has grossly deviated from the scope of the in-principle approvals. For instance, against approval of 50 CSS, TPC has commissioned 179 CSS.

TPC responded that the ATE Judgment has allowed commissioning and capitalization of those capex schemes on which TPC had made considerable investment. The ATE Judgment does not stipulate any condition of prior approval for commissioning of these schemes. Regarding deviation from in-principle approvals, TPC submitted that in-principle approval is not a final approval of the scheme. The in-principle approval letter itself has mentioned that final approval needs to be taken after completion of the scheme. Further, the in-principle approval dated 12 November, 2012 was not limited to the scope of work stipulated therein but for the investment of Rs. 978.96 crore to be made in 11 clusters to make them USO compliant as per Order in Case No. 151 of 2011. TPC has utilized only Rs. 494.77 crore out of this total approved amount of Rs. 978.96 crore. TPC further contended that the work in progress includes the complete process from procurement till commissioning.

TPC has further stated that no new capex work has been initiated after ATE Judgment. Works of Rs. 200.77 crore which are commissioned after the ATE Judgment were in fact initiated before the ATE Judgment. TPC requested the Commission to allow capitalization of such works.

BEST Undertaking submitted that it has already filed its written submission stating that the issue is related to Mumbai Suburban area and BEST Undertaking has no role to play in that area.

**Case is reserved for Order subject to submission of additional details, if any, that may sought by the Commission.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**