

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
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Case No. 187 of 2017

Dated: 16 June, 2018

**CORAM: Shri. Anand B. Kulkarni, Chairperson
Shri. Mukesh Khullar, Member**

**In the matter of
Petition of Windmill Owners Welfare Association of India for non compliance by
MSEDCL of the Order dated 16 May, 2017 of the Commission in Case No. 157 of 2016
read with sections 142, 146 and 149 of the Electricity Act, 2003.**

Windmill Owners Welfare Association of India (WOWAI)Petitioner

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)Respondent

Appearance

For WOWAI : Smt. Dipali Seth, (Adv.)
For MSEDCL : Shri. Ashish Singh, (Adv.)
Shri. S.S. Rajput(Rep.)

Daily Order

Heard the Advocates of the Petitioner, Respondent.

1. Advocate of the Petitioner, WOWAI stated that:

Its members (Wind energy generators) entered into various Wind Energy Purchase Agreement (EPA)s with MSEDCL. The present Petition dated 18 December 2017, was filed under section 86 (1) (f) of the Electricity Act, 2003 (EA, 2003) regarding outstanding payments due from MSEDCL for the sale of Wind energy and interest on delayed payments under those EPAs. In that Case No. 157 of 2016, by an order dated 16 May, 2017, the commission had allowed the Petition and ordered MSEDCL to clear the outstanding claims of Petitioners. Now, directions were being sought by Petitioner in the instant case against MSEDCL to comply with the earlier Order of the Commission.

2. Advocate of the Respondent, MSEDCL stated that:

It was learnt that besides the instant Petition before this Commission, WOWAI, the Petitioner herein, had also filed a Writ Petition before the Bombay High Court under Stamp No. WPST/15389/2018. Under that Writ Petition WOWAI had made similar /same prayers for seeking directions against MSEDCL to comply with the Commission's Order dated 16 May, 2017 in Case No 157 of 2016.

In reply, Advocate of the Petitioner stated that the instant Petition was listed for the hearing in January, 2018 however the hearing was adjourned. The Commission in the intervening period was also not taking up the cases for hearing. Therefore, petitioner approached the Bombay High Court.

3. The Commission observes that WOWAI cannot contest/agitate the same issue before two Courts. Prima facie, WOWAI has sought relief before the Bombay High Court, which are similar to the issues arising in this matter already filed before the Commission. In these circumstances the Commission asked WOWAI about its stand/plan for withdrawing its application filed before either of the fora. In reply Advocate of the Petitioner stated that Petitioner was ready to withdraw the Writ Petition related to those issues which were already raised before the Commission in the instant Petition.
4. The Commission directs WOWAI to file its submissions about its withdrawal application as stated above in para 3, along with the copy of its Writ Petition already filed. WOWAI may also file its Rejoinder to the submissions/replies made by MSEDCL under the instant Petition.

The Case is reserved for Orders.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(Anand B. Kulkarni)
Chairperson**