**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 20687 of 2016 (O&M)
Date of decision : 3.10.2016

Punjab State Power Corporation Limited and another .. Petitioners

versus

The Punjab State Electricity Regulatory Commission .. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Darshan Singh**

Present: Mr. Vishal Chaudhary, Advocate, for the petitioners.

Rajesh Bindal, J.

By filing the present writ petition challenge is sought to be made to amendment in Regulations 3(1) and 27 of the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005, (for short, 'the Regulations'), as notified by the Punjab State Electricity Regulatory Commission on 16.6.2015.

It is not in dispute that prior to the proposed amendment, a notice was issued. Definition of Auditor as added in Regulation 3(1)(aa) and Regulation 27 of the Regulations providing for depreciation are sought to be challenged. While referring to the provisions of Companies Act and the Income Tax Act, the definition of Auditor was required to be added. The word Auditor had not been defined in the Regulations earlier. Merely challenge to the definition clause cannot be legally sustained as auditor is merely a person, who is to audit the accounts of the petitioners in terms of the parameters laid down in the Electricity Act and the Regulations framed by the Commission.

As far as the provision for depreciation is concerned, the method is again sought to be challenged with reference to the Accounting Standards. Those have no application. The Commission has been assigned the duty to determine power tariff for which certain parameters have been laid down in the Regulations. The concept of depreciation for the purpose of Income Tax Act may be different. The Commission has been constituted to keep watch on the working of the electricity generating and supplying companies so that they are efficient in their working and do not pass on the cost of inefficiency to the consumers.

Vide Regulation 20 of the Regulations providing for cost of generation, upper limit of transit loss of coal has been fixed at 1%. The petitioners are aggrieved. Though reference was made to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, however, these do not come to the rescue of the petitioners as the maximum transit and handling loss permitted therein is 0.8%, whereas in the amended regulation, the upper limit is 1%.

For the reasons mentioned above, we do not find that any case is made out for interference by this Court, hence, the present petition is dismissed.

At this stage, learned counsel for the petitioners submitted that the Commission in Punjab should also frame regulations regarding the procedure to be followed for suo-moto proceedings in terms of the directions issued by the Appellate Tribunal for Electricity, New Delhi, in

Appeal Nos. 197, 198, 200, 201 and 208 of 2012 and 6 of 2013, dated 24.5.2013 pronounced by Chennai Circuit Bench. This Court is not an executing court for execution of the order passed by an Appellate Tribunal, however, still judicial discipline requires that if the Appellate Authority had given certain directions in terms of the powers vested in it under Section 121 of the Electricity Act, 2003, those should be complied with. The object for which those regulations are sought to be framed is for effective participation of all stake holders. We hope that needful shall be done.

(**Rajesh Bindal**)
Judge

3.10.2016 (**Darshan Singh**)
vs **Judge**

Whether speaking/ reasoned Yes/No
Whether Reportable Yes/No