

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.5290-5291 OF 2011

POWER EXCHANGE OF INDIA LTD.THROUGH VICE PRESIDENT ... APPELLANT

Versus

SECURITIES AND EXCHANGE BOARD OF INDIA ETC. ... RESPONDENTS

WITH

C.A.Nos.6311-6314 of 2021 @ SLP(C) Nos.17300-17303/2011
C.A. Nos.5292-5295/2011

O R D E R

The Court is convened through Video Conferencing.

Leave granted in SLP (C) Nos.17300-17303 of 2011.

The present appeals pertain to the issue of future contracts/markets in the electricity sector. The question before the High Court of Bombay was whether such contracts would be under the jurisdiction of the Central Electricity Regulatory Commission and the Electricity Act or the Future Markets Commission (now merged with SEBI) under the Forwards Contract Regulation Act.

The High Court in the impugned common judgment declared certain parts of the CERC (Power Markets) Regulations, 2010 relating to future and forward contracts to be inoperative and held that neither the Forward Market Commission (as it then was) nor the Central Electricity Regulatory Commission, or the authorities/commissions under their authority had sole or exclusive jurisdiction to regulate and control forward trading/future contracts in electricity.

Separate appeals were filed challenging the above order before this Court which have been tagged and are being heard together. The present applications have been placed on record in all the appeals which have been listed before this Court seeking the disposal of the appeals based on the settled terms agreed upon

by the parties. These terms, delineating the respective jurisdictions of the Securities and Exchange Board of India and the Central Electricity Commission, have been formulated by the Committee on Efficient Regulation of Electricity Derivatives constituted by the Ministry of Power during the pendency of the present appeals before this Court.

Heard the submissions of the learned Solicitor General of India and the learned counsel appearing for the parties.

We have perused the applications and the settled terms placed on record. Without commenting on the proposed terms, we permit the authorities to take the necessary steps in pursuance of the same, in accordance with law.

Consequently, the present challenge to the impugned order of the High Court of Bombay no longer survives. IA No. 45808 of 2020 in C.A. Nos. 5290-91 of 2011, IA No. 179508 of 2019 in CA Nos. 6311-6314 of 2021 (arising out of SLP (C) Nos. 17300-17303/2011) and IA No. 178398 of 2019 in CA Nos. 5292-5295 of 2011 are allowed. The appeals are accordingly disposed of with the consent of the parties.

The parties are directed to abide by the terms and conditions as recommended by the Committee on Efficient Regulation of Electricity Derivatives and the Office Memorandum dated 10.07.2020 issued by the Ministry of Power, Government of India in its letter and spirit.

.....CJI.
(N.V. RAMANA)

.....J.
(SURYA KANT)

.....J.
(HIMA KOHLI)

NEW DELHI;
OCTOBER 06, 2021.

Civil Appeal No(s).5290-5291/2011

VERSUS

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MS. JUSTICE HIMA KOHLI

For Respondent(s) Mr. Tushar Mehta, SG
Ms. Swati Ghildiyal, Adv.
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Amrish Kumar, Adv.
Mr. Gurmeet Singh Makker, Adv.

Ms. Shradha Deshmukh, Adv.

Mr. Chetanya Singh, Adv.

Mr. Ilesh Shukla, Adv.

Ms. Ria Sachthey, Adv.

For M/S. Ars Associates, AOR

Mr. Saurabh Mishra, AOR

Mr. Aditya Mishra, Adv.

Mr. Ravinder Singh, Adv.

Mr. Pratap Venugopal, Adv.

Ms. Surekha Raman, Adv.

Mr. Akhil Abraham Roy, Adv.

Mr. Vijay Valsan, Adv.

For M/S. K J John and Co., AOR

Mr. Sakya Singha Chaudhuri, AOR

Mr. K. V. Mohan, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

For the reasons recorded in the signed order, the present challenge to the impugned order of the High Court of Bombay no longer survives. IA No. 45808 of 2020 in C.A. Nos. 5290-91 of 2011, IA No. 179508 of 2019 in CA Nos. 6311-6314 of 2021 (arising out of SLP (C) Nos. 17300-17303/2011) and IA No. 178398 of 2019 in CA Nos. 5292-5295 of 2011 are allowed. The appeals are accordingly disposed of with the consent of the parties.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file)