

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**Appeal No. 11 of 2010 &
I.A. No. 19 of 2010**

Dated: 3rd March, 2010

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member**

Jharkhand State Electricity Board

... Appellant (s)

Versus

Jharkhand State Electricity Regulatory Commission & Ors. ... Respondent (s)

Counsel for the Appellant (s) : Mr. Ajit Kumar Sinha, Sr. Adv. with
Mr. Ashwarya Sinha

ORDER

This Appeal is not maintainable on the following grounds:

This Appeal is filed against the Order dated 17.09.2009 passed by the Jharkhand State Electricity Regulatory Commission, Ranchi, in Case No. 7 of 2009 rejecting the Application filed by the Petitioner-Appellant for review of the Order dated 07.02.2006 on the ground of delay.

Admittedly, the main Order had been passed in the year 2006. The Appellant-Petitioner did not choose either to file the Review immediately before the Commission or an Appeal before this Tribunal. On the other hand, they had taken steps to implement the said Order. Unable to get it implemented, they chose to file an Application for modification. Then subsequently,

they amended the prayer from modification to the prayer for Review. They also filed the Application to condone the delay. Then the matter was heard by the Commission. One Member passed the Order admitting the Review. But, the Chairman of the Commission dismissed the Review holding that sufficient cause had not been shown to condone the delay of 1173 days by invoking the veto power. This Order has been challenged in this Appeal.

We have heard the learned counsel for the Appellant.

It is settled law that the Appeal against the Order passed by the State Commission in the Review Application rejecting the Review on the ground of inordinate and unexplained delay is not appealable under Section 94 (1) (f) of the Electricity Act, r/w Order 47 Rule 7 Of C.P.C. Recently, we have decided this point, about the maintainability in **Appeal No. 178 of 2009 (Tamil Nadu Electricity Board Vs. Central Electricity Regulatory Commission & Ors.)**

Hence, we hold that this Appeal is not maintainable. Accordingly, the Appeal is dismissed.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson