

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Interlocutory Application No. 18/2015
In
Petition No. 341/SM/2013**

**Coram:
Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member**

**Date of Hearing: 15.5.2015
Date of Order: 19.5.2015**

In the matter of:

Regulatory oversight of the management and governance of Indian Energy Exchange Limited (IEX)

And

In the matter of:

Financial Technologies (India) Limited

.....Applicant

And

In the matter of:

Indian Energy Exchange Limited
4th Floor, TDI Centre,
Plot No. 7, Jasola,
New Delhi-110025

..... Petitioner

Vs

Financial Technologies India Limited
FT Tower,
CTS No. 256 and 257, Suren Road,
Chakal, Andheri (East)

..... Respondent

Parties Present:

Shri Vikas Singh, Senior advocate, FTIL
Ms Apporva Misra, Advocate, FTIL
Shri Vishrov Mukherjee, FTIL
Ms Raveena Dhamija, FTIL
Shri MG Ramachandran, Advocate, IEX
Ms Shruti Bhatia, IEX

ORDER

The present Interlocutory Application has been filed by the Applicant, Financial Technologies (India) Limited (hereinafter FTIL) seeking extension of time for compliance with the order dated 17.4.2015 passed in IA No.10/2015 in Petition No.341/SM/2013.

2. The Applicant has submitted that in IA No. 10/2015 filed by IEX, the petitioner filed an affidavit dated 16.4.2015, undertaking to complete the process of divestment of shareholdings within a period of 45 days subject to regulatory approvals and permissions. The Commission vide order dated 17.4.2015 in IA No.10/2015 directed FTIL to complete divestment of its shareholdings in IEX within three weeks i.e. by 9.5.2015 failing which IEX would ensure divestment of FTIL's shareholdings within a period of three weeks thereafter i.e. by 1.6.2015. The Applicant has submitted that around that time, the Applicant filed Civil Appeal No. 4036 of 2015 in the Hon'ble Supreme Court challenging the judgement dated 4.2.2015 passed by Appellate Tribunal for Electricity in Appeal No.186 of 2014. The Applicant has further submitted that it filed IA No.1/2015 alongwith the said Civil Appeal seeking stay of the judgement dated 4.2.2015 as well as stay of consequential proceedings. The Applicant has also submitted that it has also filed IA No. 3/2015 alongwith the Civil Appeal seeking extension of time in terms of its affidavit dated 16.4.2015.

3. The Applicant has submitted that the Civil Appeal alongwith the IAs were listed before the Supreme Court on 8.5.2015 and the Hon'ble Supreme Court has issued notices on the IAs. Counsel for the Commission who was present during the hearing has accepted notice on behalf of the Commission. The Applicant has submitted that with regard to its request for extension of time, Hon'ble Supreme

Court observed that since notices had been issued in the IAs, the Applicant may approach the Commission for grant of extension of time. Accordingly, the Applicant has filed the present IA seeking further extension of time of 45 days.

4. The Applicant has submitted that proceedings have been initiated by the Chief Investigating Officer, Special Investigation Team, Economic Offence Wing (EOW) wherein the Applicant has been directed “not to dispose of, alienate, encumber, part with possession of or create any third party right, title and/or interest in, to, upon or in respect of any asset of Financial Technologies (India) Limited, its subsidiaries and its step down subsidiaries”. Though the Applicant has informed EOW that it is divesting its shares in IEX in order to comply with the order of the Commission and judgement of the Appellate Tribunal for Electricity, EOW has instructed the Applicant to approach the Maharashtra Protection of Interests of Depositors Court (MPIDC) for seeking appropriate directions since proceedings have been started. The Applicant has submitted that it is pursuing appropriate legal recourse available under law with regard to the proceedings initiated by EOW.

5. Learned Senior Counsel appearing on behalf of the Applicant submitted that the Applicant is committed to divest its shareholdings in IEX and is pursuing the matter in right earnest. Learned Senior Counsel further submitted that the Applicant will divest the shares after getting necessary permission from EOW or MPID Court. Learned Senior Counsel submitted that no prejudice would be caused if the extension of time is granted since there would be no interference by the Applicant in the operation of IEX as it does not have any nominee in the Board of IEX nor does it have any voting right, and all the corporate benefits have been kept in abeyance.

Learned Senior Counsel submitted that under the circumstances, the Applicant is praying for extension of 45 days' time to complete the divestment process.

6. Learned Counsel for IEX submitted that IEX has filed an affidavit dated 11.5.2015 in compliance with the order dated 17.4.2015 in IA No.10/2015 in Petition No.341/SM/2015.

7. We have considered the submission of learned Senior Counsel for the Applicant. One of the reasons for seeking time is that Chief Investigating Officer, Special Investigation Team, Economic Offences Wing (EOW) has initiated proceedings against FTIL and the Applicant has been directed not to alienate, encumber or part with possession of or create any third party rights on the assets of FTIL. The Applicant has been advised by EOW to approach the MPID Court for appropriate directions for divestment of shares in compliance with the directions of the Commission. It is noticed that the Applicant has not placed on record the relevant documents regarding initiation of proceedings by EOW and the efforts made by the applicant to get the appropriate directions from MPID Court. We direct the Applicant to place on record all relevant documents with regard to the proceedings initiated by EOW and the action taken by the Applicant in that regard to expedite divestment of its shareholdings for the information of the Commission within a period of two weeks.

8. It is pertinent to mention that the Applicant has been granted more than one year time to comply with our order dated 13.5.2014. The Commission vide its order dated 13.5.2014 had directed IEX to ensure divestment of shares of FTIL by 30.9.2014 i.e. a period of 4 months 18 days were available to the Applicant. The Applicant filed Appeal No. 186/2014 in the Appellate Tribunal for Electricity and the

Hon'ble Tribunal vide its order dated 25.9.2014 directed the Applicant to file an application before the Commission for extension of time. The Applicant filed an application dated 30.9.2014 for extension of time till 31.3.2015 to comply with the order of the Commission. The Commission vide order dated 1.10.2014, granted time till 30.10.2014 to complete the process in the following terms:

"9. We have considered the submissions of FTIL and IEX. We note that though the order was passed by the Commission on 13.5.2014 directing IEX to ensure divestment of entire shares of FTIL in IEX, FTIL has initiated action only on 7.7.2014. In our view, FTIL should pursue the divestment process in right earnest for compliance of the order of the Commission. Considering the present stage of the divestment process, we deem it appropriate to grant one month's time i.e. till 31.10.2014 for completing the process of divestment of entire share of FTIL in IEX. We direct IEX to submit the report of compliance in this regard by 5.11.2014."

Subsequently, the Applicant vide its letter dated 4.11.2014 requested IEX to approach the Commission to seek three months' time to complete the process of divestment. Accordingly, IEX vide its affidavit dated 7.11.2014 requested for time till 9.2.2015 for compliance of the order of the Commission. The Commission vide order dated 21.11.2014 allowed time till 4.1.2015 for completion of the process of divestment in compliance with the order of the Commission. Further, IEX at the instance of the Applicant vide its affidavit dated 16.1.2015 requested the Commission for extension of time till 15.5.2015. Subsequently, IEX filed IA No.10/2015 seeking certain directions for implementation of the order dated 13.5.2014 of the Commission in view of the failure of the Applicant to comply with the said order. The Commission impleaded the Applicant as a party in the said IA and after hearing the Applicant granted time vide order dated 17.4.2015 till 9.5.2015 for ensuring compliance. From the above, it is clear that the Commission has been allowing the requests of the Applicant from time to time and has already granted time from 1.10.2014 till 9.5.2015 i.e. 7 months and 9 days in addition to the time of 4

months and 18 days initially granted to the Applicant for ensuring divestment of its shares.

9. The Commission has taken note of the fact that the Applicant has filed a statutory Civil Appeal before the Hon'ble Supreme Court alongwith the application for stay of the judgement of the Appellate Tribunal for Electricity and the consequential proceeding pursuant to the directions of the Commission vide order dated 17.4.2015. Hon'ble Supreme Court has issued notices on the applications for stay and has orally observed that the Applicant could apprise the Commission regarding pendency of the appeal before the Hon'ble Court. The Applicant has accordingly filed the present IA seeking 45 days' time to complete the divestment process. The Applicant has submitted in the IA that EOW has initiated proceedings in the MPID Court and the Appellant is separately pursuing the appropriate legal reasons with regard to the proceedings initiated by EOW to seek appropriate directions to implement the order of the Commission. Since the Hon'ble Supreme Court is seized with the matter and notices have been issued on the Applicant's applications for stay and with due respect to the oral observation of the Hon'ble Supreme Court, we are of the view that in the interest of probity and propriety, the request of the Applicant for extension of time needs consideration. The Commission has decided to grant 30 days time to the Applicant as the last opportunity to ensure full divestment of its shares in IEX and accordingly, the Applicant is allowed time till 18.6.2015 for completing the divestment of shares in IEX. The Applicant is directed to submit a compliance report on or before 20.6.2015.

10. Correspondingly, the time granted to IEX for taking consequential actions stands extended till 9.7.2015. IEX is further directed to submit a compliance report on or before 20.6.2015 and 10.7.2015, as the case may be.

11. IA No.18/2015 is disposed of in terms of the above.

sd-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson