**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) NO. 12167 OF 2026**

**1. Distributed Solar Power Association**

through its authorized signatory,
Mr.Aditya Malpani, being a society registered
under the Societies Registration Act, 1860,
having its registered office at A-57, DDA Sheds,
Okhla Industrial, Phase-II, New Delhi – 110020 ...Petitioner No.1

**2. AMPIN Energy Green Fifteen Pvt Ltd**

through its authorized signatory,
Mr.Aditya Malpani, being a company
registered under the provisions of the
Companies Act, 2013, having its registered office
at 309, 3rd Floor, Rectangle One, Behind
Sheraton Hotel, Saket, New Delhi – 110017 ...Petitioner No.2

**3. Radiance MH Sunrise Nine Private Limited**

through its authorized signatory, Mr.Nitin Bhatia,
being a company registered under the provisions
of the Companies Act, 2013, having its registered
office at 611, Synergy Court, Off. Ramchandra Lane
Kanchpada, Malad West, Mumbai, Maharashtra,
India – 400064 ...Petitioner No.3

**Versus**

**1. Maharashtra Electricity Regulatory Commission,**

a State Electricity Regulatory Commission established
under the provisions of the Electricity Act, 2003
having its office at World Trade Centre, Centre No.1,
13th Floor, Cuffe Parade, Mumbai- 400005,
represented by its Secretary ...Respondent No.1

**2. Maharashtra State Electricity Distribution Company Limited**, a company registered under the provisions of the Companies Act, 2013, having its registered office at 5th Floor, Prakashgad, Plot No.G-9, Bandra (East), Mumbai – 400051, represented through its Chairman and Managing Director ...Respondent No.2

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***Mr. Ashish Kamat, Sr. Advocate**, a/w Mr. Vishrov Mukherjee, Mr. Pratyush Singh, Mr. Damodar Solanki, Ms. Garima, Mr. Arnav Bhansali, Mr. Deepak Tahkur, i/b Trilegal, for the Petitioners.*

***Mr. Milind Sathe, Advocate General**, a/w Mr. Ratnakar Singh, for Respondent No.1.*

***Mr. Mukul Rohatgi, Sr. Advocate (through V.C.), Mr. Aspi Chinoy, Sr. Advocate, and Mr. Rohan Shah, Sr. Advocate**, a/w Mr. Vishal Binod, Mr. Siddharth Dharmadhikari, Ms. Devanshi Singh, Mr. Sajnik Mitra, Mr. Aditya Krishna, Ms. Swadha Sharma, Mr. Siddharth Mathur, Ms. Arunima Diva Devarsha, Mr. Abhishek Karnik, i/b Cyril Amarchand Mangaldas, for Respondent No.2.*

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**CORAM: B. P. COLABAWALLA &**
**FIRDOSH P. POONIWALLA, JJ.**

**RESERVED ON : APRIL 18, 2026**
**PRONOUNCED ON : APRIL 24, 2026**

**JUDGEMENT:- [ PER B.P. COLABAWALLA ]**

**1.** By way of the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioner has challenged the Order dated 25th March 2026 passed by the Maharashtra Electricity Regulatory Commission

(for short "**MERC**") in Review Petition bearing case No. 75 of 2025. The Review Petition was filed by the Maharashtra State Electricity Distribution Company Limited (for short "**MSEDCL**") for review of its Multi-Year Tariff Order (for short "**MYT Order**") dated 28th March 2025, passed by the MERC in case No. 217 of 2024.

**2.** This MYT Order was in relation to the determination of tariff and Annual Revenue Requirement (for short "**ARR**") for Financial Year (**F.Y.**) 2025-2026 to F.Y. 2029-2030. Our jurisdiction under Article 226 of the Constitution of India is invoked on the grounds:

(a) that the impugned order has been passed in complete derogation and in disregard of this Court's judgement and order dated 3rd November 2025, passed in Writ Petition (L) No. 19529 of 2025. By this judgement and order, this Court had initially set aside the Review Order passed by the MERC dated 25th June 2025 and remanded the matter back to the MERC. Whilst remanding the matter back to the MERC, this Court had specifically directed the MERC to follow the principles of natural justice and hear all objectors before passing any order in the Review Petition filed by the MSEDCL;

(b) A bare reading of the order impugned in the present Writ Petition reveals that the MERC has failed to consider or deal with any of the objections raised by the Petitioner, thus defeating the very purpose of remand and rendering principles of natural justice illusory and otiose;

(c) The MERC also invoked its inherent jurisdiction, which was disallowed by this Court in paragraph 36 of the judgement and order dated 3rd November 2025, which remanded the matter back to the MERC;

(d) The impugned order is *ex-facie* violative of the principles of natural justice, being a non-speaking unreasoned order, inasmuch as the MERC has failed to deal with or consider any of the submissions made by the Petitioners (and other objectors and stakeholders) on the issues of *Time of Day* (for short **"ToD"**) tariff, Banking provisions, and withdrawal of rebate during night hours;

(e) The MERC has, in effect, confined its consideration solely to the submissions made by MSEDCL, while completely disregarding the objections raised by the Petitioners and other stakeholders. The

impugned order is conspicuously bereft of any reasons whatsoever for the rejection of the objections, particularly on the issue of ToD tariff and Banking.

**3.** It is on this basis that the writ jurisdiction of this Court has been invoked under Article 226 of the Constitution of India.

**4.** At the outset, the learned Senior Advocates appearing for the Respondents, namely, Mr. Sathe, the learned Advocate General appearing for the MERC, as well as Mr. Rohatgi and Mr. Chinoy appearing on behalf of MSEDCL, submitted that the above Writ Petition ought not to be entertained as the Petitioners have an equally efficacious remedy of challenging the impugned order before the Appellate Tribunal (APTEL) under Section 111 of the Electricity Act, 2003.

**5.** The learned Senior Counsel appearing for the Respondents submitted that paragraph 42 of this Court's judgement and order passed on 3rd November 2025 itself records that once the MERC, on remand, passes any order on the Review Petition filed by MSEDCL, the aggrieved party is free to challenge that order before APTEL under Section 111 of the Electricity Act, 2003. This order of the High Court (dated 3rd November 2025) was

subjected to challenge before the Hon'ble Supreme Court. The Hon'ble Supreme Court also, by its Order dated 17th November 2025, disposed of the SLPs filed challenging the Bombay High Court order, and directed that the Review Petition be remanded to the MERC and directed MERC to decide the Review Petition within a period of 12 weeks from the date of the said order. The Hon'ble Supreme Court also further stated that on remand, before deciding the matter, the MERC would give a hearing to all the concerned stakeholders. In other words, it was the contention of the Respondents (and which is not disputed by the Petitioners) that this Court's judgement and order passed on 3rd November 2025, in fact, got the seal of approval by the Hon'ble Supreme Court.

**6.** It is the case of the Respondents that the MERC, on remand, not only held public hearings, but also considered written suggestions and objections of as many as 2,028 persons, a list of which is annexed as Appendix 2 to the impugned order. After considering the objections and suggestions of all parties, and after giving them a hearing, the MERC has passed the impugned order by giving sufficient reasons as more particularly set out in the said order. Once this is the case, then this Petition ought not to be entertained and the Petitioners ought to be relegated to avail the alternate remedy available under Section 111 of the Electricity Act, 2003, was the submission.

**7.** To counter the aforesaid preliminary objection, Mr. Kamat and Mr. Dwarkadas, the learned Senior Advocates appearing for the Petitioners, submitted that in the facts of the present case, this Court can certainly entertain the Writ Petition notwithstanding the fact that an alternate remedy of Appeal is available to the Petitioners because the impugned order has been passed without observing the safeguards put in place by this Court in its judgement and order dated 3rd November 2025. Mr. Kamat and Mr. Dwarkadas submitted that paragraph 42 of the judgement and order dated 3rd November 2025 clearly stated that the matter was remanded to the MERC to decide the Review Petition filed by the MSEDCL afresh after consulting all stakeholders, hearing them, and taking into consideration their objections, if any.

**8.** In the facts of the present case, though the MERC did hear the Petitioners and noted their objections, the impugned order does not take into consideration any of their objections, and simpliciter accepts the submissions of MSEDCL to come to the conclusion that it did, in relation to the ToD tariff and Banking. Mr. Kamat and Mr. Dwarkadas both submitted that once the order of the High Court directed the MERC to "consider" the objections and suggestions of all stakeholders (including that of the Petitioners), the same

would really mean that there has to be an application of mind to the objections and suggestions, and if the same are rejected, it should be followed with reasons.

**9.** In the facts of the present case, according to Mr. Kamat and Mr. Dwarkadas, the impugned order is bereft of any reasons as to why any objections of the stakeholders did not find favour with the MERC. This itself makes the impugned order vulnerable to challenge, and hence this Court can certainly entertain this Writ Petition *de hors* the fact that an efficacious alternate remedy is available to the Petitioners. To further buttress this argument, Mr. Kamat and Mr. Dwarkadas both submitted that non-giving of reasons, or to put it differently, an unreasoned order, itself is a facet of breach of principles of natural justice and which is one of the exceptions carved out for the Court to exercise its Writ Jurisdiction notwithstanding the availability of an alternate efficacious remedy.

**10.** To drive the point home that the impugned order is unreasoned, Mr. Kamat and Mr. Dwarkadas brought to our attention the impugned order, and more particularly paragraphs 4.3.1 to 4.3.19, which succinctly set out the suggestions and objections of Solar Power companies and/or Associations, and paragraphs 18.1 to 18.22, which is the analysis and rulings of the

Tribunal on the ToD tariff and Banking provisions. By adverting to these paragraphs of the impugned order, it was submitted that though the objections of the Petitioners and other stakeholders, namely the Solar Power companies, were duly noted by the MERC, in the Commission's analysis and ruling, there is absolutely no discussion as to why the objections of the Solar Power companies did not find favour with the MERC. Once this is the case, at least insofar as the issue relating to the ToD tariff and Banking provisions are concerned, they are decided by the MERC without assigning any reasons whatsoever.

**11.** Additionally, it was the argument of the Petitioners that in the facts of the present case, despite this Court in its judgement and order dated 3rd November 2025 stating that inherent powers cannot be invoked to circumvent specific provisions of the Regulations, the MERC in its Order, in fact, goes on to hold that the High Court has affirmed that the MERC can invoke inherent powers [in paragraphs 4.23 and 4.24 of the impugned order]. All in all, it was the submission of the Petitioners that the procedure to be followed as laid down by this Court in its judgement and order dated 3rd November 2025 has been observed in the breach, and hence, the Petitioners are fully entitled to approach this Court under Article 226 of the Constitution

of India, notwithstanding the fact that the Petitioners have an equally efficacious alternate remedy under Section 111 of the Electricity Act, 2003.

**12.** We have heard the learned Counsel for the parties on the limited aspect of whether we should exercise our discretion in entertaining the above Writ Petition notwithstanding the fact that an alternate remedy is available to the Petitioners. The fact that there is an equally efficacious alternate remedy available to the Petitioners is one which is undisputed before us. Section 111 of the Electricity Act, 2003, clearly stipulates that any person aggrieved by an order made by an adjudicating officer under the Electricity Act, 2003 (except under Section 127), or an order made by the Appropriate Commission under the Electricity Act, 2003, may prefer an appeal to the Appellate Tribunal for Electricity (APTEL). Hence, it cannot be disputed that the Petitioners have an equally efficacious alternate remedy available to them.

**13.** What we are called upon to decide is whether, notwithstanding an equally efficacious remedy, we should exercise our discretion and allow the Petitioners to invoke the writ jurisdiction of this Court. It can hardly be disputed that the High Court under Article 226 of the Constitution of India has immense power to entertain Writ Petitions, notwithstanding the availability of an alternate remedy. However, through several judgements

passed, not only by the High Courts, but also by the Hon'ble Supreme Court, there are certain restraints that are self-imposed where the Courts do not exercise their writ jurisdiction when alternate remedies are available and are equally efficacious. There are exceptions carved out when the Court may exercise its extraordinary jurisdiction under Article 226, notwithstanding the fact that an equally efficacious alternate remedy is available.

**14.** If one were to refer to any decision on this aspect, a Division Bench of this Court [coram: Dipankar Datta, C.J. (as he then was) and M.S. Karnik, J.] in the case of ***Hover Automotive India Private Limited Vs. Union of India and Ors. [2021 SCC OnLine Bom 14095]*** has succinctly set out under what circumstances a writ can be entertained notwithstanding an equally efficacious alternate remedy. The relevant portion of this decision read thus:-

> *"15. While entertaining a complaint of natural justice, one has to keep in mind its different shades. The first and the most prominent shade is where an order is passed without notice/without opportunity/without hearing. In such a case, there is an obtrusive violation of the rule of audi alteram partem and the writ court may not labour much to decide on the entertainability of a writ petition even if an alternative efficacious speedy remedy were made available by a statute.* ***Complaints of violation of natural justice, which fall in the second shade and may appear to be lighter than the first, are orders passed without reasons. Wholly unreasoned orders attract intrusive examination as compared to orders with some reasons, in which case, the writ courts are loathe to***

> ***interfere****. When the complaint is that no fair, adequate and reasonable opportunity to place the case/defend the proposed action is extended, it pertains to the third shade which is again lighter than the second. The Court normally examines the complaint from the standpoint of prejudice and may entertain a writ petition if the prejudice suffered is such that the order terminating the proceedings is rendered unsustainable. The argument put forth before us is, however, different. It does not pertain to the aforesaid three shades. There is no complaint from the side of the petitioner that he was not heard by the Commissioner prior to the order-in-original being made or that fair, adequate and reasonable opportunity to place the case/defend the proposed action was not extended. It is also not the complaint that the order has not assigned reasons in support of the conclusion reached. The petitioner is left aggrieved because the impugned order does not say, in so many words, as to why the authorities cited by it were not considered to be applicable. This, according to Mr. Chilana, is a violation of natural justice."*
>
> *(emphasis supplied)*

**15.** As can be seen from the aforesaid decision, one of the facets of natural justice is when orders are passed without reasons. Wholly unreasoned orders attract an intrusive examination as compared to orders with some reasons. In the case of the latter, the Writ Courts are loathe to interfere in writ jurisdiction on the ground that the order is in breach of the principles of natural justice.

**16.** Having briefly set out what the law is, it is the Petitioners' specific case before us that at least insofar as the issue relating to the ToD tariff and

Banking provisions are concerned, the Order impugned in the above Writ Petition is wholly unreasoned. This argument is predicated on the basis that paragraphs 4.3.1 to 4.3.19 of the impugned Order set out the suggestions and objections of the Solar Power companies and/or Associations, and none of the aforesaid objections/suggestions have been dealt with by the MERC in the impugned Order. It is on this basis that the Petitioners contend that there is a breach of principles of natural justice because the impugned order is unreasoned, and therefore, call upon us to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India.

**17.** To examine this facet, it would be apposite therefore to refer to the impugned order. In relation to the ToD Tariff and Banking provisions, the suggestions and objections by different parties, including the Petitioners, have been succinctly set out in paragraph 4.3 onwards of the impugned order. To put it briefly, the objections were:

(a) that Banking of electricity is governed by Regulation 20.3 of the *MERC (Distribution Open Access) Regulations, 2016* and cannot be changed through a tariff review. Regulation 20.3 allows the energy injected during off-peak/solar hours to be used in any non-peak ToD slot, with the restriction that it cannot be drawn during peak hours.

The review sought by MSEDCL would be in violation of Regulation 20.3.

(b) MSEDCL's request to classify 22:00 - 06:00 hrs as peak hours conflicts with Rule 8A of the *Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules*, which sets peak hours to solar hours with a minimum 20% rebate during the solar hours and a 20% premium during peak hours. The Rule allows recognition of off-peak hours and additional rebates, but MSEDCL's interpretation seeks to eliminate off-peak benefits, contrary to the intent of the Rule.

(c) Any change to the ToD Tariff or Banking provisions by a review of the Tariff Order would have the effect of amending Regulation 20.3 indirectly. Sudden withdrawal of Banking, or night hours benefits, would harm investors' confidence and planning, and Banking arrangements cannot be changed abruptly unless public interest demands, and expectations should be gradually managed after agreements expire.

(d) Regulation 20.3 does not restrict using Banked energy in the

same ToD slot. MSEDCL's view limiting the Banked energy to solar hours would weaken Banking for most open-access and captive consumers as solar power is only available during limited daytime hours, while industrial operations run 24/7. MSEDCL's interpretation effectively seeks to amend the regulation, and any such regulatory change should follow the mandate of Section 181 of the Electricity Act, 2003 and cannot be done by virtue of a review of a Tariff Order.

(e) Businesses install solar panels, expecting excess daytime power to offset night time usage. If Banking rules are suddenly tightened or restricted by time slots, consumers will face losses despite proper system function. Based on this, people have taken loans and invested in rooftop solar and sudden rule changes would undermine trust in future schemes and stop Banks from financing solar projects.

**18.** There are also some other objections taken, which are more particularly set out in paragraph 4.3 of the impugned order.

**19.** The reasoning of the Tribunal for making changes in the ToD tariff and Banking provisions start from paragraph 18 of the impugned order. It firstly notes the submissions of MSEDCL in brief, and thereafter gives its analysis

and ruling from paragraphs 18.9 to 18.21.

**20.** For the sake of brevity, we are not reproducing the reasoning given by the Commission. However, to put it in a nutshell, after referring to Regulation 20.3 and noting the submissions, the Commission opined that in the past, the ToD tariff structure in the State has remained almost the same till recently, when the Commission conducted a study, which highlighted the need for change in view of increased Renewable Energy penetration. It noted that Regulation 115.2 of the MT Regulations, 2024 requires the Distribution Licensee to propose ToD tariff at the time of MYT or MTR tariff filing, subject to compliance with the applicable Ministry of Power (MoP) rules, and the Commission is then required to approve the ToD tariff as a part of the tariff order.

**21.** The Commission also opined that the main Banking principle under the DOA regulations is that energy stored during peak ToD slots can be used during off-peak slots, but energy Banked during off-peak slots cannot be drawn during peak slots. The Regulations specify that this Banking principle relies on the ToD tariff approved by the Commission in the tariff order for the Distribution Licensee. Additionally, the Regulations include an illustration explaining this Banking concept using ToD slots and ToD tariff, and from this

illustration, Banked energy can only be drawn in slots with the same or lower ToD tariff, was the opinion and finding of the Commission. Since the Commission's ruling on Banking in its original MYT Order dated 28th March 2025 was not consistent with the DOA Regulations, the Commission came to a finding that there is an error apparent on the face of the record which needs to be corrected to make it consistent with the DOA Regulations. The Commission specifically mentions in the reasoning that it takes note of the submission of MSEDCL and the stakeholders that an amendment to provisions of DOA Regulations pertaining to Banking may not be envisaged in the MYT process.

**22.** When one reads the reasoning given by the Commission (MERC) for reviewing its earlier MYT Order dated 28th March 2025 in relation to ToD tariff and Banking, it would be difficult for us to hold that the Order of the MERC is an unreasoned Order. The reasons may be right, or the reasons may be wrong. The reasons may be inadequate, or may not justify the conclusion reached. However, it cannot be stated that the order of the MERC is wholly unreasoned as sought to be contended by the Petitioners. In a case like the present one, the real bone of contention between the Petitioners and MSEDCL on the issue of ToD tariff and Banking was the interpretation of Regulation 20.3. That exercise has been clearly carried out by the MERC in

the impugned Order by giving reasons as to why it held what it did. Therefore, we are unable to agree with the argument of the Petitioners that the Order of the MERC does not take into consideration any of the objections and suggestions of the Petitioners.

**23.** One must not lose sight of the fact that the exercise done in the present case is a review of the tariff order. When an original tariff order is passed, suggestions and objections are noted from the public at large. There may be thousands of objections or suggestions given to the MERC whilst formulating its tariff order. It would be ludicrous to suggest that the MERC has to deal with each and every objection and suggestion and give reasons for the same to justify the conclusions reached in a tariff order. If we were to interpret the making of a tariff order in this fashion, it would become virtually unworkable. In the present case also, when a review was sought of the tariff order, the same procedure has been followed as when the original MYT Order was passed [and of which review was sought]. The objections and suggestions were invited from all stakeholders and public hearings were held. Pursuant thereto, 2,028 persons gave their objections and suggestions. If the MERC has to individually deal with each and every objection and suggestion of 2,028 persons by giving reasons, the passing of the tariff order, or review thereof, would become wholly unworkable. We are clearly of the view that in

the peculiar facts of the present case, and taking into consideration the nature of a tariff order and/or a review thereof, "consideration of objections" cannot be stretched to mean that every single objection has to be dealt with by the MERC and give its reasons thereon, either accepting or rejecting the said objections. The passing of a tariff order or a review thereof would become completely unworkable if we were to take such a pedantic and strict interpretation. Hence, we are of the view that once there is reasoning given in the review order by taking into consideration the crux of the matter, namely interpretation of Regulation 20.3, we do not understand how the Petitioners can contend that the Order passed by the MERC is one which is wholly unreasoned, and consequently, results in principles of natural justice being violated.

**24.** We are unable to agree with the submissions of the Petitioners that the MERC has not complied with the mandate as set out in paragraph 42 of the judgement and order dated 3rd November 2025. Paragraph 42 of the said judgement and order dated 3rd November 2025 reads thus:-

> *"42. In view of the foregoing discussion, the impugned review order dated 25th June 2025 is hereby quashed and set aside. The matter is now remanded to MERC to decide the Review Petition filed by MSEDCL afresh after consulting all stakeholders and hearing and taking into consideration their objections, if any. Before MERC embarks upon this journey, it shall ensure that MSEDCL shall forward a copy*

> *of its Review Petition [alongwith its annexures, if any] to any stakeholder who seeks it. Additionally, MERC shall ensure that public notice is given by MSEDCL as contemplated under Regulation 14 of the MYT Regulation, 2024. We have passed these directions because in the facts of the present case, we find that the review sought by MSEDCL has far reaching consequences on the stakeholders, including the consumers. Once the aforesaid procedure is followed and MERC passes any order on the Review Petition filed by MSEDCL, the aggrieved party is free to challenge that order before APTEL under Section 111 of the Electricity Act, 2003. It is clarified that until MERC passes an order on the Review Petition, the parties shall be governed by the MYT order 28th March 2025."*

**25.** As can be seen from the aforesaid paragraph, the matter was remanded to the MERC to decide the Review Petition filed by the MSEDCL afresh after consulting all stakeholders, giving them a hearing and taking into consideration their objections, if any. This Court further directed that before the MERC embarked upon this journey, it shall ensure that MSEDCL shall forward a copy of its Review Petition (along with its annexures, if any) to any stakeholder who seeks it. Additionally, this Court had directed the MERC to ensure that public notice is given by MSEDCL as contemplated under Regulation 14 of the *MYT Regulations, 2024*. This Court thereafter directed that once the aforesaid procedure is followed and MERC passes any order on the Review Petition filed by MSEDCL, the aggrieved party is free to challenge that order before APTEL under Section 111 of the Electricity Act, 2003.

**26.** It is not in dispute that before the Review Petition was decided, all stakeholders were consulted, as well as hearings were given. In fact, this is borne out by the impugned Order itself, which not only records that a public notice was given but also that public hearings were held between 25th February 2025 and 4th March 2025 and as many as 2,028 persons/entities participated in the proceedings and gave their suggestions and objections. The only grievance in the present case is that the objections of the Petitioners and other stakeholders, at least in relation to ToD tariff and Banking, have not been taken into consideration by the MERC. We have negated this contention for the reasons set out earlier. We, therefore, are unable to agree with the argument of the Petitioners that the mandate of this Court in paragraph 42 of the judgement and order dated 3rd November 2025 is not complied with by the MERC, and hence, the Petitioners are fully justified in invoking the writ jurisdiction of this Court.

**27.** In fact, this Court (in paragraph 42) has itself categorically recorded that once the procedure set out therein is followed, the aggrieved party is free to challenge the order of the MERC before APTEL. Having come to the conclusion that the procedure has, in fact, been followed as set out in paragraph 42, the Petitioners, being aggrieved, are free to approach APTEL under Section 111 of the Electricity Act, 2003.

**28.** There is yet another reason why we are not inclined to exercise our extraordinary writ jurisdiction in the peculiar facts and circumstances of the present case. In the first round of litigation, there were several Writ Petitions that were filed by the Renewable Energy Companies, Solar Power Companies, as well as associations representing the interests of the Solar Power Companies. After the remand by this Court, and the review order [impugned in this Petition] was passed, all other parties (other than Petitioners) have approached APTEL to agitate their grievances against the impugned review order. We find considerable force in the argument canvassed on behalf of the Respondents that, in the peculiar facts of this case, if we were to entertain the present Writ Petition, there would be a very strong possibility of conflicting decisions being rendered, one by the APTEL and the other by this Court. Since the impugned review order is passed by an expert body, which is amenable to challenge by way of a statutory appeal, and which remedy has already been availed of by many of the Solar Companies, we are clearly of the view that this is not a fit case where, at the instance of just these Petitioners, we entertain this Writ Petition and not relegate them to avail of the alternate remedy.

**29.** Another factor which weighs with us whilst coming to this decision is

that one of the Appeals filed against the impugned review order is by the *National Solar Energy Federation of India (NSEFI)*. Six out of seven members of the 1st Petitioner Association before us are also members of the NSEFI, including Petitioner Nos. 2 and 3. Though it is true that merely by Petitioner Nos. 2 and 3 being members of the NSEFI would not preclude them from approaching this Court under Article 226 of the Constitution of India, in the facts of the present case, we find that this would be a very relevant factor to decide whether this Court ought to entertain the Writ Petition or relegate the Petitioners to the alternate remedy. We say this because the matter before APTEL is already sub-judice and has been heard for the grant of interim relief. If, for any reason, the NSEFI is able to secure a favourable order, it would certainly enure to the benefit of the Petitioners, namely Petitioner Nos. 2 and 3. Hence, when one looks at the totality of the facts of the case, we are not inclined to exercise our extraordinary writ jurisdiction in the present case.

**30.** As far as the argument of the Petitioners, regarding the fact that the MERC has invoked inherent powers contrary to what this Court has held in its Order dated 3rd November 2025 is concerned, we find that is, if at all, an issue on merits. This apart, since we were called upon to adjudicate upon this particular issue, we must state that in the Order dated 3rd November 2025,

what was stated by us was that the MERC cannot invoke its inherent powers to bypass the statutory provisions in the form of Regulations or to justify a breach of principles of natural justice. When one reads the Order dated 3rd November 2025 holistically and in its proper perspective, we are clearly of the view that merely by using the words "inherent power" in the impugned Order does not, in our view, violate the mandate set out by this Court in its Order dated 3rd November 2025. Hence, even this argument of the Petitioners is hereby rejected. We, however, make it clear that whether, in fact, the MERC has invoked inherent powers, and if it has, whether it was correctly done or otherwise, is an issue that the Petitioners can always raise before the APTEL under Section 111 of the Electricity Act, 2003.

**31.** In the light of the above discussion, we do not deem it necessary to burden this judgement with the several decisions cited by both sides. Suffice to state that what we have held above isn't contrary to any of the propositions set out in those decisions.

**32.** In view of the foregoing discussion, we pass the following order:-

**(a)** We uphold the preliminary objection of the Respondents and decline to entertain this Writ Petition on the ground that the

Petitioners have an equally efficacious alternate remedy under Section 111 of the Electricity Act, 2003, and accordingly relegate the Petitioners to avail of the said alternate remedy;

**(b)** If the Petitioners approach the APTEL under Section 111 within a period of 6 weeks from today, the APTEL shall entertain the Appeal, proposed to be filed by the Petitioners, without raising any issue of limitation. In other words, if the Petitioners approach the APTEL within 6 weeks from today, and there is a delay in approaching the APTEL, the said delay is hereby condoned.

**(c)** In the Appeal proposed to be filed by the Petitioners, the Petitioners will also be free to file any Interim Application seeking a stay of the operation of the impugned Order passed by the MERC. If such an Interim Application is filed, we would request the APTEL to take up and hear the said Interim Application as expeditiously as possible.

**33.** The Writ Petition is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

**34.** We must hasten to add that we have not opined on the merits of the matter one way or the other, which are left open to be agitated before the APTEL, if approached by the Petitioners. If approached, the APTEL shall decide the Appeal of the Petitioners on its own merits and in accordance with law, uninfluenced by any observations made by us in this Judgement.

**35.** This judgement will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this judgement.

**[FIRDOSH P. POONIWALLA, J.]** **[B. P. COLABAWALLA, J.]**