

demand energy quota for captive users was outlined by the TNEB in Memo CE/ Comml. /EE/ DSM/ PMM/ F.Powercut/ D.28/2008 dated 17-11-2008.

12. The Commission in its Order dated 28-11-2008 arrived at the basis of computation of demand and energy quota for wind energy generators on the basis of material available on record at that point of time, that is, the formula contained in the memo of the TNEB dated 17-11-2008. We are surprised to find that the TNEB has tampered with the formula on its own on 19-12-2008 in Memo No. CE/ Genl/ EE/ DSM/ AEE/ PMM/ F.Power Cut/ D.87/08 dated 19-12-2008. This was further altered by the TNEB on 4-8-2009 and 21-8-2009.

13. We are constrained to observe that these alterations would amount to changing the rules of the game behind the back of the Commission and thus amount to wilful violation of the orders of the Commission, punishable under Sections 142 and 146 of the Electricity Act, 2003 with imprisonment upto 3 months or with fine upto Rupees one lakh or both. These modified formulae contained in the memos dated 19-12-2008, 4-8-2009 and 21-8-2009 were never brought to the notice of the Commission, let alone being submitted for the approval of the Commission. Therefore, we have no hesitation in striking down these three memos as violative of the Order of the Commission dated 28-11-2008. The Commission reserves its right to initiate appropriate proceedings under Sections 142 and 146 of the Electricity Act, 2003. It is the formula contained in the memo of TNEB dated 17-11-2008 alone, which is recognized and approved by the Commission.