



Chhattisgarh State Electricity Regulatory Commission

Civil Lines, G.E. Road, Raipur – 492001

Tel: 0771-4048788, Fax-4073553

Website: www.cserc.gov.in, E-mail: cserc.sec.cg@nic.in

CSERC
छत्तीसगढ़ राज्य
विद्युत नियामक आयोग

In the matter of correct calculation of load factor as provided in PPA and settlement of energy bills.

Suo Motu Petition No.58 of 2009 (M)

The Executive Engineer (O&M)
City Division-1,
Chhattisgarh State Power Distribution Company Ltd.
(Successor company of Chhattisgarh State Electricity
Board), Bilaspur

... Respondent

Present: Manoj Dey, Chairman
B.K. Sharma, Member

ORDER

(Passed on 14.01.10)

M/s IVRCL Infrastructure & Project Ltd., Bilaspur (Consumer, for short) filed an application to this Commission for directing the Chhattisgarh State Electricity Distribution Company (CSPDCL, for short) to comply the order of Electricity Consumer Grievance Redressal Forum, Bilaspur (Forum, for short) dated 11.05.09 and to take penal action against the CSPDCL under section 142 of the Electricity Act 2003 (the Act, for short) on account of not complying the order of the Forum. The history of this case is that the Consumer availed a temporary connection No. 511 for 16KW load on 16.05.06. During inspection/checking of the aforesaid temporary connection on 07.09.07 by Executive Engineer (Vigilance) of CSPDCL, the total connected load in the premises was found 91KW. A demand note for payment of Rs. 14,96,720/- was raised by the CSPDCL on dated 17.09.07 with due date of payment 21.09.07. On account of non-payment of the bill this amount was deducted from the payment of the Consumer who happens to be carrying out construction of building of Chhattisgarh State Electricity Board (a predecessor company of CSPDCL). Thus, the Consumer filed an application to the relevant Forum. The Forum after hearing the case from both the parties issued an order on 11.05.09 directing CSPDCL to bill the consumer for additional 19KW for the period from Oct'06 to March' 07 and additional 24KW for the period from April' 07 to September' 07 based on MD recorded in the meter since it could not be proved that the entire 91 KW load was supplied from mains of CSPDCL as such there were two generators in premises one of 82.5 KVA and other 40 KVA. It was also directed therein to comply the order within 30 days. Since CSPDCL did not comply the

order of the Forum the consumer preferred filing an application to this Commission.

2. After obtaining the detailed report in the matter from the Forum Bilaspur a suo motu petition No. 58 of 2009(M) was registered against the CSPDCL by making them respondent and a notice dated 14.12.09 to initiate action under section 142 of the Act was issued. The Executive Engineer, City Division-1, Bilaspur of the respondent CSPDCL submitted its reply mentioning that the case is related with section 126 of the Act being unauthorized enhancement of the load which does not come under jurisdiction of Forum to adjudicate. The Forum despite making preliminary objection on jurisdiction passed the order dated 11.05.09. It is also replied that the respondent CSPDCL aggrieved by the order of the Forum preferred a writ petition No. U/A 227 of Constitution of India which is registered as WP(227) No. 3839/09 and the case is under process in Hon'ble High Court. It has further been submitted by the respondent CSPDCL that though they have filed an application for grant of ad-interim relief but the same is pending before Hon'ble High Court. The respondent CSPDCL has further pleaded that it has been upheld by the Hon'ble Supreme Court that if any order is passed by any judicial or quasi-judicial authority without jurisdiction, in such a condition such order would not be tenable in the eyes of law, and if it is executed it will cause irreparable loss to a party in whose favour the doctrine of equity and law lies. The respondent CSPDCL in their reply has further stated that if the order passed by the Forum is complied by them, in such a situation, the petition which is pending before the Hon'ble High Court would become infructuous. It has been prayed by the respondent that in view of the facts mentioned in their reply the show-cause notice issued to them on 14.12.09 may be recalled.

3. We have gone through the reply of the notice submitted by the respondent and their pleadings in details and observed that the respondent is of the view that the case pertains to section 126 of the Act and hence it is beyond the jurisdiction of the Forum. The respondent has also filed a petition before the Hon'ble High Court, Bilaspur against the order of the Forum which is under consideration of the Hon'ble High Court including the request of ad-interim relief. It is also pleaded by the respondent that if the order passed by the Forum is complied by them, the petition which is pending before the Hon'ble High Court would become infructuous. Since, in the Act, there is no provision for appeal to the Commission against the order of the Forum, we may not go into details of the case on the merit. Section 142 of the Act authorizes the Commission to punish the concerned for non-compliance of the directives of the Commission. Regulation 28 of the CSERC (Redressal of grievances of consumers) Regulations, 2007 issued by this Commission read as follows:

"The concerned officer of the licensee shall comply with and implement the orders of the Forum within the period specified therein. In the absence of any such time limit, considering the nature of the case., compliance shall be ensured within the period of 30 days. In appropriate cases, considering the

nature of case, the Forum, on the request of the aggrieved person licensee may extend the period for compliance of its order up to a maximum period of 3 months. Non-compliance of the order of the Forum shall be treated as violation of Regulations of the Commission and shall be liable for action under section 142 of the Act."

As per this Regulation the licensee has to comply the orders of the Forum within stipulated time or else the licensee shall be liable for action under section 142 of the Act as such it amounts to violation of the directives of the Commission. The contention of the respondent that if the order passed by the Forum is complied by them, the petition which is pending before the Hon'ble High Court would become infructuous is not convincing. There appears no reasons of non-compliance of the orders of the Forum as such there is no stay from the Hon'ble High Court on compliance of the order of the Forum and the respondent can not escape from the responsibility of compliance of order of the Forum merely on the ground that the appeal has been filed before the Hon'ble High Court. The respondent can comply the order of Forum under protest.

4. We are therefore of the view that the orders of the Forum shall be complied with pending decision of the Hon'ble High Court and subsequently act in accordance with the decision of the Hon'ble High Court. We therefore direct the respondent to comply with the directives given by the Forum in their order dated 11.05.09 with in 30 days in case no stay is granted by the Hon'ble High Court in this matter within this period and report compliance to the Commission.

Sd/-
Member

Sd/-
Chairman