



**Chhattisgarh State Electricity Regulatory Commission**  
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**P. No. 27 of 2020**

**"Petition under section 86(1)(f) of the Electricity Act, 2003, for refund of amount of Rs. 2,36,000/- towards processing fees."**

M/s Mangal Sponge and Steel Pvt. Ltd.  
Village & Post-Bilha,  
District-Bilaspur, Chhattisgarh-495224

... Petitioner

V/s

Chhattisgarh State Power Transmission  
Company Limited and others

... Respondents

**PRESENT : D.S.Misra, Chairperson  
Arun Kumar Sharma, Member  
Vinod Deshmukh, Member (Judicial)**

Appearance : Shri A.V. Shridhar, Counsel for petitioner  
Shri Saurabh Jain, Counsel along with Shri A.K. Sahu,  
EE for respondent

**ORDER**  
**(Passed on 30.03.2021)**

The petitioner owns a Captive Power Plant (CPP) of 8 MW capacity located in Bilha, District Bilaspur (Chhattisgarh). The petitioner applied for connectivity of its CPP to CSPDCL along with necessary application fee. In response, CSPDCL informed the petitioner that as per existing policy guidelines, connectivity of the petitioner's CPP was to be dealt with by CSPTCL and forwarded the proposal to the CSPTCL for necessary action. However, CSPTCL directed the petitioner to submit the application afresh along with necessary fee amounting to Rs. 2,36,000/-, including GST. The petitioner's request to CSPTCL to adjust the amount deposited by them with CSPDCL towards fresh application fee was declined by CSPTCL. Therefore, the petitioner had to deposit Rs. 2,36,000/- with CSPTCL. After lapse of more than three months, CSPTCL intimated the petitioner that grid connectivity to the applicant can only be possible when the applicant has a

33 KV dedicated feeder from 132 KV sub-station, Chakarbhata, Bilaspur. Accordingly, respondent refused to provide the connectivity to the petitioner. Meanwhile, CSPDCL, on the request of the petitioner, agreed to adjust the application fee deposited by the petitioner against future electricity bills. Thereafter, the petitioner made a fresh application with certain modifications to CSPDCL along with necessary application fees once again, and got connectivity with the grid at 33 KV from CSPDCL. The petitioner, then requested the respondent CSPTCL for refund of Rs. 2,36,000/- as the respondent failed to provide the connectivity. However, the respondent refused to refund the amount. Hence, this petition with a prayer to direct CSPDCL to refund the application fee amount with interest.

**2.** Heard the parties. The contention of the petitioner is that their application for connectivity submitted to CSPDCL was forwarded by CSPDCL to CSPTCL stating the policy guidelines. However, subsequently, they agreed to adjust the fees deposited by petitioner against future energy bills. The petitioner's argument is that CSPTCL's refusal to provide connectivity was on account of lack of system infrastructure. Thereafter, the petitioner had to approach the CSPDCL second time along with fresh application fee when connectivity was granted by CSPDCL. Thus, the petitioner had to deposit fees thrice for connectivity, out of which original application fee deposited with CSPDCL was adjusted against energy bills. The petitioner submits that CSPDCL and CSPTCL both are governed by the same set of regulations and whereas the application fee of Rs. 2 lakh with CSPDCL has been adjusted by them against future bills, the same treatment could not have been denied by CSPTCL.

The respondent submitted that as per the CSERC (Connectivity and Intra-State Open Access) Regulations, 2011, application fee is meant to be non-refundable and, therefore, the petitioner is not entitled for the refund of the fees deposited with CSPTCL.

### **3. Commission's view:**

**3.1** The point for determination is whether CSPTCL is right in retaining the application fee deposited by the petitioner despite the connectivity not being granted because of lack of system infrastructure?

**3.2** We have considered the contentions of the parties and gone through the relevant legal provisions. We would like to refer to the relevant provisions in the Electricity Act, 2003. Section 39(2)(c) of the Act, mandates

the STU (State Transmission Utility) '*to ensure development of an efficient, coordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centre.*' Further, Section 39(2)(d) of the Act, mandates the STU 'to provide non-discriminatory open access to its transmission system for use by any licensee or generating company'.

From the aforesaid, it is quite clear that the State Transmission Utilities are duty bound under the Act to develop appropriate intra-state transmission system to facilitate flow of electricity from any generator. In the instant case, the petitioner M/s Mangal Ispat, a generator, had sought connectivity to transmit electricity through the network of licensee. It was the responsibility of the licensee(s) to facilitate such transmission. However, it is noted that the State Utilities have not only disregarded the provisions of the Act but, have forced the petitioner - generator to run from pillar to post and deposit application fee repeatedly and finally refused to refund the same even when connectivity was admittedly not possible on account of lack of system infrastructure by the transmission utility. CSPTCL have taken the plea that as per relevant regulations, the application fee is non-refundable. We would like to stress that the provision regarding non-refundable application fee has to be read and interpreted in the light of the appropriate provisions in the parent Act, as stated above. The provisions in the regulations are subject to and sub-ordinate to the provisions in the Act and cannot be read independently as standalone provisions. As per the facts of this case, the applicant had rightly applied for connectivity to the CSPDCL. However, the latter forwarded the application to the CSPTCL, referring to the policy guidelines, with advisory to the petitioner to approach CSPTCL and, in the process, the petitioner had to deposit application fee for the second time to CSPTCL. If CSPTCL lacked necessary infrastructure for the purpose, which they were mandated under the Act to develop, they should have refunded the application fee to the petitioner. Their argument that the fee is non-refundable would have been acceptable if the petitioner were to be in fault and would have withdrawn the application despite connectivity being possible. But in this case, they are not at fault. The contention of the petitioner that two standards of refund cannot be applicable to the two companies governed by same regulations appears to have merit. We fail to appreciate as to how the CSPTCL could refuse refund whereas the CSPDCL, which finally agreed and gave connectivity, refunded the initially deposited

application fee by adjusting the same against the energy bills of the petitioner. It appears rather strange that CSPTCL should be appropriating the application fee merely to say that connectivity asked for cannot be given because of lack of system infrastructure.

**3.3** In the light of the aforesaid, we find no merit in the contention of the CSPTCL and direct them to refund the amount of Rs. 2,36,000/- to the petitioner within 30 days from the date of order, failing which interest @ 0.04% per day would be payable.

Petition is disposed accordingly.

**Sd/-**  
**(Vinod Deshmukh)**  
**Member (Judicial)**

**Sd/-**  
**(Arun Kumar Sharma)**  
**Member**

**Sd/-**  
**(D. S. Misra)**  
**Chairperson**