



Chhattisgarh State Electricity Regulatory Commission
Irrigation Colony, Shanti Nagar, Raipur - 492 001 (C.G.)
Ph.0771-4048788, Fax: 4073553
www.cserc.gov.in, e-mail: cserc.sec.cg@nic.in



Petition No. 08 of 2017(M)

In the Matter of

"Petition for review of the order dated 30.06.2016 passed in Sue-motu petition no. 27 of 2016(M) on miscellaneous charges, under section 94(1) (f) of the Electricity Act, 2003 read with relevant rules".

M/s Chhattisgarh Mini Steel Plant Associations Petitioner

V/S

Chhattisgarh State Power Distribution Co. Ltd. ... Respondent

PRESENT : **Narayan Singh, Chairman**
: **Arun Kumar Sharma, Member**

APPEARANCE : Shri Vikash Agrawal and Shri Shyam Kabra, for
petitioner.
: Shri Abhinav Kardekar, Advocate and
Shri V.A. Deshmukh, EEFOR respondent.

ORDER ON APPLICATION OF CONDONATION OF DELAY

(Passed on 13th April 2017)

The petitioner Chhattisgarh Mini Steel Plant Association (herein after Association or petitioner) is a registered Association having membership of about 270 plants/furnaces. The association represents the interest of steel industries especially mini steel plants at all levels to resolve the issues collectively.

2. The respondent Chhattisgarh State Power Distribution Company Limited (CSPDCL) is a deemed distribution licensee in the State. The respondent had submitted a written request for fixation of supply affording charges under miscellaneous charges as per the

provisions of section 46 of the Electricity Act, 2003 (the Act). The Commission, on the basis of the requests, had registered a suo-motu petition no. 27 of 2016(M) to finalize the miscellaneous charges. The Commission has pronounced order on the matter on 30.06.2016, which is made effective from 01.07.2016.

- 3.** The petitioner association is aggrieved with unreasonably high supply affording charges for HT industries, especially power intensive industries like Mini Steel Plants and has filed this review petition for review of the order dated 30.06.2016.
- 4.** According to the petitioner they have filed legitimate objections and suggestions in writing before the Commission on 07.06.2016. The petitioner filed this petition under natural justice and challenged the reliability of data submitted by CSPDCL. The petitioner also raised the issue of negative impact of unreasonably high supply affording charges, interpretation and implementation of clause 7.14 of Chhattisgarh State Electricity Supply Code, 2011.
- 5.** The petitioner seeks relief to review the supply affording charges under the impugned order, to fixed separate supply affording charges for power intensive industries like mini steel plants etc.
- 6.** This petition is filed delayed about seven months and an application for condonation of delay is also filed without any affidavit, in which it is pleaded that the association was trying to resolve it's grievances by making written and personal representation and expecting that the Commission may take suo-motu action on the matter for the reason mentioned earlier, there has been a delay in filing of this petition.

7. The respondent is served with the notice for hearing on the application of condonation of delay. The respondent filed written objection and submitted that the petition is filed delayed about 220 days and no justification for delay is mentioned in the application. Quoting the provision of Order 47 Rule 1 of the Code of Civil Procedure the respondent submitted that the review petition is not maintainable.
8. After hearing both the parties we observe that clause 23 of the CSERC (Conduct of Business) Regulation, 2009 provides :-

"Review of decisions, directions and orders.

- (1) The Commission may on its own or on the application of any of the persons or parties concerned, review its decisions, directions or orders and pass such appropriate orders as it thinks fit.***

Provided that the Commission may review its decision or order on its own motion only for the purpose of correction of any clerical or arithmetical mistakes or error arising out of any accidental slip or omission.

- (2) An application for review shall be filed within a period of 30 days from the date of decision / order or direction or the date of communication of such decision / order or direction which is sought to be reviewed, and it shall be filed in the same manner as a petition.***

- (3) A review application can be filed only on the grounds mentioned in Order 47, Rule 1 of the Code of Civil Procedure, 1908".***

9. It is clear from the above provision that a review petition must be filed within a period of 30 days from the date of order. It is not mentioned anywhere in the application that when the order comes to the knowledge of the petitioner and how much time is taken in the process of getting certified copy of the order.

10. From the perusal of the records, it appears that filing of review petition is delayed by more than seven months.

11. The delay in filing of any application may be condoned under the provisions of section 5 of the Limitation Act, 1963. The section 5 is mentioned below:-

"Extension of prescribed period in certain cases:- Any appeal or nay application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation:- The fact that the appellant or the applicant was misled by any order, practice or judgment of the High court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

12. According to the provision of section 5 an application may be admitted after the prescribed period of limitation, if the court is satisfied that there is sufficient cause for not preferring the appeal or making the application within the prescribed period.

13. The petitioner in application for condonation of delay submitted that the petitioner association was trying to resolve it's grievances by making written/personal representation before the Commission expecting that the Commission will take suo-motu action as taken on request of the respondent for determination of miscellaneous charges. The other reason is mentioned in application that the respondent CSPDCL provided the data and statistics in R-15 format for HV consumer on 06.01.2017 and thereafter, the petitioner

revealed the negative impact of the supply affording charges on the HV consumers. These reasons are not the sufficient cause for filing a review petition delayed more than seven months. It is settled principle of justice that exercise of discretion by the Court for condonation cannot be done unless a valid ground is shown. Since, we have already found the grounds shown in the application are not sufficient cause, hence, we do not accept the application for condonation of delay.

- 14.** We therefore, conclude that the review petition is filed delayed more than seven months and no sufficient ground is mentioned for condonation of such delay in application. Therefore, the application for condonation of delay is hereby rejected. As a result of the rejection of the application, the review petition filed by the petitioner is dismissed automatically. Both parties shall bear their own expenses.

**Sd/-
(ARUN KUMAR SHARMA)
MEMBER**

**Sd/-
(NARAYAN SINGH)
CHAIRMAN**