



Chhattisgarh State Electricity Regulatory Commission
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Petition No. 16/2007(M)

In the matter of: Non-compliance of the order passed by the Forum for Redressal of Grievances of the consumers u/s.142 of the Electricity Act, 2003

Shri Dharam Das Meghani - Petitioner
Prop. Jay Ambe Agro Industries,
Raipur

V/s

Chhattisgarh State Electricity Board - Respondent
Raipur

**Present: Shri S.K.Misra, Chairman
Shri Sarat Chandra, Member**

ORDER
(Passed on 11.09.2007)

The petitioner Shri Dharam Das Meghani, Proprietor Jay Ambe Agro Industries, Mandir Hasaud, Raipur has filed a petition under section 142 of the Electricity Act, 2003 (hereinafter the Act) seeking direction of this Commission to Chhattisgarh State Electricity Board (CSEB) to implement the order passed by the Forum for Redressal of Grievances, Raipur (Forum, for short) on 30.03.07 in case No. 8/Raipur/2007. He has further requested the Commission to direct the respondent to refund the excess amount realized from him and to pay him compensation on account of loss in production and for causing mental torture.

2. The facts of the case are that the petitioner has a cardboard factory in village Umariya and has taken LT connection from the CSEB to the extent of 148HP. Since as per the directions of the Commission it is necessary that all electricity consumers having more than 100HP contract demand need HT connection, the CSEB has been asking the petitioner to avail HT connection on 33KV line. After 1.12.05 the cut-off-date set by the Commission for conversion of all LT connections into HT connection, a surcharge of 20% on the electricity bill is levied. The petitioner applied for HT connection on 26.6.06. However, HT connection has not been provided to the petitioner by the Board on the ground that there is a 33KV line passing through the premises of his industry and as per the prevailing instructions of the Board before any HT connection on 33KV is provided to the industry, the existing line has to be shifted out of the industry's premises and the cost of such shifting has to be borne by the petitioner. This amounts to Rs. 2,29,503. It is on this issue of non-deposit of

shifting charges that HT connection had so far not been provided to the petitioner. The petitioner's contention is that providing HT connection to him has nothing to do with shifting of the 33KV line out of his premises. If the Board is required to shift the line the cost of shifting should be borne by the Board. Since this plea of the petitioner was not accepted by the CSEB the petitioner approached the Consumer Grievance Redresal Forum, Raipur with his grievance. The Forum vide order dated 30.03.07 held that the demand for the cost of shifting was not justified. The Forum further directed the Board to convey the petitioner to pay other charges which are required to be paid and provide with the copy of the agreement for HT connection and directed compliance to be submitted after three days. The Board is yet to comply with the order of the Forum. It is against this non-compliance of the order of the Forum that this petition U/S 142 of the Act has been submitted.

3. The case was fixed for hearing on 28.07.07 and the respondent was also noticed to be present. The advocate for the petitioner Shri Vinod Deshmukh stated that the CSEB had failed to comply with the order passed by the Forum on 30.03.07 and requested that the Board be directed to comply with the order. The respondent CSEB informed that they had filed a writ petition under article 226 of the Constitution of India in the Hon'ble High Court against the order dated 30.03.07 passed by the Forum, Raipur, compliance of which is also subject of the present petition. In view of this development, it was pleaded that the Commission should not proceed with the case. The Commission in good faith and relying on the pleading of the respondent, and inspite of the fact that no written reply was filed and only a copy of the so-called writ petition was submitted, did not admit the petition. However, before we could formally convey the order to the parties, an application was received from the petitioner in which it was alleged that the respondent had misrepresented facts before the Commission; that the writ petition had been filed only on 28.07.07 i.e. the date of hearing and that the writ petition number given at the top of the writ petition was only receipt number of the Hon'ble High Court and not the writ petition number. It was further prayed by the petitioner that since the Commission was reluctant to accept the petition only on the ground that a writ petition had been filed in the High Court on the matter, it was necessary in the interest of justice, that the Commission enquired about the date on which the writ petition had been filed in the High Court and also why the respondent had not complied with the Forum's orders so far, since there was no stay order from Hon'ble High Court, in any case. The Commission also observed that the so-called writ petition does not bear any date and prima facie the respondent has misrepresented facts before the Commission. The Commission, therefore, was constrained to review the order passed earlier during the day and notice was issued again to the respondent to file his reply on both counts, i.e. as to the date on which the writ petition had been filed in the Hon'ble High Court and also the reasons why it had not been possible for the respondent to comply with the order of the Forum till that date.

4. The respondent submitted his written reply on 10.08.07. The case was heard on that day. During argument, the CSEB stated that the respondent was ready to give supply to the petitioner and the dispute was only with regard to payment of charges for shifting of 33 KV line passing through the premises of the industry of the petitioner. The Commission, on the request of the petitioner and respondent, adjourned the case giving them an opportunity to resolve the dispute mutually. On the next date of hearing, i.e. 25.8.2007, the learned counsel of the petitioner

submitted that the dispute could not be resolved between the parties and requested that action under section 142 of the Act be taken against the CSEB. The case was accordingly taken up and the contentions of both the parties heard.

5. The main contention of the respondent is that he has not defaulted in compliance with the order of the Forum and now that the matter was before the Hon'ble High Court compliance should await the court's orders. In view of this plea it would be necessary to go into the factual position as submitted by the respondent which is as follows: The Forum passed the order on 30.03.07. CSEB filed a review petition before the Forum on 18.04.07 pleading that the order was not in accordance with the circulars on connectivity issued by the Board. The review petition was disposed off by the Forum on 23.04.07 stating that the Forum was not competent to review its order. CSEB submitted an application to the Commission on 07.05.07 seeking clarification on the order passed by the Forum. The Commission informed the CSEB on 25.05.07 that there was no provision in law or regulations for the Commission to clarify the order passed by the Forum and advised the Board to seek clarification from the Forum only. Since there is no provision in the Act for appeal against the order of the Forum by the Board, the CSEB moved the Hon'ble High Court on 28.07.07. It is, however, noted that this petition was registered in the Commission on 19.07.07 and notice was issued to the respondent on 20.07.07. The respondent thus approached the Hon'ble High Court only after receipt of the notice. In its reply CSEB has admitted that the writ petition number was wrongly quoted by them and the same was provisional receipt and tendered unconditional apology for any action which caused the Commission to issue show cause notice on 28.07.07. They have further stated that this was not deliberate and there was no malafide intention. The Commission was also informed that the writ petition had not been registered till the date of hearing, i.e. 10.08.07 due to certain deficiencies. It was accepted by them that till the date of hearing no stay had been granted by the Hon'ble High Court. In fact, the writ petition was yet to be registered and admitted.

6. The CSEB has not submitted any reason why it has not been possible for them to comply with the order of the Forum. The ground that the Board has now approached the Hon'ble High Court does not explain non-compliance during the last four months, even after taking the date of disposal of the review application by the Forum (i.e. 23.04.07) into account. Even if the period during which clarification was sought from the Commission (07.05.07 till 25.05.07) is taken into account, there is no explanation for non-compliance even for nearly two months thereafter. On top of it, the respondent clearly tried to misrepresent facts before this Commission and nearly got the case closed which would have resulted in miscarriage of justice. This betrays the attitude of the respondent to the Forum and disregard of this Commission.

7. We are all the more distressed by this attitude considering that the Forum is a mechanism set up by the respondent. Board itself, as mandated under Section 42(5) of the Act, for redressal of grievances of its own consumers. The Forum is headed by an employee of the Board. The Commission has only laid down the procedure as mandated in this section and notified the CSERC (Redressal of Grievances of Consumers and establishment of Forum and Electricity Ombudsman) Regulations, 2004. Non-compliance of order of the Forum betrays an attitude of disregard of consumer's interest typical of a monopoly supplier of electricity. While we would not

like to go into the merits of the case and can not allow the various remedies sought in this case, we strongly feel that non-compliance of the orders of the Forums will signal the death of this nascent system of redressal of consumer grievances and should not be tolerated.

8. In view of the above we feel that this is a fit case for intervention under Sec. 142 of the Act and that the respondent is liable for penalty under this provision of the statute for non-compliance of the provision of the Act and the CERC (Redressal of Grievance of Consumers and Establishment of Forum and Electricity Ombudsman) Regulations, 2004 of the Commission. The Commission accordingly imposes a penalty of Rs.1000/- on the respondent under Section 142 of the Act and directs that the order of the Forum be complied with within a period of fifteen days of receipt of this order, failing which the respondent shall pay a penalty of Rs.500/- per day thereafter till the order is complied with.

Copy of this order be given to the petitioner and the respondent.

Sd/-
Member

Sd/-
Chairman