



Chhattisgarh State Electricity Regulatory Commission
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Petition No. 44 of 2016(M)

In the Matter,

"Review petition with respect to tariff order 2015-16 dated 06.06.2016 passed in Suo-Motu P. No. 22/2016(M) under order 47 Rule 1 of Code of Civil Procedure, 1908 read with regulation 23 of the CSERC (Conduct of Business) Regulations, 2009."

Chhattisgarh State Power Distribution
Company Limited, (CSPDCL)
Registered office at Danganiya,
Raipur (Chhattisgarh)

... Petitioner

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

APPEARANCE : Smt. Suparna Shriwastava, Advocate
Shri Arvind Banerjee, EE
for petitioner.
Shri Shyam Kabra stakeholder.

ORDER

(Passed on 13th July, 2018)

The petitioner Chhattisgarh State Power Distribution Company Limited has filed this review petition being aggrieved with order dated 06.06.2016 in suo-motu petition no. 22 of 2016(M).

2. According to the petitioner the determination of generic preferential tariff for FY 2015-16 under regulation 8 of the Chhattisgarh State Electricity Regulatory Commission (Terms and Conditions for determination for generation tariff and

related matters for electricity generated by plants based on renewable energy sources) Regulations, 2012 and subsequent amendment thereof has been done by the Commission and determine generic tariff of renewable energy projects in the State achieving commercial operation date during the 04th year of control period.

- 3.** The review petitioner has requested to review its order dated 06.06.2016 to the extent it has determine the fuel cost for computation of variable charges based on the fuel prices notified by Central Commission where in fuel price has been considered as Rs 3144.8/MT . The petitioner submits that the Commission has omitted to consider the prevailing market prices of rice husk in the State as placed on record by the review petitioner and has proceeded to apply the biomass fuel prices specified the Central Commission for applicability in tariff determination for FY 2015-16.
- 4.** It is also submitted that the Commission has omitted to consider the amendments made by Central Commission in principle RE Regulations with regard to determination of biomass fuel price.
- 5.** Owing to the omission to consider the amendment of the central commission, an error in the Tariff Order dated 06.06.2016 has occurred leading to abnormally high and unrealistic biomass fuel price being approved by the Commission. This error is liable to be rectified.

- 6.** The petitioner prays for the following relief:-
- i.** Review the tariff order dated 06.06.2016 passed in suo-motu petition no. 22 of 2016 to the extent it determines the fuel cost based on the fuel prices notified by the Central Commission and approves and adopts the biomass fuel price approved by the Central Commission as Rs. 3144.8/MT for the year 2015-16;
 - ii.** To determination the biomass fuel price for the year 2015-16 by taking into account the provisions of Regulation 44 of the Central Electricity Regulatory Commission (Terms and Conditions for tariff Determination from Renewable Energy Sources) Regulation, 2012 as amended by Central Electricity Regulatory Commission (Terms and Conditions for tariff determination from renewable Energy Sources) (first Amendment), Regulation, 2014 and conducting a market survey for discovering the biomass fuel price in accordance therewith;
- 7.** As the matter required consultations from all stake holders, the petitioner CSPDCL was asked vide letter no. 344 dated 27.02.2018 to submit gist of petition. In compliance of the direction the CSPDCL submitted the gist in English and Hindi for publication through letter no. 3484 dated 09.03.2018. The same was published in the following news paper:
1. Nai Duniya dated 07.04.2018.
 2. Hitwada Raipur dated 07.04.2018.
- The public hearing was held on 03.05.2018 at 03:30 PM.
- 8.** Shri Shyam Kabra, appeared and filed objection and suggestion on behalf of consumers/public/stakeholder. He submitted that the ultimate burden due to higher cost of rice husk shall be passed on to the consumers of the state which is a matter of concern for this objector and should be a matter of concern for CSERC also. In the present mechanism of tariff determination,

unfortunately, consumers are liable to suffer from undue cost if they are not alert. Further the Commission has not provided 'reasoned conclusion' on the issue of determination of price of rice husk which is a cause of concern for mass of consumers being the ultimate bearer of such cost.

9. Shri Shyam Kabra, further requested that:

1. It is upto the wisdom of the CSPDCL whether to apply Rule of Estoppel on the review petition (CSPDCL) while discharging this review petition.

2. The based prices of rice husk must be determined in a practical and fair manner by carrying a market survey and such prices for next 1-2 years may be decided by applying appropriate indexation.

3. True-up of all previous years must be carried by the Commission for the determination of tariff of Biomass Power Generation to be procured by the review petitioner. This may resolve the issue of theoretical determination of the price of rice husk.

4. Review petitions must be entertained by the Commission in a time-bound manner otherwise they may become infructuous.

5. In Suo-Motu petitions of the Commission should follow the procedure provided under section 9(4) of the CSERC (Conduct of Business) Regulations, 2009.

Further he is has requested to consider above mentioned set up objection and suggestion.

Commission View:

10. The Central Commission notified the CERC (Terms and conditions for tariff determination from renewable energy sources) Regulations, 2012 on 06.02.2012 wherein biomass

fuel price for the year 2012-13 for other States (Chhattisgarh) has been specified. The Commission notified CSERC (Terms and Conditions for determination of generation tariff and related matters for electricity generated by plants based on renewable energy sources) Regulation, 2012.

- 11.** The Commission has notified the CSERC (Terms and conditions for determination of generation of tariff and related matters for electricity generated by plants based on renewable energy sources) Regulation, 2012 wherein biomass fuel price for the base year i.e. 2012-13 has been specified. In these Regulations biomass fuel price was fixed as 2476 Rs/MT during first year of the control period (i.e., FY 2012-13). The biomass price specified by Central Commission in its Regulations for 2012-13 was adopted in the CSERC Regulations. For subsequent years, the CSERC Regulations specify as under:

"45.2 In case of (existing and new) biomass power projects, the indexing mechanism specified in this Regulation for adjustment of fuel prices for each year of operation, will be applicable for determination of applicable variable charge component of tariff:

45.3 The indexed Biomass Fuel Price in case of Biomass Power projects for each year of the control period shall be considered pursuant to notification of such indexed Biomass Fuel Price norm as applicable for Biomass Power projects within the State by Central Electricity Regulatory Commission in accordance with indexation mechanism stipulated under CERC RE Tariff Regulations.

45.4 The biomass base price may be revised in line with the relevant orders of the CERC.

- 12.** Subsequently, the Commission notified the CSERC (Terms and conditions for determination of generation tariff and related matters for electricity generated by plants based on renewable energy sources) (Second Amendment) Regulation, 2016 dated 04.03.2016 wherein the Commission has substituted Regulation 45 of the principal regulations which is related to the biomass fuel price. The relevant provision is reproduced below:

“45.1 Biomass fuel price shall be 2476 Rs/T during first year of the control period (i.e., FY 2012-13) and thereafter shall be linked to indexation mechanism as specified under Regulation 45.2 and 45.3.

However biomass fuel price for the year fifth year of the control period (i.e., FY 2016-17) shall be determined through independent study. Independent study would be carried out by a six member state level committee consisting following members nominated by the Commission;

- a. Representative of State Govt. - Chairman*
- b. representative of CG State Co-operative Marketing Federation Ltd. - Member*
- c. Representative of State Nodal Agency (CREDA) - Member - Convener*
- d. Representative of State Distribution Company (CSPDCL) - Member*
- e. Representative of Biomass power producers association - Member*
- f. Consumer representative - Member*

After study, the Committee will arrive at biomass fuel price and will submit applicable biomass fuel price within two months."

- 13.** The CSERC Regulations is very clear that for the year 2015-16, the price of biomass as specified by Central Commission shall be adopted for determining energy charges of bio mass based plants. Central Commission has specified biomass fuel price for other States as Rs. 3144.8 per MT for the year 2015-16. The Commission had therefore adopted biomass fuel price as Rs. 3144.8 per MT the year 2015-16 which is in accordance with the CSERC Regulations.
- 14.** None of the objector/stakeholder had submitted any appropriate justification, reasons for relaxing the CSERC Regulations and fixing a new biomass price for 2015-16 for determination of tariff of biomass plants. The Commission had earlier also adopted the biomass price fixed by the CERC for determination of tariff which is in accordance with the Regulations. The request of the petitioner cannot be accepted and the review petition is dismissed.

We order accordingly.

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

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