



Chhattisgarh State Electricity Regulatory Commission

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Suo Motu Petition no. 06 of 2008(M)

Chhattisgarh State Electricity Board	Respondent
ACC Limited	Intervener

ORDER

(Passed on 06.05.2008)

In the tariff order of the Commission for the year 2007-08, passed on 22.10.2007, in petition No.19 of 2007 (T), there is a provision for supply of start-up power to generators at a concessional tariff. One of the conditions for start-up tariff is that it may be availed by only such generators as are not co-located with their industrial load. Since this provision would deny most captive power plants in the State this concessional tariff for availing start-up power, we had decided to take up this order in suo motu review. The CSEB was noticed in the case and asked to furnish its reply. The Board has raised a preliminary objection that there is no provision for suo motu review. It has been contended that the powers of the Commission to review its orders and decisions flowing from section 94 of the Electricity Act, 2003 ('the Act' hereinafter) has to be the same as is vested in a Civil Court. Section 114 and Order XLVII of the Code of Civil Procedure (CPC) provides only for a person aggrieved by an order to apply for review subject to certain conditions as provided in the Order. There is no power of the Civil Court to take up review of its decisions suo motu with a view to modify its order. M/s ACC Limited who have sought to appear as intervener in this case has, on the other hand, submitted that the Act gives all powers to the Commission to review its directions, decisions and orders. Section 114 and Order XLVII of the CPC merely prescribes the procedure for making applications for review by an aggrieved party before the Civil Court. This provision need not restrict the powers of this Commission.

2. We have considered these pleadings. Section 94 of the Act deals powers of 'appropriate Commission' lays down that in its proceedings the Commission shall "have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:-

(a)



(e)

(f) Reviewing its decisions, directions and orders".

Although prima facie the Commission's powers to review its decisions, directions and orders are not restricted by any specific provision, the Act clearly states that the Commission shall have 'the same powers are as vested in the Civil Court under the CPC'. Section 114 of the CPC and Order 47 do not confer any power on a Civil Court for suo motu review. Review of an order is possible only on an application for such review by a party. Although there is provision in the CSERC (Details to be furnished by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 for suo motu review of a tariff order in clause 34 of the regulations this is not one of the exceptional cases in which the error is so apparent on the face of record that exercise of review powers by the Commission may be justified in the interest of justice to correct an apparent error. In view of the expressed provision in the Act we do not agree with the intervener that the powers vested in the Commission for review of its decisions under section 94 is not subject to the restriction of the CPC.

3. In view of the above legal position this case is closed and filed without passing any order.

Sd/-
Member

Sd/-
Chairman

True Copy
(N.K.Rupwani)
Secretary