



Chhattisgarh State Electricity Regulatory Commission

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Petition No. 25 of 2007(M)

M/s. Abhijeet Infrastructure Ltd.
Raipur.

.... Petitioner

V/s

Chhattisgarh State Electricity Board
Raipur

.... Respondent

ORDER

(Passed on 28.01.2008)

This petition has been filed by Abhijeet Infrastructure Ltd., Raipur (the petitioner) seeking action against the Chhattisgarh State Electricity Board (CSEB or the Board, for short) under section 142 of the Electricity Act, 2003 (the Act, for short). The facts of the case are that the petitioner had sought and obtained a temporary connection on 23.2.2007 from the respondent Board for its sponge iron plant alongside which a 15 MW power plant based on the waste gas of the former is being put up. There was a dispute regarding billing and being aggrieved by the bills raised by the Board for the energy consumed through this temporary connection the petitioner approached the Consumer Grievance Redressal Forum, Raipur. The Forum has been set up under section 42(5) of the Act in accordance with the guidelines specified by this Commission in the CSERC (Redressal of Grievance of Consumers and establishment of Forums and Electricity Ombudsman) Regulation, 2004. The Forum after hearing both the parties passed an order on 31.8.2007 in case No. 17/Raipur/2007, in which it found fault with the bills issued by the respondent CSEB for the months of February to July, 2007 and directed that the bills be revised and sent to the petitioner by 14.9.2007. The respondent CSEB failed to comply with this order. The petitioner has, therefore, approached the Commission for action against the respondent Board under section 142 of the Act for non-compliance of the Regulations of the Commission.

2. We have heard the parties. There is no dispute about the fact that the order passed by the Forum has not been complied with by the Board till this petition was filed in the Commission on 29.9.2007. The respondent Board being aggrieved by the order of the Forum has approached the Hon'ble High Court of Chhattisgarh on 5.10.2007 seeking a writ of certiorari for quashing the order of the Forum. The respondent Board has in its written statement of 22.12.2007, filed in the case, has informed that it had already approached the Forum for deferring compliance with the latter's order beyond 14.9.2007, apparently because of the petitioner's contemplation to approach the Hon'ble High Court. The petitioner's main plea is that the Board has failed to carry out the order of the Forum which amounts to non-compliance of the provisions of the Regulations made by the Commission aforementioned. The fact that the order of the Forum has been challenged before the Hon'ble High Court cannot be a valid ground to escape action under section 142

of the Act. In fact, it has been further pointed out the respondent Board approached the High Court only after this petition was filed before this Commission. Thus the intention of the respondent Board not to comply with the order of the Forum is established. The respondent Board, on the other hand, has submitted that it had already applied to the Forum for extension in time for compliance with its order beyond 14.9.2007 on which no order was passed by the Forum. Filing a writ petition before the Hon'ble High Court took some time. Only on this ground a conclusion that the respondent Board did not want to comply with the order of the Forum would not be justified. The Board has a genuine grievance against the order of the Forum and hence it has approached the High Court. No other remedy is available to it under the Act against the order of the Forum.

3. Although the petitioner has made certain submissions regarding his grievances against the billing procedure adopted by the respondent Board that is not a matter for our consideration under section 142 of the Act. In this petition we will only address the issue of non-compliance of the Regulations made by this Commission. Section 142 of the Act provides for penalty for contravention of the provisions of the Act or the rules and regulations made there under, in case any complaint is filed before the Commission and the Commission is satisfied about such contravention. There is no doubt that there is a prima facie case of contravention of the Regulations of the Commission aforementioned in this case. However, the respondent Board has a genuine grievance against the order of the Forum, and in the absence of any other remedy, has invoked the jurisdiction of the Hon'ble High Court. Under the circumstances the mens rea of the petitioner is not established. Although there has been some delay in filing the application before the High Court and the Board has taken this action only after this petition under section 142 of the Act filed before this Commission, we are not even then convinced of the mens rea. The petition is, therefore, rejected. It has been brought to our notice, by the respondent Board after this case was closed for order, that by their order of 10.1.2008, passed in WP (C) 385/2008, the Hon'ble High Court has been pleased to stay these proceedings before this Commission till the next date of hearing. Although we have no notice so far about the next date of hearing, the extension or otherwise of the stay order would now be immaterial since we have decided to reject the petition.

Sd/-
Member

Sd/-
Chairman

True Copy

(N.K. Rupwani)
Secretary