

Sub: In the matter of petition under section 19 of the Electricity Act, 2003 for directions for revocation of electricity distribution license of Grameen Vidyut Sahkari Samiti, Pandhana and for taking over the work of distribution of electricity from the Society.

ORDER

(Date of order: 21st May, 2015)

M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd.,
G.P.H. Compound, Pologround,
Indore - Petitioner

Vs.

The Officer-in-charge,
Grameen Vidyut Sahkari Samiti Mydt.,
Pandhana, Distt. Khandwa - Respondent No.1

The Registrar,
Cooperative Societies, M.P.,
Satpura Bhawan, Arera Hills, Bhopal - Respondent No.2

The Dy. Registrar,
Cooperative Societies,
Khandwa - Respondent No.3

The Principal Secretary,
Energy Department, Government of M.P.
Mantralay, Bhopal - Respondent No.4

The petitioner, M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd. has filed this petition in the matter of revocation of electricity distribution license of Grameen Vidyut Sahkari Samiti, Pandhana and for taking over the work of distribution of electricity from the Society.

2. The case was heard on 09.12.2014. On hearing the petitioner and the respondents, the Commission noted that the license was granted to the Pandhana Society on 27.09.1976 which expired on 26.09.2001. The society was undertaking the business of distribution of electricity without valid license from 27.09.2001 to 01.09.2011. However, due to pendency of various writ petitions before the Hon'ble High Court and at other Forums, the license of Society could not be revoked. The petitioner submitted that there is no information regarding filing of any Appeal/case on the subject matter. Also, the petitioner is supplying electricity to the consumers of the Society w.e.f. 01.09.2011 in terms of the order dated 06.04.2010 passed by the Hon'ble High Court.

3. The Commission was of the view that the Pandhana Society cannot be allowed to function further without having proper license for distribution of electricity as the State

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Government had neither recommended exemption from license under Section 13 nor referred to the Commission for treating it as a deemed licensee under Section 14 of the Electricity Act, 2003. The Commission also noted that Rs. 266.36 Crore as of 01.09.2011 were outstanding and under the prevailing situations, the Society was unable to fully and efficiently discharge the duties and obligations imposed on it by its license. The Commission, therefore, decided to initiate proceedings under Section 19 of the Electricity Act, 2003 for revocation of the license of Pandhana Society. Accordingly, a notice for revocation of license under Section 19(3) of the Electricity Act, 2003 was issued on 26.12.2014 to the respondent nos.1 & 2 allowing three months time to show cause why the license of the Pandhana Grameen Vidyut Sahakari Samiti be not revoked. In response, by letter no. SE/KC/Law/474 dated 30.04.2015, the respondent no.1 stated that they do not have any deviation/ submission from stated earlier in the subject matter. The respondent no.2, however, did not respond. Only a representation was received from four retired employees of the Society regarding payment of Gratuity and Earned Leave encashment, which is not the subject matter of the aforesaid notice.

4. Accordingly, the Commission under Section 19(5) of the Electricity Act, 2003, hereby revokes the license under which the Grameen Vidyut Sahakari Samiti, Pandhana was engaged in the business of distribution of electricity and fixes 1st July, 2015 as the date on which the revocation of license shall take effect. However, to protect the interests of the consumers of the area of operation of the Society, the Commission under Section 20(1) (d) of the Electricity Act, 2003 appoints the petitioner, M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd. as the Administrator. Also, the Commission under Section 20(1) (e) of the Electricity Act, 2003 constitutes a Task Force within the Administrator Company as an interim arrangement for the purpose of operation and management of the distribution of electricity in the area of the society. A scheme for operation and management of the Pandhana Society is annexed with this order. The Task Force shall exercise such powers and discharge such functions as laid down in the scheme till further orders.

5. The Commission further directs the Administrator company to take over the distribution of electricity to the consumers of the Society w.e.f. 1st July, 2015 on "as is where is" basis subject to the following terms and conditions:

- (a) The Administrator shall ensure regular supply and distribution of electricity to the consumers. Till further orders, the employees of the society shall be paid their remuneration by the Administrator on the same terms and conditions as existing in the society out of the revenues of the society.
- (b) The Administrator and the Society shall issue a joint notice in at least two newspapers having wide circulation in the area of the Society that from 1st July, 2015, the consumers of the Society shall be served by the Administrator viz. M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd. till further orders of the Commission. Such notice shall be published at least fifteen days in advance of the proposed date of take order.

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(c) The respondent no.1 shall take further appropriate action in respect of the Society whose distribution license shall stand revoked w.e.f. 01.07.2015.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman

M.P.ELECTRICITY REGULATORY COMMISSION
5th Floor, Metro Plaza, Bittan Market, Bhopal

SCHEME FOR OPERATION AND MANAGEMENT OF THE GRAMIN VIDYUT SAHAKARI SOCIETY,PANDHANA

In exercise of the powers under section 20(1)(d) and (e) of the Electricity Act, 2003, the M.P. Electricity Regulatory Commission hereby formulates and approves the following Scheme for operation and management of the Gramin Vidyut Sahakari Society Pandhana.

Aims and objectives of the Scheme :

In exercise of the powers u/s 19 of the Electricity Act, 2003 the Commission has revoked the License of Gramin Vidyut Sahakari Samiti, Pandhana w.e.f. 1st July, 2015.

The Commission has decided to formulate a scheme u/s 20(1)(d) &(e) of the Electricity Act, 2003 for operation and management of the Gramin Vidyut Sahakari Samiti, Pandhana, District Khandwa(M.P.) . The prime aims and objectives of this Scheme are to make interim arrangements to protect the interest of the consumers and the public by maintaining continued and quality supply of electricity in an efficient and safe manner and to make the Utility commercially viable for future sale.

After the revocation of the License, the Commission has to initiate the process for the sale of Utility of the licensee u/s 20 of the Electricity Act, 2003. For the purpose of operation of this Utility in the interim period, the Commission hereby constitutes a Task Force. The Task Force shall exercise such powers and discharge such functions, till further orders, as are being laid down in this scheme.

1. i) This Scheme may be called the **“Gramin Vidyut Sahakari Samiti, Pandhana (Interim arrangements for Operation and Management) Scheme, 2015”**.
- ii) The Scheme shall come into force with effect from the date of issue of order and shall remain in force until further orders.

2. **Definitions:**

In this Scheme, unless the context otherwise requires:-

- i) ‘Act’ means the Electricity Act, 2003;
- ii) ‘Chairman’ and ‘Member’ mean the Chairman and Member of the Task Force to be nominated by the Commission under this Scheme;
- iii) ‘Commission’ means the Madhya Pradesh Electricity Regulatory Commission;

- iv) 'License Conditions' mean the conditions stipulated by the Commission in the conditions of Distribution Licensee (including deemed licensee) issued on 23.07.2004 and modified from time to time in accordance with the provisions of the Act;
 - v) 'Scheme' means Gramin Vidyut Sahakari Samiti, Pandhana (Interim arrangement for Operation and Management) Scheme, 2015;
 - vi) 'Society' means the Gramin Vidyut Sahakari Samiti, Pandhana, District Khandwa;
 - vii) 'Task Force' means the Task Force constituted by the Commission under this Scheme for management of the Gramin Vidyut Sahakari Samiti, Pandhana; and
 - viii) 'Utility' means the assets belonging to the Society and as defined in Section 2(75) of the Act.
3. i) After the revocation of license for distribution and supply of electricity, the Society shall be deemed licensee till its assets are sold or its business is transferred to the intending operator.
- ii) All the powers of administration and general superintendence including control of finance and manpower of the Society shall be vested with the Task Force constituted by the Commission under this Scheme from the date to be ordered by the Commission.
- iii) The Task Force on behalf of the Society shall have the power to acquire, hold and dispose of any property movable or immovable and enter into any contract for the benefit of the Society and may sue or be sued in the name of the Society represented by the Secretary-cum-Managing Director.
- iv) The Task Force on behalf of the Society shall comply with the provisions of the Electricity Act, 2003 and other relevant statutory provisions and license conditions with regard to distribution of electricity in the area of supply of the Society.
- v) The Head office of the Society shall be at Pandhana.
- vi) The Task Force on behalf of the Society shall carry on the business of distribution of electricity in accordance with the license conditions in respect of the area of Gramin Vidyut Sahakari Samiti, Pandhana under the revoked license and shall abide by the directions of the Commission issued from time to time.
- vii) The day to day management of the Society shall be carried out by the Secretary-cum-Managing Director under overall supervision and control of the Task Force.

- viii) The Task Force shall decide the delegation of powers and authority to the officers of the Society as per the recommendations made by the Secretary-cum- Managing Director.

4. **Task Force**

The Commission shall, by order, constitute a Task Force for operation and management of the Society. The Task Force shall consist of not more than five members including the Secretary-cum-Managing Director of the Society. The composition of the Task Force shall be as follows:-

- 1 Chairman (not below the rank of Superintending Engineer) to be nominated by the M.P. Paschim Kshetra Vidyut Vitaran Company Limited.
 - 2 Sub-Divisional-Officer (Revenue) as a member nominated by the Government of Madhya Pradesh.
 - 3 One Member to be nominated from the State Government in consultation with the Energy Department.
 - 4 Assistant Registrar, Cooperation Societies as a member in consultation with the Registrar, Co-operative Societies.
 - 5 The Managing Director shall be the Secretary-cum-Managing Director of the Utility.
- (2) The Secretary-cum-Managing Director shall be the Chief Executive Officer of the Society. He will be a full-time officer of the Society.
- (3) The Chairman and Members of the Task Force shall hold office for a period of two years from the date of their entry in the office and the said period may be extended further by the Commission, as it thinks fit. The Chairman and Members shall be entitled to receive an honorarium of amount of Rs. 1000/- (One Thousand) for attending each meeting of the Task Force.
- (4) The Secretary-cum-Managing Director of the Society shall not hold any other posts/office during his tenure in the Society. The salary, allowances, terms and conditions of service of the Secretary-cum-Managing Director shall be as per the existing rules of the Gramin Vidyut Sahakari Samiti, Pandhana.
- (5) The quorum for the meeting of the Task Force shall be three. After due approval of the Commission, the Task Force shall formulate its Rules of Business for Conduct of its Meetings and Proceedings.

- (6) The Commission may, at any time, remove the Chairman and Members of the Task Force by an order issued for this purpose.
- (7) The Commission may, at any time, dissolve the Task Force of the Society and may pass appropriate orders.
- (8) No proceeding, act, resolution or decision of the Task Force shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in constitution of the Task Force.

5. **The powers and functions of Chairman**

(i) **Chairman**

- a) He shall preside over all Task Force Meetings.
- b) He shall guide, advise and have overall superintendence and control over the efficient functioning of the Society.
- c) He shall decide all the matters referred to him by the Secretary-cum-Managing Director.
- d) He shall discharge all other duties assigned by the Commission under the Scheme.

(ii) **Secretary-cum-Managing Director**

Subject to the overall supervision, control and delegation of powers by the Task Force and directions of the Commission –

- a) He shall manage day-to-day affairs and management of the Society and shall represent the Society before the Commission, Govt. and other Authorities.
- b) He shall take decisions involving financial implications with concurrence of the Task Force.
- c) He shall carry out and implement the orders and directions issued by the Commission to the Society.
- d) He shall carry out and implement the resolutions / decisions taken by the Task Force.
- e) In consultation with the Task Force, Secretary-cum-Managing Director shall design and implement the organizational structure and management of the Society. However, he shall not make any fresh appointment and allow any pay hike to the employees of the Society.
- f) He shall represent the Society in all legal proceedings before the Commission, Courts, Forums and Tribunals, etc.

- g) In the name and on behalf of the Society, he shall enter into contract with all external agencies and take loans from funding/financial institutions with concurrence of the Task Force.
- h) On behalf of the Society, he shall discharge all its statutory/regulatory requirements and obligations.
- i) He shall, without sacrificing operational efficiency, take necessary measures to curtail expenditure. The expenses towards A&G, O&M including vehicle etc. be restricted to bare minimum.
- j) He shall, by 21st of each month, submit to the Secretary of the Commission details of revenue collected and expenditure incurred in the preceding month.
- k) Any other function as may be assigned by the Commission or the Task Force from time to time under the Scheme.

6. **Cash Transactions:**

The entire revenue collected in the Society shall be transferred immediately on daily basis to the “Revenue Collection Account”. The Chairman shall be the drawing and disbursing authority of this account. The Chairman will release the payments/funds to the Secretary-cum-Managing Director on demand. The Secretary-cum-Managing Director shall maintain an “Expenditure Account”. The Chairman and Secretary-cum-Managing Director shall ensure observance of following priorities while appropriating the funds and ensuring its disbursement:

- (a) Statutory payments including those arising out of various Courts’ orders.
- (b) Employee cost which includes salary, contributory funding towards PF, terminal benefits etc.
- (c) Essential A&G expenses
- (d) Essential O&M expenses
- (e) Payment towards purchase of power from the Distribution Licensees
- (f) Essential capital expenses
- (g) Any other payments excluding debt servicing

Note: The liabilities as on the date of taking over of operation of Society by the Task Force shall remain frozen during the incumbency of the said Task Force.

7. **Accounts and Audit**

Subject to the provisions of the Electricity Act, 2003 and Rules and Regulations framed thereunder, the accounts of the Society shall be maintained and audited in accordance with the license conditions/directions as per the existing Regulations of the Society. The Task Force shall appoint Auditors for the Society and shall approve Auditor’s Report. The

Secretary-cum-Managing Director under his seal and signature shall furnish the Auditor's Report to the Commission regularly.

8. **Annual Report :**

The Secretary-cum-Managing Director shall prepare once in every financial year, the Annual Report of the Society giving the summary of its activities and audited account, achievement and constraints during the previous financial year. After approval of the Task Force, the said Annual Report shall be forwarded to the Commission.

9. **Removal of difficulties :**

If any difficulty arises in giving effect to the provisions of the Scheme, the Commission may, by order in writing, make such provisions not inconsistent with the provisions of the Electricity Act, 2003, as may appear to be necessary for removing the difficulties.

10. **Power to amend**

Subject to the provisions of the Electricity Act, 2003, the Commission may at any time, in the public interest, amend any of the provisions of this Scheme.

11. **Issue of orders :**

- (i) Subject to the provisions of the Electricity Act, 2003, the Commission may, from time to time, issue orders and circulars for implementation of the provisions of this Scheme.
- (ii) Nothing in this Scheme shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of any provision of this Scheme.
