

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub :- In the matter of application under Section 9 of the Vidyut Sudhar Adhiniyam 2000 read with Electricity Act, 2003 and for recall of Decision dated 07.03.2007.

Petition No. 76 of 2009

ORDER

**(Date of Hearing : 7th July, 2010)
(Date of Order : 2nd August, 2010)**

M/s Som Distilleries Pvt. Ltd.,
23, Zone-II, MP Nagar,
Bhopal. - Petitioner

V/s

MP State Electricity Board, Rampur, Jabalpur - Respondent No.1
M.P.Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur - Respondent No.2
MP Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal - Respondent No.3

Shri Sandeep Mishra, Law Officer and Shri Prem Francis, Advocate appeared on behalf of the Petitioner.

Shri S.K.Okhade, EE appeared on behalf of the Respondent No. 1 and 2.

Shri Enosh G. Carlo, Advocate appeared on behalf of the Respondent No. 3.

2. This petition is in the matter of application under Section 9 of the Vidyut Sudhar Adhiniyam 2000 read with Electricity Act, 2003 and for recall of the decision of the Commission dated 07.03.2007. The date of hearing was fixed on 26.02.2010.

3. The Commission in the hearing held on 26.02.2010 admitted the petition and the next date of hearing was fixed on 23.03.2010.

4. During the hearing held on 23.03.2010, the Respondent No. 3 sought adjournment. The Commission accepted the request and the case was fixed for hearing on 16.04.2010 which was further adjourned to 11.05.2010.

5. During the hearing on 11.05.2010, the Respondent No. 3 sought time to submit reply. The Commission accepted the request and directed to file reply by 20.05.2010 with a copy to the Petitioner. The Commission had also directed the Petitioner to send a copy of the petition to Respondent No.1. The next date of hearing was fixed on 26.05.2010.

6. During the hearing on 26.5.2010, the representative of the Respondent No. 3

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submitted that as per the orders of Hon'ble High Court, Jabalpur, the issue is limited to definition of the word 'Premises'. He has further submitted that as per Electricity Act and Oxford Dictionary, the definition of 'Premises' refers to one unit without any hindrance and should be free from outside interference. Therefore, the premises should be a continuous one and two premises separated by a public road cannot be construed to be one premises. The representative of the Petitioner sought one week's time for making further submission in support of their case. The representative of the Respondent No.1 submitted that they have not received the copy of the petition from the Petitioner.

7. The representative of the Respondent No.3 also sought one week's time for counter submissions.

8. On hearing the representatives of the Petitioner and the Respondent, the Commission directed the Petitioner and the Respondent No. 3 to file additional written submission by 10.06.2010. The Commission also directed the Petitioner to send a copy of the petition to Respondent No.1. The next date of hearing was fixed on 22.06.2010 which was adjourned to 07.07.2010.

9. During the hearing on 07.07.2010, the representative of the Petitioner submitted that :

(a) the word "Premises" is defined in the Electricity Act, 2003 and M.P. Electricity Supply Code, 2004 as "includes any land, building or structure". He has further submitted that there is no definition in particular or specific that land separate by a road dividing the premises should be treated as two separate premises.

(b) The word "premises" implies the whole premises of a single ownership being one, unless there is a clear language to restrict its meaning. From the reading of clauses which is elaborated in the MP Electricity Supply Code, 2004 which is a complete guidelines, under chapter 2 definition the meaning "Consumer" means any person who is supplied with electricity by the Licensee and includes any person whose premises are for the time being connected for the purpose of receiving electricity from the Licensee. Even under the definition of the "occupier" means the owner or person in occupation of the premises where electrical energy is used or proposed to be used.

(c) Under Chapter 6 Clause 6.30 of MP Electricity Supply Code, 2004, there is a

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guideline given for extension or alteration of line and from the reading of the Clause it is understood that the extension or alteration of load to all High Tension installation will have to be approved by the Electrical Inspector. In the instant case, the applicant has duly obtained a No Objection Certificate dated 25.09.2000 passed by the Executive Engineer PWD Raisen to lay the cable through pipe under the culvert for the purpose of transmitting energy from the HT connection of the Applicant unit. The Petitioner has also obtained a No Objection Certificate from the Assistant Engineer and Electrical Inspector for laying the cable line which is dated 03.11.2000.

- (d) The law laid down by the Supreme Court reported in AIR 1962 SC 29, held that the premises includes open land and the premises must not be restricted to its literal meaning. At para 5 of the judgment various definition of the word “premise” from Law of Lexicon and Black Law Dictionary are considered. It is held that the owner of the premises whether holding building or open land would all be treated as one premises.
- (e) Referring to 2000(1) SCC 74 at para 2 dealing with the tenancy, a similar question was considered that a portion of land was acquired for construction of road with the result the premises was separate by a road and thus the premises was assigned separate number. The question considered whether it was open for the court to split the single tenancy by ordering partial ejection from the premises and ultimately the Supreme Court gave a verdict that a single indivisible contract and in the absence of any statutory provision, to the effect it is not open to the court to split the tenancy and therefore the entire premises even across the road was to be treated as one.
- (f) In case of Lal Moh. and others Vs. Indian Railway Construction Company 1999 (1) SCC 596 at para 17 of the judgment, the construction of word “premises” for the purpose of factory was considered and has held that the entire construction of the Railway line over 54 kilometers of land was considered as one premises that every part of the land on which construction activity takes place would become part and parcel of the word “premises”.
- (g) From reading the definitions of the word premises given in the Indian Electricity Act,

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2003 and the MP Electricity Supply Code, 2004 nothing emerges or draws a line to give a definition that a land separate by a road dividing the premises should be treated as two separate premises when the ownership of the entire premises is one. In the instant case the premises on the other side of the road belongs to one ownership and the premises should mean the whole premises of one ownership unless there is a clear language to restrict its meaning.

- (h) The petitioner is having the entire unit for manufacturing of Indian made Foreign Liquor on the entire premises being one single owner and he is not taking the line to a different ownership or extending its line for any other purpose except for his personal use to cater to the manufacturing process being carried out.
- (i) There are many instances where there would be parking, playground, storage, godown, etc. which would be on the other side of the road but as long as it belongs to one ownership it has to be treated as one premise. For example, such as business premises, factory premises, hospital premises, office premises, school premises, etc.
- (j) That, the word “premises” should not be restricted unless there is clear language to restrict its meaning and in the instant case the word “premises” given in the Acts explained above does not give any definition whereby it can be said that the land separated by a road cannot be treated as one premises. For all purpose the Petitioner being a single owner and occupier of the entire land open or construction would come under the definition of one premises.

10. During the hearing, the representative of the Respondent No.3 submitted that :

- (a) The scope of the petition is limited to the definition of the word “Premises”.
- (b) The Hon’ble High Court has not issued any direction to the Commission regarding review of definition of the word “premises”. In fact, the Petitioner withdrew the case and sought liberty to approach the Commission.
- (c) It is a well-known principle of statute that when any term is not specified fully in law, we go by simple meaning. The term “premises” has been defined under various Acts

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and the same has been interpreted by the Hon'ble Supreme Court and various Hon'ble High Courts at number of places and all say that it should be a continuous one and should be free from outside obstruction and interference. But, the applicant himself admitted that both the lands are separated by a public road running across.

- (d) The NOC from EE, PWD, Raisen and Asstt. Electrical Inspector to lay cable through hume pipe under the culvert for the purpose of providing electric connection to the other side of the road has nothing to do with the obligation of the Petitioner to take new connection for the new premises.
- (e) Had there been a single premises, there was no necessity to get permission from PWD/Electrical Safety.
- (f) The Petitioner has not taken any approval from the Respondent to extend supply across the highway road.

11. During the hearing, the Petitioner and the Respondent were directed to make additional written submission, if any, by 20.07.2010. The Petitioner only has submitted a written submission.

12. On hearing both the Petitioner and the Respondents and considering the written submission, the Commission is of the view that :

- (a) The Hon'ble High Court vide Order dated 13.11.2009 has allowed the prayer of Petitioner for withdrawal of the Petition No. 3095/2009 with a liberty to prefer an application before the Commission. Hence, the scope of the present petition is limited to the definition of the word "Premises" as clarified by the Commission under letter No. MPERC/409 dated 07.08.2007.
- (b) Though the word "Premises" is defined in the Act/Regulations as "includes any land, building or structure", it cannot be construed that different pieces of land, buildings or structures occupied by same owner shall be considered as one premise even if it is separated by a public road or premises owned by any other person. The decision of Hon'ble Supreme Court submitted by the Petitioner in support of his contention do not apply to the present matter. In fact, they relate to ownership which is not in

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dispute here. The word “Premises” for the purpose of electricity connections, in terms of the Act, is the area owned or occupied by a person within which the Distribution Licensee has agreed to supply electricity and which is included in agreement executed for this purpose.

(c) In the instant case, there are two areas occupied by the Petitioner which are separated by a public road. One of the two areas was acquired after execution of the agreement for supply of power and does not form part of “premises” as mentioned in the agreement. Thus the two areas, although owned by the same person are to be treated as two distinct “premises”.

(d) Sub-section 6 of Section 126- Explanation (b) defines unauthorized use of electricity as usage of electricity :-

“(v) for the premises or areas other than those for which the supply of electricity was authorized.”

This explanation in the Act also buttresses the view that for the present purpose “premises” has to be the one including land, building or structure for which connection was originally served and agreement was executed.

(e) The opening clause of the definition under Section 2 of the Electricity Act, 2003 mentions that the definitions should be given the meaning as mentioned in the Act unless the context otherwise requires. Therefore, in context to the instant case, the definition of the word “Premises” need to be consistent with the observations above.

13. In view of the above, the Commission holds that the word “Premises” for the purpose of providing electricity connection would be as below :

“**Premises** – It shall include any continuous land, building or structure for which the Distribution Licensee has agreed to supply electricity to the consumer as per agreement executed.”

14. With the above directions, the Petition No. 76 of 2009 stands disposed off.

Ordered accordingly.

(C.S.Sharma)
Member (Eco.)

(K.K.Garg)
Member (Engg.)