

Sub: In the matter of petition for compliance of directives given by Hon'ble High Court vide order dated 10.02.2017 in Writ Petition No.1861/2016 to MPERC for *de novo* Consideration after affording an opportunity of hearing to M/s Radhika Marbles, Sihora

ORDER

**(Date of hearing: 22nd August,2017)
(Date of order: 15th September,2017)**

M.P. Poorv Kshetra Vidyut Vitaran Co. Ltd., - Petitioner
Shakti Bhawan, Rampur, Jabalpur

M/s Radhika Marbles, - Respondent
Village Gaurha Bhitoni,
Tehsil Sihora, District- Jabalpur

Shri Prakash Upadhyay, Advocate and Shri Sanjay Okhade, DGM appeared on behalf of the petitioner.
None appeared on behalf of the respondent.

2. The petitioner, M.P. Poorv Kshetra Vidyut Vitaran Co. Ltd. has filed this petition seeking specific direction of the Commission in compliance to the order dated 10.02.2017 passed by the Hon'ble High Court, Jabalpur in Writ Petition No. 1861 of 2016.

3. The brief description of the case is as under:

- (a) M/s Radhika Marbles, Katni had obtained an HT connection for a contract demand of 300 kVA at 33 kV under HT agreement dated 28.10.2013. The connection was served on 31.12.2013.
- (b) The respondent had applied for reduction in contract demand from 300 kVA to 150 kVA on 26.02.2014 and 03.03.2014 on the ground that environment clearance is pending for renewable before M.P. Pollution Control Board.
- (c) By letter dated 25.04.2014, the respondent applied for disconnection of supply due to non-availability of mines permission which was valid up to 09.04.2013 and they were not utilizing the power. The request was not considered by the petitioner as the initial period of agreement was not expired. However, the request for reduction in contract demand from 300 kVA to 150 kVA was considered and supplementary agreement was finalised

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on 16.09.2014 giving effect of reduction w.e.f. 01.06.2014.

- (d) The respondent stopped payment and the connection was temporarily disconnected on 17.06.2014.
- (e) The respondent filed an application before the ECGRF, Jabalpur for permanent disconnection and to cancel the energy bills from April, 2014 onwards. The ECGRF, Jabalpur passed an order on 21.08.2015 stating that the petitioner has not considered the request of the respondent under "Unforeseen Circumstances" of the M.P. Electricity Supply Code, 2013 and directed to reconsider the case.
- (f) Against the aforesaid order, the petitioner filed an application before the Commission under Regulation 5.3 of the MPERC (Establishment of Forum and Electricity Ombudsman for redressal of grievances of consumers) (Revision-I) Regulations, 2009. The Commission observed that the ECGRF has not considered the case under relevant provisions of the M.P. Electricity Supply Code, 2013 and, therefore, directed the ECGRF to review its order vide its order dated 27.11.2015.
- (g) The ECGRF reviewed the order and passed a fresh order on 17.12.2015 and directed the petitioner to take necessary action as per Regulation 11.2 of the M.P. Electricity Supply Code, 2013.
- (h) The respondent filed a writ petition no. 1861 of 2016 before the Hon'ble High Court, Jabalpur and challenged the order dated 27.11.2015 passed by the Commission and order dated 17.12.2015 passed by the ECGRF, Jabalpur.
- (i) The Hon'ble High Court disposed of the aforesaid writ petition vide order dated 10.02.2017 and while quashing the orders dated 27.11.2015 and 17.12.2015 relegated the matter to the Commission for *de novo* consideration after affording an opportunity of hearing to the petitioner. Hence, this petition.

4. The case was listed for hearing on 25.07.2017 and notices were served to the petitioner

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and the respondent. During the hearing on 25.07.2017, none appeared before the Commission on behalf of the respondent. The Commission allowed one more opportunity to the respondent to attend the hearing and directed to issue notice for hearing to the respondent. The next date of hearing was fixed for 22.08.2017.

5. During the hearing on 22.08.2017, the Counsel for the petitioner restated the contents of the petition. The Commission observed that once again none appeared before the Commission on behalf of the respondent. The respondent has not even approached the Commission for any consideration.

6. Having heard the petitioner and on considering the written submissions, the Commission has noted that despite issuing notices twice to the respondent, no response was received by the Commission. The Commission is of the view that the respondent has nothing to say on the impugned order dated 27.11.2015 passed by the Commission even after allowing proper opportunities to the respondent. The Commission, therefore, holds its order dated 27.11.2015 as under:

“ 4. Clause 11.10 deals with circumstances not envisaged by the provisions of the Code and “act of Central/State Government “ is covered under clause 11.2 of the Code. The present case is related to the act of Central/State Government. Hence, ECGRF, Jabalpur is directed to review its order dated 21.08.2015 in accordance with the relevant provisions of the M.P. Electricity Supply Code, 2013.”

7. In view of the above, the petition no. 27 of 2017 stands disposed of.
Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman