

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

**Subject: Petition for old flat/fixed rate earlier on the farmer agriculture electricity use.**

**ORDER**

**(Date of Order: 28<sup>th</sup> May' 2024)**

**Surendra Kumar Verma**  
Bhujalia Ghat, Ambedkar Ward,  
Tikari, Betul, 46001

**- Petitioner**

**V/s**

MP Madhya Kshetra Vidhut Vitaran, Co. Ltd. ( Central Discom) :

**Respondent**

Shri Faheem Qureshi, Advocate appeared on behalf of the Petitioner.

Shri C.K. Valeja, Advocate, Shri D.P. Ahirwar, CGM and Shri B.S. Baghel, DGM, Betul appeared on behalf of the Respondent.

1. The subject Petition is filed by petitioner who is A farmer, using electricity for irrigation purpose and was initially billed on flat rate tariff under LV 5.4 category and was subsequently converted to tariff category LV 5.1 (a) meant for metered agricultural category by Respondent.
2. Having aggrieved of aforesaid action of Respondent, Petitioner has filed this petition in pursuance to order of Hon'ble High Court Jabalpur bench dated 03/01/2024 in WP 7179 /2018 filed by it.
3. The petitioner has made following prayer in his petition:-
  - i. *MPERC may pleased to direct the defendants to temporarily connect the electricity connection of the petitioner during the pendency of the suit so that the crop grown in the petitioner field can be prevented from getting spoiled. Which will be in the interest of justice.*
  - ii. *MPERC be kindly pleased to call for the entire material record from the respondents in respect of the controversy in question for the kind perusal.*
  - iii. *MPERC may kindly be pleased to pass Any other order/orders, direction/directions may also be passed.*
  - iv. *MPERC kindly be pleased to command that Petitioner be charged again on the old flat /fixed rate like earlier on their agricultural pumps for electricity use.*

- v. *MPERC kindly be pleased to command the Respondents to not charge the petitioners even on 0 (Zero) consumption of electricity.*
- vi. *MPERC kindly be pleased to award Cost of the Petition."*

4. The broad submissions made by the petitioner are as under : -

- i. *that, the petitioner is farmer and is carrying out his work of agricultural in the Betul district and use electricity for the purpose of irrigation in their field.*
- ii. *that the farmer has been using electricity for the irrigation purposes for the agricultural & the Electricity Department had given him the "Agricultural Pump" connection in the specified category wherein the petitioner was charged specified amount and he was required to pay the bill only twice a year with flat rate.*
- iii. *that, in year 2017 without any intimation or information, Respondent has changed the agricultural pump category to commercial one and now petitioner is required to pay abrupt & exuberant bills and are charged for every month, which is costing him heavy amount and he is unable to cope with this sudden change.*
- iv. *that, it is pertinent to mention that the agricultural slot in Tariff Schedule is LV-5/ 5.1, where under the terms and conditions the earlier rebates were obliterated and new consumer rates are being applied with ulterior motives.*
- v. *that, the Electricity companies are charging exuberant amount even when there is zero consumption and as there is no respite from the Electricity company or the Govt. Hence this Petition*
- vi. *that, the, the petitioner is marginal farmers and dependent upon rains and as there is inadequate rainfall the farmers are running in losses and on top of this, huge electricity bills are being levied without any valid reason.*
- vii. *that, the Petitioner only require the use of agricultural pump only for maximum 7-8 working hours in the field for agriculture purposes and for the rest of the day it is not used therefore, these bills are proving to be a burden on the petitioners.*
- viii. *that, the impugned action is non-speaking in nature and no reasons have been assigned for not acceding to the claim of the petitioner.*
- ix. *that, the order's interalia are violative of provisions of section 61(d) of the Electricity Act.*
- x. *that, the, the Government is overlooking the provisions of section 65 of the Electricity Act for providing appropriate subsidy.*
- xi. *that, the, the Govt & the Respondent company in collusion are mercilessly levying the heavy bills ignoring the legal & fundamental principles & spirit of the provisions of Electricity Act & Constitution of India.*

5. The Respondent has made the following submissions:-

- a. *that petitioner is allotted a permanent metered agricultural pump connection vide S.C. No. 2317015204, having load of 6 H.P., and is being billed under tariff category LV 5(5.1a).*
- b. *that, a meeting was convened on 23.01.2016 under the Chairmanship of the Hon'ble Chief Minister, in which representatives and the Managing Directors of all the Discom's were present. In this meeting it was resolved by all the companies that meters have to be installed on permanent pump connections which are getting 24 hours electricity supply by all three discoms. In pursuance of such decision a letter was circulated by office of Managing Director of Respondent Company dated 10.06.2016, to give effect to aforesaid decision. It was in consequence of this decision, the connection of petitioner was metered and he was billed under the tariff LV 5 (5.1)*
- c. *the petitioner is being billed in accordance with the tariff rules as approved by this Hon'ble Commission, the connection of the petitioner has not been changed to commercial one, only the tariff applicable to metered connection is being used to bill petitioners meter connection.*
- d. *that, the answering respondents have no role to play in deciding tariffs, they are only billing the petitioner electricity connection in accordance with tariff order of this Hon'ble Commission.*
- e. *that for betterment of citizens only the company is trying to provide 24 hours electricity to each and every corner of the state. The fact that petitioner requires only 8 hours of electricity is of no concern to the respondents. The petitioner is being billed only on the consumption done by him.*
- f. *It is submitted that the answering respondents are billing petitioner meter connection according to the tariff order. No extra charges are being levied.*
- g. *that, the petitioner, has not challenged the substantive policy decision of the government and other consequent orders, nor has elucidated grounds of challenging the bills issued to him. No relief can be granted unless such decision and consequent orders are set aside.*
- h. *that, the only relief which petitioner is inter alia, seeking is to get some exemption/subsidy in the bills, which is prerogative of the government and not this Commission. The appropriate remedy in such case would be to approach appropriate government.*
- i. *that, the since petitioner is enjoying 24 hours of electricity supply, he cannot be billed at fix rate, he can be billed only under tariff LV5(5.1a). Mere inability to pay bill is not a ground to quash them.*
- j. *The fact that petitioner has made part payment of bills amounting to Rs. 45200/- in February 2024 and Rs. 45050/- in March 2024, shows that, the intention of petitioner*

- is to only to seek extension of time for payment by unnecessarily indulging in litigation.*
- k. *That, part payment of bills amounts to admission of it being correct, and the petitioner is now estopped from raising any dispute as to its correctness.*
- l. *The fact that in consequence of policy decision of government electricity connection of around 200 farmers were metered but none of them have approached this Hon'ble Commission except the petitioner, which shows the ulterior motive of petitioner to escape from the liability of making payment of bills."*

### **Commission's Observations and findings**

6. The Commission observed that dispute between the petitioner and Respondent pertains to applicability of tariff in regard to change of petitioner's tariff category from flat rate tariff (under tariff sub category LV5.4) to meter based tariff sub-category LV5.1 of tariff schedule LV 5 for Agricultural and allied activities. Having aggrieved by the aforesaid action of Respondent, Petitioner has filed this petition in pursuance to order of Hon'ble High Court Jabalpur bench dated 03/01/2024 in WP 7179 /2018 filed by it, whereby Hon'ble Court dismissed the aforesaid Writ petition with following observations at para 2 to 7 of order as reproduced below:-

- 2. By this petition, petitioners are challenging Tariff.*
- 3. This Court is not an expert body. Petitioners have an efficacious and alternative remedy of approaching Madhya Pradesh Electricity Regulatory Commission.*
- 4. Admittedly, petitioners have not availed the said remedy. Accordingly, no good ground has been made out to ignore the alternative remedy of approaching the expert body like Madhya Pradesh Electricity Regulatory Commission.*
- 5. Accordingly, this petition is dismissed with liberty to petitioners that if they so desired, then they may approach the Madhya Pradesh Electricity Regulatory Commission for modification in the Tariff.*
- 6. It is made clear that in case if petitioners move an application for stay of recovery of arrears, then Commission shall also pass an order on the said application.*
- 7. However, it is also made clear that Commission shall decide the matter without getting influenced or prejudiced by any of the observation made by this Court.*

7. The Commission admitted the petition in accordance with clause 1.36 of Retail supply tariff order FY2023-24, which provides that in case any dispute arises regarding interpretation of this tariff order and/or applicability of this tariff, the decision of the Commission shall be final and binding.
8. The issue before the Commission is to interpret whether tariff sub category LV 5.4 which is meant for flat rate based un metered consumers would be applicable to petitioner in place of LV 5.1 category for metered connection. As per specific terms and conditions for LV 5 category of Retail supply tariff order in vogue, billing to consumers covered under tariff schedule LV5.1 shall be done on monthly basis based on the consumption recorded in meter. Even for consumers under tariff schedule LV 5.4, the bill is to be calculated at the same rate as specified under LV 5.1. Being unmetered consumers and supplied electricity for 10 hours, these consumers under tariff schedule LV5.4 are billed based on norms for assessment of units per HP as specified by the Commission in tariff order.
9. With regard to agricultural consumers in urban areas connected to a feeder other than separate agricultural feeders, the Commission has categorically provided through Tariff schedule LV 5 of Retail supply tariff orders that such consumers will be billed as per consumption recorded in the meter as per note reproduced below:-  
**“Note: The Agricultural consumers in urban areas connected to a feeder other than separate agricultural feeder will be billed as per consumption recorded in the meter. Existing unmetered consumers may be billed as per flat rate till meters are installed. DISCOMs must ensure that meters on all such connections are installed by the end of current financial year.”**
10. From the aforesaid paragraphs 8 & 9, the scheme of LV agricultural tariff is clear. Separate agricultural feeders are meant to supply agricultural consumers only and power supply of 10 hours a day is provided on these feeders. Mixed feeders have other consumers including domestic consumers and the power supply on such feeders is provided 24 hours a day subject to interruptions due to faults. Norms applicable for agricultural consumers getting 10 hours supply cannot be applied to agricultural consumers getting 24 hours power supply. This however does not put metered consumers at disadvantage, as the tariff rates are same for LV 5.1 and 5.4 category and meter in any case will record the actual energy consumed by the consumer.
11. It is pertinent to mention that in pursuance to section 55 of the Electricity Act 2003, the Commission has been consistently emphasizing through its Retail supply tariff orders that all consumers should

be metered individually. The Commission is of the view that the present regime of billing of agriculture consumers on benchmark consumption provides no incentive for energy saving by the consumers and it makes accounting of actual loss impossible. In the instant case, the Commission noted that 24 hours power supply is available to the petitioner and petitioner is billed based on actual consumption recorded in his meter under tariff schedule LV 5.1 by the Respondent as per provisions of Retail supply Tariff order in vogue. Further tariff rates for LV 5.1(metered) and LV 5.4(unmetered) tariff subcategories are the same.

12. Further, with regard to petitioner's prayer not to bill Energy charges in case of zero consumption, the Commission would like to clarify that after considering the suggestions/ comments of the Stakeholders including petitioner himself, the Commission vide Retail supply tariff order for FY2024-25 issued on 06/03/2024 and applicable from 01.04.2024 has abolished the minimum charges for LV-5 (Agriculture and Allied Activities) tariff category consumers.
13. In regard to petitioner's prayer to direct Respondent to temporarily connect the electricity connection of petitioner during pendency of case, the Commission has taken cognizance of Respondent's submission that petitioner has made part payment of bills and consumer is not disconnected.
14. Further, in view of aforesaid order of Hon'ble High Court in WP 7179/2018, it would be apposite to mention that the Commission in the instant case has interpreted its own tariff order as discussed hereinabove and found no infirmity on the part of Respondent Discom in applying appropriate tariff category for billing of petitioner. Before parting with this, Commission would like to direct Respondent Discom to ensure that same approach is adopted for applicability of tariff to all consumers connected to feeders other than separate agricultural feeders, without any discrimination, whatsoever.
15. With the above observations, instant petition is disposed of.

**(Prashant Chaturvedi)**  
**Member**

**(Gopal Srivastava)**  
**Member (Law)**

**(S. P. S. Parihar)**  
**Chairman**