

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of permission to discontinue the supply of the electricity to the Grameen Vidyut Sahkari Samit Mydt. Pandhana and for the supply of electricity to the consumers directly, in view of the order dated 06.04.2010 of the Hon'ble High Court, Principal Seat, Jabalpur.

Petition No. 49/2011

ORDER

(Date of hearing 26th July, 2011)

(Date of order 25th August, 2011)

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

V/s

Grameen Vidyut Sahkari Samiti Mydt. - Respondent
Pandhana, Dist. Khandwa

Shri Dheeraj Singh Panwar, Advocate, Shri Sanjay Mohase, CE (Comm.) and Shri Pawan Jain, ASE (Comm.) appeared on behalf of the Petitioner.

2. The Petitioner has filed the present petition for seeking permission to discontinue the supply of the electricity to the Grameen Vidyut Sahkari Samit Mydt. Pandhana and for the supply of electricity to the consumers directly, in view of the order dated 06.04.2010 of the Hon'ble High Court, Principal Seat, Jabalpur.

3. The Petitioner has sought to invoke the jurisdiction of the Commission under Section 12, 14 and 19 of Electricity Act, 2003. The Petitioner has submitted that the Commission in its Order dated 03.03.2010 passed in the Suo-Motu Petition No. 57/2009 has made the following observations :

"Regarding the Pandhana Society, the Commission has directed that, further action shall be taken on the vacation of stay of Hon'ble High Court."

4. The Hon'ble High Court vide its interim Order dated 06.04.2010 in the I.A.No. 13484/2009 filed in Petition No. 1676/2009 has allowed the Petitioner to discontinue supply to the Pandhana Samiti and has permitted supply of electricity directly to the

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consumer. Operative portion of the said order is as under :

“The interim order granted by this Court is confirmed subject to the condition that the Respondent No.4 (MPSEB) could be entitled to discontinue the supply of electricity to the Respondent No.4 (Grameed Vidyut Sahkari Samitee Pandhana) or its subsidiary and could also be entitled to supply the electricity to the consumers directly or through any other agency.”

5. The licence was granted to the Sahkari Samities on 27.09.1976. The period of license has expired on 26.09.2001. It is submitted that more than Rs. 231.666 Crores is outstanding as on dated 31.03.2011 against the Pandhana Samiti, which it owes to the Petitioner and the Pandhana Samiti has no plans or resources to pay this huge sum to the Petitioner Discom thereby increasing the liability continuously which under present circumstances would never be paid by the Pandhana Samiti and ultimately, West Discom will have to bear the financial burden for supplying power in that area.

6. The present financial condition of the Samiti does not permit them to invest money for projects under progress. Hence, if the company is allowed to supply directly to the consumers in the notified area of the Pandhana Samiti, these projects can be extended in that area too and thereby ensuring better services in that area.

7. The Petitioner has prayed as under :

- (i) To pass necessary directions for the compliance of the order dated 06.04.2010 of the Hon'ble High Court, Jabalpur so that the obligation may be fulfilled by the Petitioner.
- (ii) To grant permission to discontinue the supply of electricity to the Grameen Vidyut Sahkari Samiti Pandhana and thereby allow the Petitioner for supplying electricity to the consumers of the Samiti, Pandhana directly or through some other agencies.

8. The case was listed for motion hearing on 09.08.2011.

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9. During the motion hearing, the representative of the Petitioner reiterated the contents of the petition and requested the Commission to issue formal declaration of revocation of the license to the Samiti so that the Petitioner may be authorized to take over the work of distribution of electricity to the consumers of the Grameen Vidyut Sahkari Samiti, Pandhana.

10. During the hearing, the Commission raised the following queries :-

- (i) What is the status of the electricity distribution after expiry of the license to the Gramin Vidyut Sahkari Samiti Maryadit, Pandhana in 2001? Whether the license was renewed or the society was exempted from license?
- (ii) Since the license to the Society does not exist, how can the Commission revoke the same?
- (iii) Whether the decisions of Government of Madhya Pradesh on 26.5.1995 and 18.4.2005 were fully implemented. If not, then why not?
- (iv) Having received an order for Hon'ble High Court of MP, whether any intervention of the Commission is called for?

11. In response to the above, the representative of the Petitioner submitted that license to the Pandhana Society had expired on 27.9.2001. Since then, the Society is undertaking the business of distribution of electricity without valid license. There is no exemption granted by the Govt. of M.P. Regarding revocation of license. The petitioner has submitted that earlier in a similar case of Manasa Society, the Commission has issued order on 12.10.2009 for revocation of license w.e.f. 16.11.2009. In this case also, the license had already expired on 24.05.1999. They have further requested to issue orders on revocation of license to Pandhana Society. Regarding implementation of decisions of Govt. of M.P. on 26.5.1995, the petitioner in its written submission stated that a petition was filed for merger of various Societies including Pandhana Society. The Commission vide order dated 20.2.2002 revoked the licenses of other 10 societies but due to pendency

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of Writ Petitions/Appeals/Applications before Hon'ble High Court of M.P. and at other Forums/Tribunals, the license of Pandhana Society was not revoked.

12. The Commission has noted that the stay granted in Writ Petition No. 1676/2009 by the Hon'ble High Court is still in force. Also, the Commission vide order dated 1.7.2010 in case of Laundi Society and order dated 19.7.2010 in case of Sidhi Society had directed the Energy Department, Govt. of MP to ensure that the decisions taken by the State Government in the meeting held on 18.4.2005 in respect of the Rural Co-operative Societies which inter alia included Gramin Vidyut Sahkari Samiti, Laundi and Sidhi were implemented at the earliest. The Commission was also of the view that the onus of ensuring that distribution business is carried out with valid license was on the State Government. Accordingly, the Govt. of MP implemented its decision and the distribution licensee took over the supply of electricity to consumers of Laundi and Sidhi Societies.

13. On hearing the Petitioner and considering the Hon'ble High Court's Order dated 06.04.2010, the Commission is of the opinion that the said order is very specific and does not require any intervention of the Commission. The Commission directs the Petitioner to seek clarification/modification from the Hon'ble High Court in case they apprehend any difficulty in implementing the Order dated 06.04.2010 of that Court. The Commission also voiced its displeasure on the fact that the Company did not take any action for more than one year on this important order of the Hon'ble High Court.

14. In view of the above, the Petition No. 49 of 2011 is not admitted and stands disposed of.

Ordered accordingly,

sd/-
(C.S.Sharma)
Member (Eco.)

sd/-
(K.K.Garg)
Member (Engg.)

sd/-
(Rakesh Sahni)
Chairman