



Madhya Pradesh Electricity Regulatory Commission

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Date: 02.08.2006

Sub: In the matter regarding status of Gramin Vidyut Sahkari Samiti as deemed licensee.

ORDER
Petition No. 124/04 (clubbed with Petition No.04/04)

Shri M.L. Jaiswal, Sr. Advocate and Shri S.R Ali Additional SE O/o CE (O&M) Jabalpur appear on behalf of MPSEB, Jabalpur.

Shri P.C. Jain, MD GVSS Manasa ,Shri K.S. Ozha, SO and Shri Parag Kale, Advocate appear for Gramin Vidyut Sahkari Samiti, Manasa.

Shri C.S. Yadav Deputy Secretary appears for Energy Department, Government of Madhya Pradesh, Bhopal .

None appears for Assistant Registrar Cooperative Societies, Distt Neemuch.

2. The petition is in the matter regarding status of Gramin Vidyut Sahakari Samiti as deemed licensee.

3. Energy Department, Government of Madhya Pradesh in its submission during the course of hearing on 20.04.2005 had informed the Commission that looking to huge liabilities and outstanding dues payable to MPSEB and inefficient functioning, the licence of all existing six RE Cooperative Societies be revoked and supply of electricity in the area of these Societies be handed over to MPSEB as already has been done earlier in case of eight Cooperative Societies taken over by the Board.

4. In view of the details stated in previous para and the State Government's decision in a high level Committee's meeting between Registrar Co-operative Societies, State Government and the Board (MPSEB) deciding not to recommend for exemption from licence to all Gramin Vidyut Societies under section 13 of the Electricity Act 2003, the Commission had observed that exemption from licence cannot be granted under the provisions of the Electricity Act 2003 to all Gramin Vidyut Sahakari Societies operating in the State which were granted licence earlier under Section 3 of the repealed Indian Electricity Act 1910. The Commission had therefore, directed the representative of Energy Department, Government of Madhya Pradesh that the State Government is free to act on the decisions made by the Government in this matter.

5. The case was heard on 02.08.2006 wherein it was informed to the Commission by the representative of Gramin Vidyut Sahakari samiti, Manasa that the Hon'ble High Court has directed to maintain Status quo existing as on the date of the order-sheet of Hon'ble High Court (i.e.04.07.2005) in respect of Gramin Vidyut Sahakari Samiti, Manasa. Similarly, Gramin Vidyut Sahakari Samiti, Pandhana also informed the Commission that the Hon'ble High Court of M.P. at Jabalpur vide its Order sheet dated 13.06.2005 on the Writ petition no. 4068/2005 filed by Gramin Vidyut Sahakari Samiti, Pandhana has issued directions that " *Until the date of hearing, the directions given by the Commission to the state to act on the decision made by the Government in the matter, is stayed.*" Since the subject matter was subjudiced in the Hon'ble High Court, the Commission had decided to keep the subject Petitions pending till the matter is under consideration of Hon'ble High Court.

6. MPSEB vide its letter No.08-02/06/P.No.124 of 04 /1691 dated 19.09.05 had enclosed a copy of decision /Order of Hon'ble High Court dated 17.08.2005 in Writ petition No.5066/05 filed by Gramin Vidyut Sahakari Samiti Maryadit, Manasa questioning the legal propriety of the Order sheet dated 20.04.2005 passed by the Commission. The Commission had noted following directives issued by Hon'ble High court under different paras of Order dated 17.08.2005:

(i) *Having heard the learned counsel for the parties, taking into consideration of the order passed by the Commission and the stand put forth by Mr. Mani kant Sharma, the learned counsel for the petitioner, I am inclined to direct Commission to take an independent decision as far as the present society is concerned keeping in view its order dated 14.12.2004 whereby the present society has expressed its willingness to work under section 14 of the Electricity Act, 2001 and the possibility of the working of the society as license under certain terms and conditions*

(ii) *Accordingly, I am inclined to direct the Commission to reconsider the matter as far as the petitioner is concerned subject to payment of Rs. 8.0 crores to the M.P.Electricity Board with in a period of two months from the date of receipt of order.*

(iii) ♦The interim protective order shall remain in force till the Commission decides subject to the condition that the petitioner shall pay Rs. 8.0 crores to the MPSEB♦

7. The Commission had reopened the case and fixed hearing in the matter on 08.11.2005 to reconsider the matter as far as the petitioner is concerned in compliance to the directives of the Hon♦ble High Court and observed that the Gramin Vidyut Sahakari Samiti, Manasa has not paid amount of Rs. 8.0 Crores as on the date of hearing even after expiry of the period of two months despite clear directives of the Hon♦ble High Court vide its order sheet dated 17.08.2005.

8. In response to the submissions made during the course of hearing on 08.11.2005 by the MPSEB and the State Government regarding non - payment of Rs. 8.0 crores by the Society to the Board as per directives of the Hon♦ble High court, the counsel representing Gramin Vidyut Sahakari Samiti, Manasa had requested the Commission to grant more time to respond on the issues as he had not been provided with the reply by his client. The Commission had considered the request made by the representative of Gramin Vidyut Sahakari Samiti, Manasa and directed the society to inform the Commission about the agency along with details of power purchase agreement from whom the society intends to purchase power in case the society intends to move the application under section 14 of the Electricity Act, 2003. During the further course of hearing on 08.11.2005, the Commission had very specifically directed the representative of Gramin Vidyut Sahakari Samit, Manasa to furnish all desired information by 7th December 2005 positively failing which Commission shall pass the order accordingly.

9. Next hearing in the matter was held on 18.01.2006 and the Commission had again noted that the Gramin Vidyut Sahakari Samiti Manasa has filed no reply despite Commission♦s specific directives vide order-sheet dated 08.11.2005. The counsel representing the society had again requested the Commission to provide some more time to respond in the matter. The Commission showing displeasure had considered the request of the society and directed the representatives of the Gramin Vidyut Sahakari Samiti, Manasa to submit a comprehensive reply on various issues asked by the Commission during the course of last hearing along with further details desired during the hearing dated 18.01. 2006.

10. During the course of next hearing in the matter on 26.04.2006, the Commission had noted the following points from the reply submitted by the Society:

(i)	Approximate population in area of supply	-	2,37,500 nos.
(ii)	Line Losses in the area of society	-	35.92%
(iii)	Liabilities of the Society	-	56.04 Crore
	(including unpaid HT bills and long term loan from REC)		
(iv)	Gross loss on operating expenditure and revenue for FY 2004-05	-	Rs. 4.84 Crore

During the course of further hearing on 26.04.2006, Shri M.L. Jaiswal, Sr. Advocate, representing MPSEB had confirmed to the Commission that the Board has paid an amount of **Rs. 30.76 Crores** towards the subsidy claims by the Society in respect of tariff and free electricity supply through adjustment against outstanding amount of electricity bills and thereafter an amount of **Rs. 47.37 Crores** is still outstanding as on 31st March, 2006 payable by the Society to MPSEB.

11. The Commission had further observed the following status during the course of hearing on 24.05.2006 from the reply by the representatives of Gramin Vidyut Sakhari Samiti, Manasa:

(i) The society is feeding supply to 23,117 number Domestic consumers having a total of 6,665 KW connected load, which indicates an average connected load of 1/4th KW only per domestic consumer. Similarly, the average connected load of each non-domestic consumer is only 3/4th KW.

(ii) The Society draws about 9 MUs (million units) at 11KV metering point from MPSEB while it has been able to raise demand of Rs.1.20 crore which is resulting in billing @ Rs 1.33 per unit only.

(iii) The Society is having about 35% unmetered connections and a substantial no. of the consumer meters are lying defective, which are adding high commercial losses to the

Society.

- (iv) The Society has been able to pay about **Rs 0.2 crore** only to MPSEB against the electricity bill of around **Rs 3.0 crore** for the month of March 2006. Due to this, the revenue arrears bill has now reached to **Rs 47.00 crore** as on April 2006.
- (ix) The Society has not taken any initiative under electricity reform activity.

While observing the above poor operational efficiency of the Manasa Society, the Commission had asked the representatives of the Society to convince the Commission that how the Society shall be able to manage its affairs and pay to MPSEB for purchase of Power with such inefficient performance. The representative of the Society had no convincing reply on this issue and submitted that the Society is having no alternative bulk source of supply in the State other than MPSEB. The Commission had drawn the attention of the Society to the fact that the MPSEB is now not willing to sell Power to the Society.

12 During the course of same hearing on 24.05.2006, it was brought into the knowledge of Commission that the Board of Directors of Manasa Society has been dissolved by Registrar, Cooperative Societies, Distt Neemuch and Assistant Registrar, Cooperative Societies, Distt Neemuch has been appointed as Officer-in charge of the Society till further orders. The Commission had therefore, asked the representative of the Society whether he is authorized to appear before the Commission by newly appointed Officer- in-charge of the Society. The counsel representing Society could not produce any authorization from the new Officer in-charge appointed for the Society. The Commission had therefore, directed that the Assistant Registrar, Cooperative Societies, Distt Neemuch be also impleaded in this case and he should also be represented on next date of hearing on 12.07.06.

13. During the course of last hearing on 12.07.2006, none appeared for Assistant Registrar, Cooperative Societies, Distt Neemuch and the representatives of Gramin Vidyut Sahakari Samiti, Manasa had again requested to the Commission to grant some more time to respond to the issues related to the queries sought by the Commission in the subject matter since past course of hearings. Senior Advocate representing MPSEB had recorded his disagreement with the request of counsel representing Society regarding adjournment of case. However, the Commission had granted the adjournment in the matter and directed that a cost of Rs 1000/- be paid by Gramin Vidyut Sahakari Samiti, Manasa to the respondent.

14. During the course of hearing today, the representative of Manasa society has submitted following points in its reply in Hindi:

- (i) *Three months notice should be given to the licensee before revoking the licence as per section 19(3) of the Electricity Act 2003*
- (ii) *The Commission has no power to take Suo motu action and the Appellate Tribunal is having power to take Suo motu action under section 111(6) of the Electricity Act 2003.*
- (iii) *The Commission is kindly requested to issue orders in favour of existing licence of the Society to be continued.*

15. The Commission has made point-wise clarity to the representatives of the Society on the above issues raised by the society as given below:

- (i) Section 19(3) of the Electricity Act 2003 is applicable for the licence granted under Section 14 of the Electricity Act 2003 as defined under Section 2(38) of the same Act while the Society had licence under Section 3 of the repealed I E Act 1910.
- (ii) Section 94 of the Electricity Act 2003 and Section 10 of Madhya Pradesh Vidyut Sudhar Adhiniyam 2001 have delegated powers to the Commission to take Suo-Motu action.

16. In view of all above-mentioned facts, the Commission has concluded following points while reconsidering the matter related to the status of Gramin vidyut sahakari samiti, Manasa:

- (i) The Society has not paid Rs 8.0 crores to MPSEB till date and hence made contempt of Hon^{ble} High Court's order dated 17.08.2005. Hon^{ble} High Court had ordered that this amount (Rs. 8.0 crores) should be paid by the Society to MPSEB within two months from the date of receipt of order.
- (ii) The Board has paid an amount of **Rs. 30.76 Crores** towards the subsidy claims by the Society in respect of tariff and free electricity supply through adjustment in outstanding amount of electricity bills and thereafter an amount of **Rs. 47.37 Crores** is still outstanding as on 31st March, 2006 payable by the Society to MPSEB.
- (iii) The licence granted to the Society under Section 3 of the repealed Indian Electricity Act 1910 has lost its validity and the Society has failed to get recommendation of the State Government to function as exemptee under the provision of Section 13 of the Electricity Act 2003 hence, the society is operating without valid licence.
- (iv) The society is functioning with huge financial liabilities and poor operational efficiency and the Society has not been responded to the question that how it shall be able to manage its affairs and pay to MPSEB for purchase of Power with such inefficient performance and arrears due on the society, if the society intends to move the application under section 14 of the Electricity Act 2003.
- (v) The Board of Directors of Manasa Society has been dissolved by Registrar, Cooperative Societies, Distt Neemuch and Assistant Registrar, Cooperative Societies, Distt Neemuch has been appointed as Officer-in charge of the Society till further orders. The Officer in-charge appointed for the Society had not appeared before the Commission even after summoning since last two hearings.
- (vi) Having heard the Petitioner and Respondents, the Commission finds no issue left to be considered under any further proceeding in the matter and therefore the petition stands closed.

Sd/-
(D.Roybardhan)
Member (Engg.)

Sd/-
(P.K.Mehrotra)
Chairman