



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

O. P. No. 11 of 2017

Dated: 19.02.2018

Present

Sri. Ismail Ali Khan, Chairman
Sri. H. Srinivasulu, Member

Between:

M/s. Sugna Metals Limited, 1-8-673, Azambad,
Hyderabad – 500 020.

... Petitioner.

And

1. Divisional Engineer, Operation, Vikarabad,
TSSPDCL, R. R. District.
2. Senior Accounts Officer, Operation, R. R. South,
TSSPDCL, Nanalnagar X Road, Mehdiapatnam,
Hyderabad – 500 028.
3. Superintending Engineer, Operation, R. R. South,
TSSPDCL, Nanalnagar X Road, Mehdiapatnam,
Hyderabad – 500 028.

... Respondents.

This petition came up for hearing on 20.06.2017, 02.11.2017, 27.11.2017 and 19.12.2017. Sri. N. Vinesh Raj, Advocate for the petitioner appeared on all the dates of hearing and Sri. Y. Rama Rao, standing counsel for the respondents along with Sri. B. Vijaya Bhaskar, Advocate appeared on 20.06.2017, Smt. Nanditha along with Miss Pravalika, Advocates representing Sri. Y. Rama Rao, standing counsel for the respondents appeared on 02.11.2017 and Sri. Y. Rama Rao, standing counsel for the respondents along with Ms. Pravalika, Advocate appeared on 27.11.2017 and 19.12.2017. The petition having stood for consideration to this day, the Commission passed the following:

ORDER

M/s. Suguna Metals Limited (petitioner) has filed a petition under sec 142 of the Electricity Act, 2003 (Act, 2003) seeking to punish the licensee's officers for not implementing the order of the Commission in O. P. No. 92 of 2015 dated 20.01.2016 despite dismissal of the review petition.

2. The petitioner stated that it is a company registered under Companies Act under the above name and style situated at 1-8-673, Azamabad, Hyderabad and having a HT consumer bearing No. H. T. No. RRS 1247 with contracted maximum demand (CMD) of 9999 KVA for supply of energy and demand from the respondents.

3. The petitioner stated that the Commission was pleased to pass an order on 20.01.2016 in O. P. No. 92 of 2015 directing the respondents to implement the order of the Vidyut Ombudsman dated 06.07.2015 in Appeal No. 45 and 52 of 2015 within two weeks from date of receipt of order of its order dated 20.01.2016. It was further directed to pay penalty of Rs.10,000/- and Rs.1,000/- for each day in case of continue default after two weeks from the date of receipt of the order.

4. The petitioner stated that it has filed a copy of order passed by the Commission dated 20.01.2016 in O. P. No. 92 of 2015 to the licensee on 29.01.2016. Accordingly, the due date for compliance was 13.02.2016. It is stated that the petitioner vide its letter No. SML / F. RRS 1247 – OP 92 of 2015 / 2016 dated 04.02.2016 along reminded the licensee to implement the said order on or before 12.02.2016 and pay the penalty of Rs.10,000/-.

5. The petitioner stated that the licensee vide letter No. SE / OP / RRC (S) / SAO / HT / D. No. 299 / 2016 dated 17.08.2016 issued the revised bill of August, 2014 billing month duly withdrawing the voltage surcharge rates. It is stated that the licensee has implemented the said order partly on 17.08.2016. There was delay of 207 days that is from 21.01.2016 to 16.08.2016 and Rs.10,000/- towards penalty is not paid as on today. In view of the delay, the petitioner vide its letter No. SML / F. RRS 1247 / 2016 dated 29.08.2016 requested the licensee to pay the penalty of

Rs.10,000 as on 20.01.2016 and Rs.2,07,000/- for delay of 207 days for implementation of the said order.

6. The petitioner has raised the following grounds in the petition.

a) It is stated that the licensee has not implemented the above said order in full shape, it is not having any option except to approach the Commission for seeking relief, implementation of the said order and for imposing penalty / fine for non-implementation of order in full shape.

b) It is stated that the licensee has implemented the order partly on 16.08.2016 instead of 13.02.2016, accordingly, it is liable to pay penalty of Rs.10,000/- as on 20.01.2016 which is not paid and Rs.2,07,000/- for 207 days delay totaling to Rs.2,17,000/-.

c) It is stated that the licensee has not implemented the orders in full shape, they are liable for penalty under sec 142 of Act, 2003 for violation of the orders of the Commission as follows:

Sl. No.	Particulars	Date of order	Due date for implementation	No. of days as on 30.04.2017	Rate Rs.	Amount Rs.
1	Each contravention	20.01.2016	20.01.2016	1	1,00,000	1,00,000
2	Additional penalty for each day delay	20.01.2016	13.02.2016	441	6,000	26,46,000
	TOTAL					27,46,000

In view of the above said facts, the petitioner prays that the Commission may be pleased to pass an order directing the licensee to comply.

7. The petitioner has sought the following prayer in the petition.

a) To pay Rs.10,000/- as per order dated 20.01.2016 to appellant towards penalty already imposed by this Hon'ble Commission;

b) To pay @ Rs.1,000/- per day as per order dated 20.01.2016 Rs.2,07,000/- as on 16.08.2016 to appellant for implementing the partial order with delay of 207 days;

c) To pay penalty @ Rs.6,000/- per day Rs.27,46,000/- for non-implementation of orders dated 20.01.2016 in full as on 30.04.2016;

d) To pay further penalty @ Rs.6,000/- for each day from 01.05.2017 till date of implementation.

8. We have heard the matter on several days as noted above and perused the record. In order to give a conclusion to this case, we record the arguments set out on various dates as below.

20.06.2017

The counsel for the petitioner stated that the Commission passed orders in favour of the petitioner on 20.01.2016 and the orders have to be implemented by 03.02.2016. The licensee implemented the order on 02.08.2016. Under section 142 of the Act, 2003, the licensee is liable for punishment and therefore, petitioner has filed the present petition to punish the officers of the licensee and to recover penal charges from the date of the order to be implemented till it is finally implemented and also penalty for not paying the fine imposed by the Commission upto the filing of the petitioner and further.

The counsel for the respondent stated that there is a delay in complying the order of the Commission but it has been complied with after a period of four months, however, the petitioner cannot seek penalty over fine also that is running into lakhs of rupees. He also stated that the licensee is filing counter-affidavit today.

On the next date of hearing, the submissions of the parties were proceeded with.

02.11.2017

The counsel for the petitioner stated that as per the directions of the Commission, the licensee was required to comply with the order of the CGRF and pay Rs. 10,000/- as penalty. The order is complied with belatedly by duly issuing the revised bill. However, the payment in respect of penalty imposed has not been complied with. Therefore, they are required to take steps to pay the penalty and other charges as required under law. The advocates appearing for the standing counsel stated that they are in the process of preferring appeal / petition, therefore, they need time to comply with the order, based on the orders in the appeal / petition.

Since the counsel for the respondents was to report about the filing of the appeal / petition before the higher forum, the matter was again taken up for hearing.

27.11.2017

The counsel for the petitioner has stated that the petition is filed for violation of the order of the Commission imposing penalty of Rs.10,000/- in the earlier order and that therefore, the petitioner now seeks imposition of fresh penalty

apart from the pending penalty amount due to the petitioner as directed by the Commission. The counsel for the respondents stated that the respondents will implement the orders and pay the penalty of Rs. 10,000/- as directed earlier by the Commission by next date of hearing.

Based on the submissions on the earlier date of hearing, the Commission proceeded to hear the status of the implementation of the order of the Commission.

19.12.2017

The counsel for the respondents has stated that the respondents are inclined to implement the order and in fact suggested to the petitioner that it should pay the bill of November, 2017 in short payment to the extent of amount due to it. The counsel for the petitioner has insisted on physical payment by the respondents as otherwise, they would again bill the petitioner penalty for short payment. The counsel for the respondents, on instructions, stated that the respondents would give credit to the amounts due to the petitioner as per the policy of the DISCOM not to refund the amount physically or pay penalty as ordered by the Commission.

The Commission was not inclined to accept the submission of the counsel for the respondents, therefore, it was directed that the respondents shall make the payment due to the petitioner by appropriate means and obtain acknowledgement from the petitioner and file such proof before the Commission by 22.12.2017. Thereupon only the Commission will close the matter.

9. We noticed that the time stipulation made in the daily order as recorded by us above did not materialize so as to proceed to close the matter immediately. Therefore, the office initiated action in the matter. While doing so, the concerned officer addressed a letter to the Commission informing that the steps have been taken to adjust the amount of Rs.10,000/- in the earlier bill for the November, 2017. This information has not been placed at the time of hearing on 19.12.2017, though the letter was addressed on 11.12.2017. Therefore, we required clear action to be shown to us as directed on the date of hearing by letter dated 08.01.2018.

10. The concerned officer of the DISCOM addressed a letter dated 29.01.2018 stating that the DISCOM has issued a cheque for the amount due to the petitioner

and obtained acknowledgement thereof. On a perusal of the same, we are satisfied that the directions given by us on 19.12.2017 stood complied with.

11. In view of the factual position, the petition stands closed and interlocutory application, if any, also stands closed.

This order is corrected and signed on this the 19th day of February, 2018.

**Sd/-
(H. SRINIVASULU)
MEMBER**

**Sd/-
(ISMAIL ALI KHAN)
CHAIRMAN**

//CERTIFIED COPY//