

Jharkhand State Electricity Regulatory Commission, Ranchi
Form of Proceedings
Case No. 25 of 2014.

M/s Usha Martin Limited Petitioner

Versus

M/s Jharkhand Urja Vikash Nigam Ltd. (JUVNL) and others ... Respondents

Sl.No	Date of Proceeding	Proceeding of the Commission with signature	Office action taken with date
1	2	3	4
20.	08.02.2016.	<p>For the Petitioner : M/s. M.S. Mittal, Senior Advocate, Anoop Kumar Mehta and Ms. Shilpi John, Advocate.</p> <p>For the Respondents: None.</p> <p style="text-align: center;">---</p> <p>Heard Mr. M.S. Mittal, learned senior counsel appearing on behalf of the petitioner.</p> <p>Mr. Mittal submitted that the petitioner has filed this case against the respondents for adjudication of certain issues arising between the parties.</p> <p>The respondents had raised preliminary objection regarding the maintainability of the petition.</p> <p>The main objection of the respondents was that the case is regarding the dispute of energy bill between a</p>	

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consumer and the licensee and the same does not fall within the ambit of Section 86(1) (f) of the Indian Electricity Act, 2003 (hereinafter referred to as “the Act”) and the petition is not maintainable before the Commission. He further submitted that the hearing on this preliminary point continued for several dates and the case was finally fixed “For Orders” on the preliminary issue. Subsequently the petitioner discovered some additional points/documents and prayed for and was allowed to bring the same on record.

Learned counsel submitted that in view of the decisions of the Hon’ble APTEL brought on record, the preliminary issue is no longer ‘res integra’. The petitioner is not only a general consumer but also having a captive power plant and the Hon’ble APTEL, in his various decisions, has held that captive power plant is also a Generating Company within the meaning of Section 2(28) of the Indian Electricity Act and the dispute between the Captive Generating Plant and the Licensee falls within the ambit of Section 86 (1) (f) of the Act and the State Electricity Regulatory Commission has got jurisdiction to entertain and adjudicate upon disputes arising between the Captive Power Plant and the distribution licensee.

Learned counsel has referred to and relied on the following decisions of the Hon’ble APTEL:

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(i) APTEL Case No. 116 of 2009 (IA No. 218 & 219 of 2009) (Chattisgarh State Power Distribution Company Ltd., Daganiya, Raipur vs. Hira Ferrow Alloys Ltd., and others); (ii) APTEL Appeal No. 120 of 2009 (Chattisgarh State Power Distribution Company Ltd. vs. Godawari Power & Ispat Limited); (iii) APTEL Case No. 270 of 2009 (Chattisgarh State Power Distribution Company Ltd. vs. Shri J.P. Saboo, Urla Industries Association Limited and others Power & Ispat Limited) and (iv) APTEL Appeal No. 25 of 2010 (Chattisgarh State Power Distribution Company Ltd., Daganiya, Raipur vs. Arshmeta Captive Power Company Limited and others).

Though opportunity was given to the respondents to meet the said contention and submissions of the petitioner based on the aforesaid decisions of the Hon'ble APTEL, no material has been brought on record to controvert the same.

Since the decision of the Hon'ble APTEL is binding on the Commission, there is no option than to hold that the petition is maintainable.

In view of the above, the preliminary issue is accordingly, decided in favour of the petitioner.

Since the respondents were contesting the case on preliminary issue and have not filed their counter affidavit

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on merit, two weeks time is allowed for filing counter affidavit.

Fix this case for hearing on merit on 3rd March, 2016.

Till then the interim order dated 08.01.2015 shall continue.

Sd/-

Member (F)

Sd/-

Chairperson