

Jharkhand State Electricity Regulatory Commission, Ranchi

Form of Proceedings

Case No. 25 of 2014

M/s Usha Martin Limited Petitioner
 Versus
 Jharkhand Urja Vikash Nigam Limited (JUVNL) & Ors Respondents

For the petitioner : Mr. M.S. Mittal, Sr. Advocate
 Ms Shilpi John, Advocate
 For the Respondents : Mr. Amit Sinha and Mr. Rahul Kumar, Advocates

Sl.No	Date of Proceeding	Proceeding of the Commission with signature	Office action taken with date
1	2	3	4
24	14.06.2016	<p>The respondents have filed an application recalling/reviewing the order dated 8.2.2016 passed in this case whereby a preliminary issue of maintainability has been decided against the respondents.</p> <p>It has been stated that at the time of hearing of the said issue learned counsel could not appear due to some personal difficulty. It has further been stated that the main ground on which the order dated 8.2.2016 sought to be recalled is that the case is not maintainable at the instance of the petitioner, in view of the decision of the Hon'ble Supreme Court in Maharashtra State Electricity Regulatory Commission Vrs. Reliance Energy Limited reported in (2000) 7 SCC 381 and as such there is an error on the face of the order.</p> <p>The petitioner has contested the application stating inter-alia, that the order has been passed after several hearing of both the parties and there is absolutely no error in the order. In as much as, the decision of</p>	

Maharashtra Electricity Regulatory Commission supra is not applicable to the facts of the instant case.

We have heard the learned counsels for both the parties and perused the record.

The main contention of learned counsel appearing on behalf of the respondent is that the dispute, in question, is a billing dispute between the licensee and the consumer and as such it is a dispute falling within the jurisdiction of the Consumer Grievance Redressal Forum. The same does not come within the ambit of Section 86(1)(f) of the Electricity Act by which the jurisdiction of this Commission has been given to decide the dispute between the licensee and the generating company. Learned counsel referred to and relied on the decision of the **Maharashtra Electricity Regulatory Commission** of the Appex Court supra.

In reply, learned counsel for the petitioner submitted that the dispute dealt with in the decision of the **Maharashtra Electricity Regulatory Commission** supra is between the licensee and the general consumer whereas in the instant case the petitioner is a generating company and not a general consumer. The Hon'ble Appellate Tribunal for Electricity in several decisions has held that the captive generating plant is a generating company within the meaning of Section 2(28) of the Electricity Act 2003 and is under regulatory control of the Regulatory Commission. In case of **Chhatisgarh State**

Power Distribution Co. Ltd. Vrs Godavari Power and Ispat Limited (Appeal No. 120 of 2009) the Hon'ble

Appellate Tribunal for Electricity has held that the captive power plant being a generator, State Commission has got jurisdiction to entertain and adjudicate upon the dispute under Section 86(1)(f) of the Electricity Act 2003.

Having heard the learned counsels, we find much substance in the contentions of the petitioner which is also supported by the decision of the Hon'ble Appellate Tribunal for Electricity. At the time of passing the order on the preliminary issue of maintainability the decisions of the Hon'ble Appellate Tribunal for Electricity were considered and relied upon. There is no denial on behalf of the respondents that the petitioner has made his claim on the basis of being a captive generating plant which according to the decision of the Hon'ble Appellate Tribunal for Electricity is not a general consumer rather is a generating plant and a dispute at their instance falls within the adjudicatory jurisdiction of the State Commission.

In view of the above, the order is well reasoned and based on the binding decision of the Hon'ble Appellate Tribunal for Electricity. There is, thus, no error in the order warranting recall/review of the same.

The application is, accordingly, rejected.

Sd/-

Member (E)

Sd/-

Chairperson

	<p>Later (14.06.2016)</p>	<p>Learned counsel for the respondents prays for four weeks time to file Counter Affidavit on merit.</p> <p>Prayer is allowed.</p> <p>Put up on 29.07.2016 at 2.30 PM</p> <p>Till then the interim order dated 8.1.2015 shall continue.</p> <p>Sd/- Member (E)</p> <p>Sd/- Chairperson</p>	
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