

Jharkhand State Electricity Regulatory Commission
Ranchi
(Case No. 20 of 2012)

Dated: 13th October, 2014

Quorum: Hon'ble Mr. T. Munikrishnaiah, Member (Engineering)
Hon'ble Mr. Sunil Verma, Member (Finance)

IN THE MATTER OF:

M/s. Khalari Cement Limited	Petitioner
	Vrs.		
Damodar Valley Corporation (DVC)	Respondent

Present for the petitioner(s) : Mr. Nitin Pasari, Advocate
Mr. Sudhir Singh, Advocate

Present for the respondent(s) : Mr. Prashant Kumar Singh, Advocate
Mr. Sylvanious Beck, Sr. Manager, DVC

ORDER

Advocates from both sides were heard at length.

From the record, document and letters provided by both the petitioner and the respondent, the following facts emerge. The then Lemos Cements applied to DVC for a high-tension electricity connection through an application dated 28th November 2006. After completion of the requisite survey, DVC, through a letter dated 5th September 2007, asked the firm to deposit the requisite service charges prevailing at that point in time. Lemos Cements, whose name changed to Khalari Cements at some point of time during this period, responded substantively to DVC only in December 2009, i.e., more than two years later and submitted the requisite documents in support of proof of name change and an application in a revised format as, in the meantime, the DVC had

revised its application format. The DVC also, in response to a request from Khalari Cements, agreed to two changes in the terms and conditions that it had stipulated in its letter of 5th September 2007. Its agreement to these changes was communicated through its letter dated 5th March, 2010.

This enabled Khalari Cements to convey its unconditional acceptance to the revised terms and conditions for grant of this electricity connection through its letter dated 17th March, 2010. Khalari Cements also made payment of the amount required to be paid in DVC's letter dated 5th September 2007, nearly three years later.

Thereafter, DVC, through a letter dated 1st June, 2010, informed Khalari Cement that, in view of problems relating to generation of electricity, DVC would be able to supply the quantum of electricity required by Khalari Cements only some time during 2012-13. Khalari Cements, after first objecting to this delay, accepted it through its letter dated 27th November, 2010.

DVC, through its letter dated 10th August, 2011, conveyed its clearance for construction of the high-tension line up to the premises of Khalari Cements.

In response, Khalari Cements, through its letter dated 16th November 2011, indicated its inability to take this electricity connection in view of its not being in a position to obtain the requisite "No Objection Certificate" from the then JSEB due to an on going dispute relating to electricity bills.

From the above narration of the facts of this case, it is clear that both DVC and Khalari Cements were interested in the proposed electricity connection, It is also clear that the DVC carried out all the actions that could have been expected of it towards this end including raising the requisite demand for service charges in about ten months time from the date of application. Khalari Cements, thereafter, took more than two years to consider the DVC offer.

It is also clear from the above facts of the case that the DVC accepted the changes in terms and conditions sought by Khalari Cements. Thus the allegation of undue pressure by DVC towards unconditional acceptance of its terms and conditions is not established at all.

It is also clear that Khalari Cements was unable to take an electricity connection from DVC that it had been pursuing for five years not because of any difficulty created by DVC but because of its own problems vis-à-vis its existing power supplier, i.e., the erstwhile JSEB.

As regards the admissibility of a refund of the service charges, these charges related to a job to be performed by DVC, viz., supervision of construction of the line from the DVC's supply point to the firm's premises. Since DVC has not performed this job, there is a case for refund of this amount after deduction of the survey charges that relate to work that the DVC actually did do. The DVC's repeated stipulations that this amount would stand forfeited in case the applicant withdrew its application is unreasonable.

It is accordingly ordered that the DVC should calculate the man-hours expended by it in carrying out the work related to estimation of the cost of the works to be constructed and its approval thereof and, after deduction of such reasonable costs, should refund the balance amount.

Sd/-
Member (Finance)

Sd/-
Member (Engineering)