

**IN THE JHARKHAND STATE ELECTRICITY  
REGULATORY COMMISSION AT RANCHI**

**Case No. 09 of 2014**

M/s Jharkhand Bijli Vitran Nigam Limited (JBVNL) ..... Petitioner

Versus

M/s Tata Yodogawa Limited & another ..... Respondents

**CORAM: HON'BLE MR. JUSTICE N.N. TIWARI, CHAIRPERSON  
HON'BLE MR. SUNIL VERMA, MEMBER (FINANCE)**

For the Petitioner : Shri Ajit Kumar, Shri Saket Upadhyay and  
Shri Navin Kumar, Advocates

For the Respondent : Shri M.S. Mittal, Sr. Advocate and  
No.1 (Tata Yodogawa Ltd) Ms Shilpi John, Advocate

For the Respondent: Ms Sheela Prasad, Advocate  
No. 2 (JUSCO)

**ORDER**

**Date -12<sup>th</sup> February 2015**

1. The petitioner has filed this case praying for -
  - i) disconnecting the electrical connection given to Tata Yodogawa Limited (Respondent No.1); and
  - ii) imposing penalty on JUSCO (Respondent No.2) for providing services to the Respondent No.1 without submission of 'No Objection Certificate' from the petitioner.

2. The fact of the case, in brief, is that the petitioner (JBVNL) is a distribution licensee in the State of Jharkhand having distribution network in the respondent's area as well. The first respondent M/s Tata Yodogawa Limited has a manufacturing unit of Steel Rolls at Ghamaria in the district of Saraikela Kharsawan. The first respondent had entered into an agreement for electrical connection with the then Bihar State Electricity Board for a contracted demand of 12500 KVA in the year 1968. The said respondent had subsequently got the contracted demand reduced from 12500 KVA to 10500 KVA. A fresh agreement was entered into on 1.4.1979. The said respondent has been paying the electrical bills from time to time raised on the basis of 1993 Tariff issued by the then Bihar State Electricity Board. In the year 1999 a new Tariff schedule was issued for the HT consumers having Induction Furnace - on the basis of the consensus arrived at between the Bihar State Electricity Board and Bihar Steel Manufacturer Association. Based on that, a new Tariff schedule was prepared for 'High Tension Specified Services' (HTSS). The said Tariff schedule was applied to all the consumers who had contracted demand of 300 KVA or more for Induction Furnace. The supply of Induction Furnace was to be made available only after ensuring that the load sanctioned is corresponding to the load requirement of tonnage of furnace. The minimum load of one tonne furnace was 600 KVA and the furnace load was to be determined on that basis. The Board's team visited the premises of the first respondent on 6.12.1999 and 13.12.1999 and determined the capacity of the two furnaces as 25.03 MTs and 13.352 MTs respectively. The equivalent electricity demand was arrived at 23.029 MVA. The energy demand of other equipment other than those two furnaces was assessed as 6.102 MVA. The total demand of the unit was considered as 29.131 MVA. The petitioner, thereafter, raised a supplementary bill of Rs.32,13,848/-. The first respondent did not pay the said amount and chose to challenge the bill by filing a writ petition

being CWJC No. 852 of 2000 (R) before the Hon'ble High Court. The said respondent then applied for permanent disconnection of the electricity on 28.1.2013. The provisional bill of Rs.6,13,21,028.76 was, thereafter, served to the respondent by letter dated 25.2.2013 asking them to pay within 15 days for determination of the agreement within 30 days. The first respondent filed an application for amending the provisional bill by keeping the fuel surcharge amount of Rs.3,71,58,366.78 in abeyance. The petitioner, then, served a fresh provisional bill of Rs. 5,90,60,672.76 by letter dated 7.3.2013. The first respondent filed a representation before the Chairman, Jharkhand State Electricity Board dated 13.3.2013 requesting them to allow Bank Guarantee for fuel surcharge amounting to Rs.3,71,58,366.76. The first respondent, as allowed, submitted Bank Guarantee for Rs.3,71,58,366.76 and paid the balance amount. On receipt of the said payment, service line of the first respondent was disconnected by the petitioner on 30.3.2013. The writ petition filed by the first respondent being No. CWJC No. 852 of 2000 (R) was disposed of by order dated 2.5.2013 with a direction to the petitioner to rectify the impugned bills after carrying out necessary corrections in the computation of the capacity of Induction Furnaces. The petitioner, thereafter, rectified the bill on the basis of the capacity of the Induction Furnaces and served a fresh bill of Rs.2,72,03,25,445.72. That bill included the amount of fuel surcharge which was kept in abeyance. The first respondent was asked to pay the amount on or before 25.6.2013. They did not pay the said amount. The petitioner, thereafter, served a letter to the first respondent for invocation of Bank Guarantee but that was not heeded upon. In the meantime the first respondent approached the other licensee-JUSCO (2<sup>nd</sup> respondent) and took power connection from JUSCO without submitting any 'No Objection Certificate' of the Jharkhand State Electricity Board and without paying the amount of bill 2,72,03,25,445.72.

The petitioner on that basis has claimed that even minus the amount of fuel surcharge, the net bill comes to Rs.2,66,10,41,359/- against the energy and demand charge and since the said amount has not been paid, the 2<sup>nd</sup> respondent-JUSCO be directed to disconnect the electrical connection of the first respondent.

3. The Respondent No.1 and Respondent No.2 appeared and contested the petition.

4. Both the respondents have filed counter affidavits denying the petitioner's claim almost on similar grounds.

5. It has been contended that the relief prayed by the petitioner is without any factual or legal basis and the petition is not maintainable.

6. The respondents, inter-alia, stated that the petitioner has admitted in the petition that the electricity line of the first respondent was disconnected on 30.3.2013 on furnishing Bank Guarantee in respect of the amount of fuel surcharge and on payment of the balance amount. There was no dues on 30.3.2013. The first respondent was a consumer of the 2<sup>nd</sup> respondent-JUSCO since 29<sup>th</sup> December 2008. On 31.3.2013 they had taken additional load from JUSCO. For taking additional load from JUSCO, 'No Objection Certificate' from the petitioner was not required. It was also not incumbent upon the JUSCO to ask for any 'No Objection Certificate' from the first respondent for giving additional load. The bill of Rs.272 crores and odd was raised by the petitioner much after the JUSCO had given the said additional load. There was no case of taking fresh connection.

7. It has been further stated that the first respondent was compelled to get the electrical supply of the petitioner disconnected as there was poor and erratic power supply by them which was causing damages to the machines of the factory. To continue the electrical connection of the petitioner was commercially not possible and viable.

The respondents on those grounds prayed for dismissing the petition with compensatory costs.

8. On the basis of the said claim and counter submissions, the case was heard on several dates.

9. Learned counsel appearing on behalf of the parties made elaborate submissions and tried to fortify the contentions by referring the annexures and other materials.

10. At the culmination of hearing, learned counsel for the petitioner adopted a course of least resistance and submitted that regarding the main dispute of the arrears of several crores, the legal proceedings between the parties are pending in the Hon'ble High Court and as such they do not press the points related to the claim for the dues.

11. Learned counsel, however, persuaded us for imposing heavy penalty on the 2<sup>nd</sup> respondent-JUSCO for providing electrical connection to the first respondent without submission of 'No Objection Certificate' of the petitioner.

12. Learned counsel submitted that without making payment of the arrears of more than Rs.272 crores to the petitioner, the first respondent got fresh electrical connection from JUSCO. The 2<sup>nd</sup> respondent, did not even ask for a 'No Objection Certificate' of the petitioner and provided connection to the first respondent causing heavy loss to the petitioner. The respondent No.2 is liable to indemnify the petitioner.

13. Mr. M.S. Mittal, learned counsel assisted by other counsels appearing for the first respondent and Ms Sheela Prasad, appearing for the second respondent vigorously refuted the petitioner's claim and submitted that the respondents have been unnecessarily dragged in this case and put to loss and harassment. The claim made by the petitioner is wholly without any basis. The petitioner has not been able to establish their claim either on facts or in law. As a

matter of fact, from their own statement, it is evident that there was no dues on the date when the 2<sup>nd</sup> respondent-JUSCO had permitted additional load to the first respondent. There is absolutely no material on record for faulting the 2<sup>nd</sup> respondent-JUSCO and claiming any penalty. The respondents, on the other hand, are entitled to be indemnified for the loss and harassment caused to them in defending a false and frivolous case lodged by the petitioner.

### **ISSUE:**

In view of the above, the following issue arises for consideration:

Whether the petitioner is entitled to the reliefs prayed for in the petition?

### **FINDING**

14. Having heard both the parties at length and considered the facts and material placed on record, we find that the petitioner has not been able to support the claim made in the petition. The petitioner has claimed the damages and penalty on the basis of the non-payment of the alleged dues and for non-production of 'No Objection Certificate' before giving fresh connection to the first respondent by the 2<sup>nd</sup> respondent-JUSCO.

15. So far as the claim of dues is concerned, learned counsel for the petitioner has not pressed the said claim on the ground of the pendency of legal proceedings between the parties to that regard in the Hon'ble High Court.

16. The claim of penalty for providing electrical connection to the first respondent without taking any 'No Objection Certificate' by the 2<sup>nd</sup> respondent-JUSCO could not be also supported by the petitioner by any cogent material.

17. The petitioner could not establish the claim by showing violation of any provision of law, rule(s) or regulation(s) in granting additional load to the first respondent by the 2<sup>nd</sup> respondent.

18. It is an admitted position that on 31.3.2013 the first respondent had taken additional load of 6000 KVA from the 2<sup>nd</sup> respondent and not a fresh connection. As a matter of fact, the first respondent had taken electrical connection from the 2<sup>nd</sup> respondent-JUSCO as far back as on 29.12.2008 for a contracted demand of 15,260 KVA which was subsequently reduced to 11,000 KVA. On 31.3.2013 the first respondent had taken an additional load of 6000 KVA.

19. The petitioner's claim is, thus, wholly without any merit.

20. The petition is, accordingly, dismissed.

Sd/-  
(Sunil Verma)  
Member (Fin)

Sd/-  
(N.N. Tiwari, J)  
Chairperson