

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

Case No. 17 of 2019

M/s Tatanagar Basukinath Mandali Dharamshala, BasukinathPetitioner
Versus
Jharkhand Urja Vikas Nigam Limited & Ors. Respondents

**CORAM: HON'BLE MR. R.N. SINGH, MEMBER (ENGINEERING)
HON'BLE MR. P.K. SINGH, MEMBER (LEGAL)**

For the Petitioner : Mr. M.S.Mittal Sr. Advocate, Mr. Saket Updhayay, Advocate
For the Respondent : Mr. Sachin Kumar, Advocate

ORDER

Date -16th December, 2020

1. The Petitioner- M/s Tatanagar Basukinath Mandali Dharamshala, Basukinath said to be a society registered under Section 12AA of the Income Tax Act, 1961 inaugurated on 21.07.2015 with an objective to provide suitable amenities and facilities to pilgrims, visitors and tourists visiting Basukinath submitted an application purported to be filed under section 86 (1)(i) of the Electricity Act, 2003 inter alia for enforcement and implementation of Tariff order effective from 01.04.2019 and the (Distribution Licensee's Standards of Performance) Regulations, 2015 upon the Respondent-JBVNL.
2. The petitioner in its petition has prayed for the following reliefs:-
 - (i) An application for issuance of direction upon the Respondent licensee either to continue the petitioner's electrical connection in commercial services category for urban area or in the alternate to issue necessary direction to Respondent License to convert the petitioner's connection into HT Category (Domestic Service)
 - (ii) An application under Section 86(1)(i) of the Electricity Act, 2003 for enforcement and implementation of Tariff order which is effective from 01.04.2019 and the (Distribution Licensee's Standard of Performance) Regulations, 2015 upon the JBVNL.

- (iii) For issuance of appropriate direction upon the Distribution Licensee for appropriate sanction of load under the Domestic Services-HT Category.
- (iv) An application under Section 129 of the Electricity Act 2003 wherein after subjective satisfaction upon the material brought on record the Hon'ble Commission may direct JBVNL to secure compliance of the conditions and provisions for the Tariff applicable.
- (v) To pass appropriate orders to hold that the letters dated 25.09.2019 written by the respondents asking the petitioner to take HT connection is bad in law and contrary to the prevailing tariff, the Electricity Act, and the Rues as well as the provisions of the Supply Code.
- (vi) For grant of any other appropriate relief or reliefs deem fit in the facts and circumstances of the instant case.

3. Learned Counsel for the petitioner submitted that the petitioner is basically a "Dharamshala" which may come under a category of commercial service users. Its premises were inaugurated in July 2015 and were granted commercial connection having a load of 50K.

4. Further case being that in year 2019 when the petitioner installed certain air conditioners in the premises, the officers of the Respondent company asked the petitioner to convert its connection into a High Tension connection and unilaterally Suo-Moto sanctioned the load of 131KVA on 11 KV system under HTs category and directed to deposit security money of Rs. 07,24,430/-(seven lakhs twenty four thousand four hundred and thirty) only.

5. Learned Counsel pointed out that the as per the Tariff applicable from 01.04.2019, it would be evident that there was no outer limit for a commercial services consumer. However, the Respondents wrote vide letter dated 25.09.2019 mentioning ceiling of 85 KW/100 KVA for CS Category whereas there is no such ceiling limit prescribed either in the present tariff or the Code.

6. Learned Counsel further pointed out that the petitioner's usage was well within 85 KW (equivalent to 100KVA) and KVA never exceeded 70-80 KVA when air conditioners were functioning, otherwise the average load of the petitioner used to be around 40 KVA.

7. Learned Counsel reads out tariff Order as effective from 01.10.2020 with regard to the new commercial services category, Within which the petitioner falls,:-

*"Billing **Demand**:- The billing demand shall be the maximum demand recorded during the month or 50% of the contract demand which is higher. The penalty on exceeding contract demand will be applicable in accordance with Clause I : Penalty for exceeding Billing / Contract Demand of Terms and Conditions of Supply as provided in section A14*

of this Tariff order. In case Recorded demand is more than 100 KVA/85KW for any month for more than three instances within a financial year, the average of the maximum demand recorded during such instances shall be treated as the new contract demand for the purpose of billing of future months and the consumer will have to enter into a new agreement under the HTs category”.

8. Learned Counsel submits that the consumers under the commercial services Tariff category can also be billed on the basis of maximum demand.

9. Learned Counsel further submitted in its written submission that after conclusion of the hearing, the officers of the Respondent Company asked the petitioner to submit a letter that they want to continue under the commercial Tariff category.

10. Learned Counsel in its conclusion prayed for passing appropriate order allowing the petitioner to continue under the commercial service tariff only.

Submission of the Respondent

11. Learned Counsel for the Respondent raised preliminary objection with regard to maintainability of the petition of the Petitioner filed U/s 86(1)(i) of the Electricity Act, 2003 with a view that the petitioner may approach the concerned Vidyut Upbhokta Shikayat Nivaran Forum for redressal of its grievances.

12. Learned Counsel for the Respondent submitted that the petitioner has prayed for a direction to JBVNL to convert and re-categorize the existing connection of the petitioner as Domestic-HT connections which may be given only to domestic connection in Housing Colonies/having complex/houses of multi storied building purely for residential use for single point metered supply with power supply at 33KV or 11KV voltage level and in the instant case, the premise where the electricity connection has been taken is Dharamshala which is not covered under the DS-HT Category . As such, upon increase in load from the threshold value, the consumer has been re-categorized under HTS category.

13. Learned Counsel for the Respondent after issuing Tariff order dated 01.10.2020 by this Commission regarding True Up for FY 2018-19, APR for FY 2019-20 and ARR & Tariff for FY 2020-21, submitted in its written notes of arguments that the issue was discussed by the petitioner with the officers of the Distribution license and the petitioner had agreed to increase their load in the existing commercial connection to 85KW, which was as per prevailing tariff order.

Commission's observation and findings

14. The Commission considered the submission made by the parties and peruse the materials available on records.

15. The Commission by order dated 08.07.2020 has given opportunity to the parties to sit together and resolve the issue of the case amicably.

16. The Commission vide Tariff order dated 01.10.2020 of the respondent-JBVNL regarding True -up for FY 2018-19, APR for FY 2019-20 and ARR & Tariff for FY 2020-21 has observed as follows:-

“Commercial Services

Applicability:

This schedule shall apply to all consumers, using electrical energy for light, fan and power loads for non-domestic purposes like shops, hospitals (govt. or private), nursing homes, clinics, dispensaries, restaurants, hotels, clubs, guest houses, marriage house, public halls, show rooms, workshops, central air-conditioning units, offices (govt. or private), commercial establishments, cinemas, X-ray plants, schools and colleges (govt. or private), boarding/loading houses, libraries (govt. or private), research institutes (govt. or private), railway stations, fuel -oil stations, service stations (including vehicle service stations), All India Radia / T.V. installations, printing presses, commercial trusts / societies, Museums, poultry farms, banks theatres, common facilities in multi-storied commercial office/buildings, Dharmshala, public Electric Vehicles Charging stations and such installations not covered under any other tariff schedule whole Contracted Demand is greater than 5KW and less than or equal to 100 kVA (or equivalent in terms of HP or kW). The equivalent HP or 100 kVA shall be 114 HP and the equivalent kW for 100kVA shall be 85kW”.

17. It was submitted by the Learned Counsel for the petitioner that the petitioner’s usage was well within 85KW (equivalent to 100 KVA) and KVA never exceeded 70-80KVA when Air conditioners were on, otherwise the average load of the petitioner used to be around 40KVA.

18. It is also observed that after issuance of the Tariff order dated 01.10.2020, the parties have now agreed to continue with the connection under the commercial services tariff and the petitioner agreed to increase their load in the existing commercial connection to 85 KW as per the prevailing tariff.

In the result it is ordered as;

ORDER

19. In view of amicable settlement between the parties and a speaking tariff order, no fresh order is required to be passed, the petition is disposed accordingly

Sd/-
(P.K.Singh)
Member (Legal)

Sd/-
(R.N. Singh)
Member (Engg)