

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

**Case No. 29 of 2020**

SAIL-Bokaro Steel Plant ..... Petitioner

Versus

Damodar Valley Corporation (DVC) ..... Respondent

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON  
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)  
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner :Mr. Saket Upadhaya, Advocate

For the Respondent :Ms. Anushree Bardhan & Mr. A.K. Mehta, Advocate

**Date – 12<sup>th</sup> June, 2023**

1. The petitioner-SAIL-Bokaro Steel Plant has filed the instant petition under sections 62(5), 62(6) and 129 read with section 86 (1) (f) of the Electricity Act, 2003 inter alia for issuance of direction upon the respondent-DVC for allowing appropriate voltage rebate to the petitioner w.e.f. 01.10.2020 as well as for adjusting/refunding the voltage rebate for the month of October, 2020 onwards in the subsequent month's bill along with interest equivalent to the bank rate etc.
2. The prayers of the petitioner-SAIL-Bokaro Steel Plant are as under: -
  - (a) To issue appropriate direction to DVC to grant appropriate voltage rebate to the Petitioner w.e.f. 01.10.2020.
  - (b) To issue appropriate direction to DVC to adjust/refund the voltage rebate from October, 2020 onwards in the subsequent months bill along with interest equivalent to the bank rate.
  - (c) To ensure compliance of the tariff order and pass on appropriate voltage rebates to the consumers including the petitioner and issue appropriate directions to DVC to segregate the cost of supply at all voltage levels and file the next tariff order proposing different tariffs for different voltage levels.
  - (d) For passing any other appropriate order which the Commission seems fit and proper for implementation of the order or any other order in the interest of justice.
  - (e) For issuance of appropriate direction upon the respondent to grant the benefit of voltage rebate as an interim relief during the pendency of this case.
  - (f) For grant of any other appropriate relief or reliefs in the facts and circumstance of the instant case.

## **Submissions of the Petitioner**

3. Learned Counsel for the petitioner submitted that Steel Authority of India Limited (SAIL) Bokaro Steel Plant is a consumer of Damodar Valley Corporation (DVC) since its inception in the 1970s and had executed a Power Purchase Agreement (PPA) with DVC for the purchase of electricity for industrial use (usage for Steel Plant) on March 31, 1989 and this PPA was renewed on July 29, 2016. As per the said PPA, the petitioner can draw electricity to the quantum of 220 MVA from DVC at the connected voltage level of 220 kV.
4. It is submitted that the petitioner received a monthly power bill from DVC for the month of October 2020 as per the new JSERC tariff dated 30.09.2020 effective from 01.10.2020 and in the said power bill, the applicable voltage rebate for 220kV consumers has not been given to BSL which is 5.5% of the Energy charge and Demand Charge.
5. It was submitted that the petitioner is a major consumer of DVC and draws bulk of the power from DVC Grid and total Energy charge & Demand charge for the month of October 2020 is more than Rs 55 Cr. and accordingly applicable voltage rebate for 220kV consumer is more than Rs 3 Cr. It was contended that if such voltage rebate is not passed on to the petitioner then it will have a huge impact on the cost of production of steel by Bokaro Steel Plant resulting in an additional burden on BSL during the period of COVID-19 pandemic as BSL was getting Voltage rebate of 220kV consumer till September-2020 as per previous JSERC tariff order issued in May, 2019.
6. It was further submitted that the SAIL was earlier connected with DVC at 132 KV level and invested about Rs 130 Cr during the period 2014-2016 to upgrade the connectivity to the level of 220 KV and the techno-economics of such investment was based on the following factors: -
  - a) Improvement in the reliability of the power supply as power disturbances were lower.
  - b) Better voltage regulations and lower losses will help in improving the quality of power.
  - c) Higher voltage level would help in withdrawal of higher quantum of power.
  - d) Availability of voltage rebates will help in reducing per unit cost of power and facilitate in recovering the investment.
7. Learned Counsel submitted that section 62 of the Electricity Act, 2003, it provides for different tariff at different voltage levels and tariff is generally low at higher voltage levels because of lower T&D and ATC losses, lower R&M cost, etc. In support the provisions of Section 62 (3) of the Electricity Act 2003 was quoted, as under;

***“Section 62. (Determination of tariff):***

*3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is*

*required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”*

8. While relying on section 62(3) it was contended that section 62, provides for fixation of tariff at different rates for different voltage levels as the cost of procurement of power is different for different voltage levels and the cost overheads for supply of power to consumers at the higher voltage levels is lower in comparison to the consumers connected at the lower voltage level primarily because of the lower AT&C and T&D losses at higher voltages.
9. It was also pointed out that this Commission had kept the provisions of voltage rebate for the consumers connected at the higher voltage levels in the DVC's Tariff order for FY 2019-20.

In Paragraph, A13 of the said order, following voltage rebate was allowed to the consumers: -

**“A 13: TERMS AND CONDITIONS OF SUPPLY**

**Clause III: Voltage Rebate** *Voltage rebate will be applicable on energy charges as given below:*

<b>Consumer Category</b>	<b>Voltage Rebate</b>
<i>HT 33 kV</i>	<i>2.00%</i>
<i>HT 132 kV</i>	<i>3.00%</i>
<i>HT 220 kV and above</i>	<i>4.00%</i>

*Note: The above rebate will be available only on monthly basis and consumer with arrears shall not be eligible for the above rebate. However, the applicable rebate shall be allowed to consumers with outstanding dues, wherein such dues have been stayed by the appropriate authority/Courts.”*

10. It was submitted that the in the ARR and Tariff petition for 2020-21, DVC had proposed the voltage rebates at the same level as allowed by JSERC in the tariff order of the previous year i.e. for 2019-20 and in the process of public hearing, DVC had also requested the Commission to maintain the same Terms & Conditions for rebate as was allowed in the previous order dated May 28, 2019. It can also be reaffirmed in terms of clause 4.82 of the tariff order dated September 30, 2020. It is requested that SAIL and other Consumers had agreed to the proposal of DVC in the public hearing.
11. It was further submitted that this Commission has allowed the voltage rebate in the tariff order dated 30.09.2020 for the year 2020-21. The relevant clause of the tariff order dated 30.09.2020 related to passing on of voltage rebates to consumers reads as under;

**“Section-A13**

**Clause IV: Voltage Rebate**

*Voltage rebate will be applicable on Demand and Energy Charges as per the JSERC (Electricity Supply Code) Regulations, 2015 as amended from time to time at the rate given below:*

<b>Consumer Category</b>	<b>Voltage Rebate</b>
<i>HTS/HT Institutional – 33 kV</i>	<i>3.00%</i>
<i>HTS/HT Institutional – 132 kV</i>	<i>5.00%</i>
<i>HTS/HT Institutional – 220 kV</i>	<i>5.50%</i>
<i>HTS/HT Institutional – 400 kV</i>	<i>6.00%</i>

*\*Note: The above rebate will be available only on monthly basis and consumer with arrears shall not be eligible for the above rebate. However, the applicable rebate shall be allowed to consumers with outstanding dues, wherein such dues have been stayed by the appropriate Courts.*

*It is further clarified that the voltage rebate will not be applicable to all consumers who are connected to the voltages specified above. The Commission in order to have uniform approach across all distribution utilities has now linked voltage rebate to be allowable only to those consumers who opt for higher voltages and meet the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.”*

12. Learned Counsel pointed out that clause 4.3 and 4.5 of the JSERC (Electricity Supply Code) Regulations, 2015 specifies the conditions for voltage rebate which is reproduced hereunder;

*“4.3 Supply shall generally be given at the following voltages on the basis of contracted load:*

<b>Low Tension</b>	
<i>All installations (other than irrigation pumping and agricultural services) with a contracted load upto 5 kW</i>	<i>Single phase at 230 V</i>
<i>Irrigation pumping and agricultural services and all installations with a contracted load of more than 5 kW and up to 85 kW/ 100 kVA</i>	<i>3 Phase, 4 wire at 400 V</i>
<b>High Tension</b>	
<i>Contracted load exceeding 100 kVA and up to 1500 kVA</i>	<i>3 Phase at 6.6 kV/ 11 kV/ 22 kV</i>
<i>Contracted load exceeding 1500 kVA and up to 10000 kVA</i>	<i>3 Phase 22 kV/ 33kV</i>
<i>Contracted load exceeding 10000 kVA and up to 20000 kVA</i>	<i>3 Phase at 33 kV</i>
<b>Extra High Tension</b>	
<i>Contracted load exceeding 20000 kVA</i>	<i>3 Phase at 66 kV/ 110 kV/ 132 kV/ 220 kV</i>

*4.5 Consumers availing supply at lower voltage than above classification will be required to pay Low Voltage Supply Surcharge as prescribed the Commission from time to time. Similarly, consumers availing supply at voltage higher than above classification will get High Voltage Supply*

*Rebate as prescribed by the Commission from time to time.”*

13. It was submitted that the T&D losses for the consumers connected at the voltage levels of 66 kV, 110 kV, 132 kV and 220 kV are different and this Commission in the tariff order of DVC for year 2019-20, had granted different levels of voltage rebates for the consumers connected at these voltage levels (4% for 220 kV and above, 3% for 132 kV and 2% for 33 kV).
14. It was argued that the Appellate Tribunal of Electricity (APTEL) in its judgment in Appeal No. 102 of 2010, in the matter of Tata Steel Ltd. Vs. Orissa Electricity Regulatory Commission & Another, had emphasized the importance of determination of voltage wise tariff and given certain directions to State Commissions as would be evident from Para 31 and 32 of the said order clearly emphasizes the need for determination of voltage wise tariff by State Commissions as under;

*“31 We appreciate that the determination of cost of supply to different categories of consumers is a difficult exercise in view of non-availability of metering data and segregation of the network costs. However, it will not be prudent to wait indefinitely for availability of the entire data and it would be advisable to initiate a simple formulation which could take into account the major cost element to a great extent reflect the cost of supply. There is no need to make distinction between the distribution charges of identical consumers connected at different nodes in the distribution network. It would be adequate to determine the voltage-wise cost of supply taking into account the major cost element which would be applicable to all the categories of consumers connected to the same voltage level at different locations in the distribution system. Since the State Commission has expressed difficulties in determining voltage wise cost of supply, we would like to give necessary directions in this regard.*

*32. Ideally, the network costs can be split into the partial costs of the different voltage level and the cost of supply at a particular voltage level is the cost at that voltage level and upstream network. However, in the absence of segregated network costs, it would be prudent to work out the voltage-wise cost of supply taking into account the distribution losses at different voltage levels as a first major step in the right direction. As power purchase cost is a major component of the tariff, apportioning the power purchase cost at different voltage levels taking into account the distribution losses at the relevant voltage level and the upstream system will facilitate determination of voltage wise cost of supply, though not very accurate, but a simple and practical method to reflect the actual cost of supply.”*

15. Learned Counsel for the petitioner submitted that while calculating and finalizing DVC's tariff order for 2020-21, this Commission in the tariff order dated 30.09.2020 has followed the methodology of determination of Average Cost of Supply instead of Voltage-wise cost of supply or category wise cost of supply. Such methodology is followed by this

commission apparently due to lack of sufficient data given by DVC in the tariff petition. However, average cost of supply methodology is not correct way of determination of tariff as this methodology does not indicate the costs incurred by consumers at different voltage levels because consumers at different voltage levels use different sets of assets.

16. Learned Counsel submitted that the respondent DVC has misinterpreted the tariff order of this Commission and has denied the voltage rebate to SAIL, BSL and other consumers and apparently, clause 4.5 of the JSERC (Electricity Supply Code) Regulations, 2015 has also been misinterpreted by the respondent as DVC has assumed that as per the conditions stipulated in the said clause 4.5 voltage rebate to the EHT consumers having CD of more than 20000 kVA will be available only when such consumer is connected at a voltage higher than 220 kV i.e. 400 kV. DVC has assumed that the this Commission has considered all the EHT consumers having Contract Demand of 20,000 kVA and above and connected at the voltage levels of 66 kV/110 kV/132 kV or 220 kV in the same category and therefore voltage rebate would be available only when such consumers are connected at the higher voltage level than this i.e. at 400 KV or above. It was argued that such assumptions by the respondent-DVC is not correct, as there are no consumers of DVC in Jharkhand drawing power at 400 kV voltage level consequently all the consumers drawing power at extra high voltage will be deprived of the benefit of voltage rebate.
17. It is contended that denial of voltage rebates to EHT consumers like SAIL BSL based on the such interpretation of the section 4.5 of JSERC (Electricity Supply Code) Regulations, 2015 seems not to be practical due to the following reasons: -
  - a) All the consumers of CD more than 20000 kVA and connected at any of the voltage levels of 66 kV, 110 kV, 132 kV and 220 kV cannot be in the same category because the T&D losses at each of the above voltage levels will be different and will vary widely. At the same time putting consumers having CD of 20000 kVA with consumers like SAIL BSL having CD of 220000 kVA in the same category does not seem to be fair.
  - b) Considering the fact that the T&D losses for the consumers connected at the voltage levels of 66 kV, 110 kV, 132 kV and 220 kV are different, the JSERC, in the DVC tariff order for 2019-20, had granted different levels of voltage rebates for the consumers connected at these voltage levels (4% for 220 kV and above, 3% for 132 kV and 2% for 33 kV). The basic reasoning behind DVC claiming the similar level of rebates in the tariff petition for 2020-21 is also the same.
  - c) DVC's network at 400 kV is not widely available and it is difficult for the consumers to get connectivity at the 400 kV voltage level. Moreover, laying/ drawing of overhead lines requires utilization of considerable area of land and getting right of way is a big issue now a days. In such background, if all the consumers start opting for connectivity with supply utility DVC at 400 kV Voltage level, neither DVC will be in a position to give such connectivity nor there will be enough right of way available for drawing such overhead lines.

- d) The above condition will be hazardous to the State/Central T&D network as getting right of way for strengthening of the State/Central T&D networks will be an issue. Moreover, connectivity of so many consumers with DVC network at 400 kV will result in creation of plenty of nodes in the 400 kV system connected to consumer networks which are fault prone. This would affect the reliability of Inter State Transmission System and since the country is having an integrated single network, such action will affect the reliability of country's network and therefore is not practical to implement.
18. Learned Counsel submitted that in the case of West Bengal Electricity Regulatory Commission (supra) it was observed by the Hon'ble Apex Court that the requirement of natural justice can be taken away by a statute, but not by Courts, on the ground of practical inconvenience even if such inconvenience does exist. It is worth considering that the purpose of grant of rebate was to return back the monetary benefit accrued to the respective consumer. The licensee ensured that when the electric bills are raised from the consumer, the rebate factors are included in it and accordingly, the bill was raised. Now at the time of releasing i.e. payback time of benefits of accrued rebates to the consumer, licensee is creating unnecessary dispute to avoid the payment/grant rebate which is indicative of arbitrariness.
19. It is submitted that the petitioner shall suffer irreparable loss and injury if the reliefs as prayed for are not allowed.

### **Submission of the Respondent**

20. Learned Counsel for the respondent submitted that as per the provisions of the Electricity Act, 2003 and DVC Act, 1948, DVC is a deemed licensee within its operational area. The distribution of electricity to its consumers within its area of supply is in the capacity of Distribution licensee.
21. It is submitted that the petitioner-SAIL approached DVC and had chosen to take the supply of electricity from DVC in consumer mode and for this a Power Purchase Agreement was executed on 04.08.2016 between both the parties and clause 19 of the agreement reads as under;
- “In the event of any dispute on the amount of the power supply bill, the consumer will lodge a complaint with the Grievances Redressal Officer of Corporation at Maithon, Dhanbad and thereafter, to Electricity Ombudsman in appeal against the order of the Grievances Redressal Officer.*
22. Learned Counsel while relying on the aforesaid clause of the agreement and section 42(5) of the Electricity Act, 2003 submitted that the dispute between the parties is required to be adjudicated by the Consumer Grievance Redressal Forum and not before this Commission.
23. Learned Counsel contended that section 86 (1) (f) of the Electricity Act, 2003 is not applicable in the instant case and the petitioner cannot be treated as a “licensee” because the petitioner has voluntarily chosen to

take the supply of electricity from the respondent-DVC in consumer mode as clarified through affidavit filed in case no. 01 of 2019 and the Commission in order dated 24.07.2019 has held as under:

*“Any dispute on the amount to be paid or rebates to be given is of the nature of dispute between a licensee and a consumer. Both the clause 19(c) of the PPA and section 42(5) of the Electricity Act, 2003, require the dispute to be adjudicated by the Consumer Grievance Redressal Forum. Therefore, the petitioner would have liberty to move the CGRF on this.*

24. Learned Counsel submitted that this Commission while issuing the Tariff order of the respondent has linked voltage rebate to be allowable to only those consumers who opt for higher voltages and meets the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.
25. It is argued that in terms of clause 4.3 and 4.5 under “A4: System of Supply” of JSERC (Electricity Supply Code) Regulations 2015, the petitioner is not eligible for voltage rebate as allowed by this Commission in the tariff order dated 30.09.2020 of DVC.

#### **Commission’s observation and findings**

26. The Commission has heard and considered the submission of the parties and perused the materials available on records.
27. Under Section 86 (1)(f) and 86(1)(k) of the Electricity Act, 2003, the State Commission has the responsibility to adjudicate upon the disputes between the licensees, and discharge such other functions as may be assigned to it under the Act. The relevant Sections of the Electricity Act, 2003 reads as under: -

**“Section 86 Function of State Commission:** - (1) The state Commission shall discharge the following functions, namely: -

.....

*(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;*

.....

*(k) discharge such other functions as may be assigned to it under this Act.*

28. It is amply clear that, under section 86(1)(f) of the Act, the Commission discharges the function of adjudicating on the disputes between the licensees.
29. In the surrounding facts and circumstances of the case, it is observed that **‘Clause IV: Voltage Rebate’** of DVC’s Tariff Order dated September 30, 2020 reads as under,  
***“It is further clarified that the voltage rebate will not be applicable to all consumers who are connected to the voltages specified above. The Commission in order to have, uniform approach across all***



*distribution utilities has now linked **voltage rebate to be allowable to only those consumers who opt for higher voltages and meets the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.***

30. Further, **'Clause 4.5'** of the JSERC (Electricity Supply Code) Regulations, 2015 reads as under,  
*"Consumers availing supply at lower voltage than above classification will be required to pay Low Voltage Supply Surcharge as prescribed by the Commission from time to time. **Similarly, consumers availing supply at voltage higher than above classification will get High Voltage Supply Rebate as prescribed by the Commission from time to time.**"*
31. It is also observed that the petitioner has a contracted load of 220 MVA, *i.e.* exceeding 20000 kVA. and according to clause 4.5 of the JSERC (Electricity Supply Code) Regulations, 2015, the petitioner for being eligible for getting voltage rebate needs to be connected at a **'voltage higher than above classification'** *i.e.*, the *'System of Supply'* is required to be **'3 phase at 400kV'**. However, the petitioner is connected at load line of 220 kV level.

In the result, it is ordered;

#### **ORDER**

32. In view of the discussions made in the foregoing paragraphs and the facts stated the petition is not maintainable as it is devoid of merit.
33. As a result, the petition stands rejected.

Sd/-  
Member (T)

Sd/-  
Member (L)

Sd/-  
Chairperson