

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

Case No. 38 of 2023

Steel Authority of India Limited..... 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.Indrajit Sinha, Mr.Saket Upadhyay, Advocates

For the Respondent : Mr. A.K. Mehta, Advocate

Date – 29th May, 2024

1. The Petitioner-Steel Authority of India Limited has submitted an affidavited petition purported to be filed under sections 94(1) of the Electricity Act 2003 read with Regulation 41.1 of the JSERC (Conduct of Business) Regulations,2016 for review of order dated 12.06.2023 passed in Case No.29 of 2020 along with the application under section 5 of the Limitation Act,1963 for condonation of delay of 43 days in filing the review petition.
2. The Prayers of the Petitioner-Steel Authority of India Limited are as under: -
 - (a) For an application under section 62(5) read along with section 86(1)(f) of the Electricity Act,2003 to issue appropriate direction to DVC to pass appropriate voltage rebate to the Petitioner w.e.f 01.10.2020.
 - (b) For an application under section 62(6) of the Electricity Act,2003 to issue appropriate direction to DVC to kindly adjust/refund the voltage rebate for the month of October,2020 onwards in the subsequent months billing along with interest equivalent to the bank rate.
 - (c) For an application under section 129 of the Electricity Act,2003 to secure compliance of the tariff order and pass on appropriate voltage rebate to the consumers including the petitioner and issue appropriate direction to DVC to segregate the cost of supply at all voltage levels and file next tariff order with proposal for different tariffs at different voltage levels.
 - (d) For passing any other appropriate order as deemed fit by the Hon'ble Commission for the implementation of the order of the Commission and any other order in the interest of justice.
 - (e) For issuance of appropriate direction upon Respondent to grant the benefit of voltage rebate as an interim relief during the pendency of the instant case before the Hon'ble Commission.

Submissions of the Petitioner

3. Learned Counsel of the petitioner has submitted that it is a consumer of Damodar Valley Corporation (DVC) since its inception in 1970s and had executed a Power Purchase Agreement (PPA) with DVC for purchase of electricity for industrial use (Usage in Steel Plant) on March 31, 1989. This PPA was renewed on July 29, 2016. As per the said PPA, petitioner can draw electricity to the quantum of 220 MVA from DVC at the connected voltage level of 220 kV.
4. Learned Counsel for the Petitioner has submitted that it had upgraded its connectivity

with DVC from 132kV to 220kV with all associated equipment after huge investment. It has resulted in lower losses to DVC, hence its benefit must be provided to BSL for higher voltage connectivity. Moreover the petitioner has submitted that billing rate must not be the same for all voltage level, it should be lower for customer connected with higher voltage level than lower voltage connectivity for the same amount of power drawl.

5. The Petitioner has submitted that it has received monthly power bill from DVC for the month of October-2020 as per new JSERC tariff dated 30.09.2020 effective from 01.10.2020. In the power bill, applicable voltage rebate for 220kV consumer has not been forwarded to BSL which is 5.5% of Energy charge and Demand Charge. Upon query by the petitioner, DVC had informed verbally over phone that such Voltage rebate will not be available to BSL and most of the consumers in Jharkhand.
6. Learned Counsel for the Petitioner has stated that it is a major consumer of DVC and drawing bulk of power from DVC grid. Total Energy charge and Demand charge for the month of October-2020 is more than Rs 55 Cr and applicable voltage rebate for 220kV consumer is more than Rs 3 Cr. If such voltage rebate is not passed on to the Petitioner, it will have a huge impact on Steel production cost for Bokaro Steel Plant. The Petitioner has also submitted that during the time of COVID-19 pandemic it had availed Voltage rebate of 220kV consumer till September 2020 as per previous JSERC tariff order issued in May, 2019.
7. The Petitioner has stated that it was earlier connected with DVC at 132 KV level and had invested about Rs 130 Cr during the period 2014-2016 to upgrade the connectivity to the level of 220 KV. The techno-economics of such investment was based on the following factors: -
 - a) Improvement in the reliability of 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 drawl of higher quantum of power.
 - d) Higher voltage level will have lesser amount of power loss in comparison to lower voltage for the same quantum of power drawl.
 - e) Availability of voltage rebates will help in reducing per unit cost of power and thereby recovering the investment.
8. The Petitioner has cited Section 62(3) of the Electricity Act, which pertains to provisions for setting tariffs at different rates for different voltage levels which is logical as the procurement cost of power differs across voltage levels. The overhead costs for supplying power to consumers at higher voltage levels are lower compared to those at lower voltage levels, primarily due to lower AT&C and T&D losses at higher voltages. Taking this into account, JSERC had incorporated provisions for voltage rebate for consumers connected at higher voltage levels in the DVC's Tariff for FY 2019-20, as per the order dated May 28, 2019.
9. Learned Counsel for the Petitioner has stated that JSERC has allowed the voltage rebate in the tariff order dated 30.09.2020 for the year 2020-21 for passing on voltage rebates to consumers. The Commission while calculating and finalizing the DVC's tariff for 2020-21, 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 JSERC apparently due to lack of sufficient data given by DVC in the tariff petition. However, average cost of supply methodology is not the correct way of determination of tariff as this methodology does not indicate the cost incurred by consumers at various voltage levels because consumers at different voltage levels use different sets of assets of the network.

10. The Petitioner has submitted that respondent DVC has misinterpreted the tariff order of the Hon'ble Commission and has denied the voltage rebate to SAIL-BSL and other consumers. Apparently, Section 4.5 of the JSERC (Electricity Supply Code) Regulations, 2015 has been misinterpreted by the respondent. The responded DVC has assumed that as per the conditions put up in Section 4.5, voltage rebate to the EHT consumers having CONTRACT DEMAND 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 Hon'ble Commission has considered all the EHT consumers having Contract Demand of 20,000 KVA and above that the voltage rebate will be applicable only when the consumer is connected at a higher voltage than 220kV i.e. 400kV. The Petitioner has stated that the respondent has assumed that the Hon'ble Commission has considered all the EHT consumers having contract demand of 20000 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 will be available only when such consumers are connected at the higher voltage level than this i.e. at 400 KV or above. There are no consumers of DVC in Jharkhand drawing power at 400KV voltage level and consequently all the consumers drawing power with contract demand of more than 20,000 kVA at Extra High voltage will be deprived of the benefit of Voltage rebate. As per interpretation of Tariff order dated-30.09.2020 by DVC, no consumer is eligible to get voltage rebate which is having contract Demand of more than 20,000 KVA. Denial of voltage rebates to EHT consumers like SAIL-BSL based on such interpretation of 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 contract demand 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 vary widely. At the same time putting consumers having contract demand of 20000 KVA with consumers like SAIL BSL having contract demand of 220000 KVA in the same category is not 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 Hon'ble 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 400 KV voltage level. Moreover, laying/ drawing of overhead lines utilize considerable amount 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.
11. Learned Counsel for the Petitioner, referring, to the above scenario has cited that 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.

12. Learned Counsel for the petitioner has submitted that, as per JSERC (Electricity Supply Code) Regulations, 2015, consumers upto 20 MVA power have been categorized as High Tension consumers and as per regulation, they may get power connection at High tension, maximum upto 33kV. In this scenario how can a consumer of this High tension group be connected with Extra High tension of 132kV/220kV and Ultra high tension of 400KV; both are contrary to each other. Hence no High Tension consumers (Contracted load exceeding 10000 kVA and up to 20000 kVA) upto 20MVA are eligible to get voltage rebate as per interpretation of Tariff order, dated - 30.09.2020 by Respondent DVC.i.e. no High tension consumers upto 20MVA connected load will get the voltage rebate even though they are connected at 33kV.
13. The Petitioner has referred to the corrigendum issued by the Hon'ble Commission dated 04.12.2020 with an intention and purpose to avoid discrimination in consumers and maintain uniformity among the licensees. The Hon'ble Commission did not differentiate in publishing the voltage rebate mechanism for all DICOMS of the State and therefore, the action of DVC in not extending benefit of voltage rebate to eligible consumers which was duly noticed by the Commission and as a result, the corrigendum was issued to remove the disparity in rebate formulation.
14. Learned Counsel has stated that the corrigendum was brought on record in Case No 29/2020 through rejoinder affidavit dated 12.01.2023 but the impugned order dated 12.06.2023 is silent on the corrigendum. Apparently, there is error on record and the order dated 12.06.2023 is required to be reviewed in context with the corrigendum issued on 04.12.2020 by the Hon'ble Commission which is effective and applicable even on date.
15. The Petitioner stated that although corrigendum issued by the Hon'ble Commission was brought on record through rejoinder affidavit but the same was never considered and dealt in the impugned order 12.06.2023. It is worth mentioning that the corrigendum is part of the tariff order dated 30.09.2020 issued with a purpose to remove disparity and discrimination but there is no mention of the corrigendum in the entire judgment passed by the Hon'ble Commission rejecting voltage rebate to the petitioner.
16. That it is therefore most humbly prayed that in the interest of justice the prayers made herein above be allowed failing which the petitioner has been suffering and will further suffer irreparable loss and injury.

Commission's observation and findings

17. The Commission has considered the submissions made by the petitioner and perused the materials available on records.
18. Under Section 86 (1)(f) 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;

.....

(e) discharge such other functions as may be assigned to it under this Act.
19. In the light of the circumstances the Commission has taken into consideration the Tariff

order of DVC dated 30.09.2020 along with the corrigendum issued on 04.12. 2020.The Commission has also duly considered the order issued for Case No. 29 of 2020, wherein it is expressly elucidated the rationale behind the denial of voltage rebate to the Petitioner.

20. Furthermore, the Commission would like to bring to light '**Clause IV: Voltage Rebate**' of DVC's Tariff Order dated September 30, 2020 which states,

"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."

21. Further, '**Clause 4.5**' of the JSERC (Electricity Supply Code) Regulations, 2015 states, *"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."*

22. It is further observed that the petitioner has a Contracted load of 220 MVA, i.e., exceeding 20000 kVA.

23. Further, according to Clause 4.5 of the JSERC (Electricity Supply Code) Regulations, 2015, in order to be eligible for voltage rebate, the petitioner 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, in the instant case the petitioner is connected at 220kV level.

24. In the result, it is ordered as;

ORDER

25. It is observed that the aforesaid petition filed by the petitioner in the instant case is not maintainable accordingly petition is hereby rejected.

26. The petition stands disposed off, accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson