

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

Case No. 24 of 2025

M/s Usha Martin Limited.....Petitioner

Versus

Jharkhand Bijli Vitran Nigam Limited & Ors Respondents

**CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)**

For the Petitioner: Mr. M.S. Mittal, Sr. Advocate & Mr. Salona Mittal, Advocate

For the Respondent: Mr. Sachin Kumar, Sr. Standing Counsel, Mr. Abhijit Suman & Mr. Vivek Aditya, Advocates

Date – 30thJanuary, 2026

1. The Petitioner-Usha Martin Limited has filed an affidavited petition under section 8.1 and 10.1 (Power to Relax) of the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024.
2. The Prayers of the Petitioner-Usha Martin Limited are as under: -
 - i. To Exercise power under Clauses 8 and 10 of the Regulation, and exempt the Petitioner from the extent of 51% of its captive consumption as required under Clause 6.1 of the said Regulation.
 - ii. To set aside the letters dated 12.05.2025 and 11.06.2025 issued by the Respondent requiring the Petitioner to furnish the BankGuarantee.

Submission of the Petitioner

3. Learned Counsel for the Petitioner submitted that Petitioner is a public limited company engaged in the manufacture of wire, wire rope, steel bars, house wires, etc. and the Petitioner has established its captive power plant facility of capacity 2X10 MW at Tatisilwai, Ranchi for meeting its power needs since FY 2011-12. The entire energy generated

from its captive power plant is consumed by the Petitioner itself.

4. Learned Counsel pointed out that in terms of the statutory framework governing captive generating plants, a minimum of 26% ownership must be held by the captive user and not less than 51% of the energy generated must be consumed by the captive user on an annual basis and also submitted that failure to satisfy either of the aforesaid conditions would result in the plant ceasing to qualify as a captive generating station in terms of the 4th proviso to Section 42(2) of the Electricity Act, 2003.
5. Learned Counsel contended that neither the Electricity Act, 2003 nor the Electricity Rules, 2005 prescribe any requirement for a captive generating plant to furnish a Bank Guarantee in the form of security deposit for the purpose of adjustment of charges in the event of failure to meet the conditions prescribed for maintaining captive status.
6. Learned Counsel for the Petitioner submitted that the Petitioner has been duly compliant with the reporting requirements prescribed under the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, and such compliance, according to the Petitioner, ought to be considered as a valid ground for grant of waiver from the requirement of furnishing a Bank Guarantee.
7. Learned Counsel further submitted that in the event of any failure to meet the prescribed criteria, the Petitioner would render itself liable to pay the applicable charges in accordance with law. Learned Counsel also stated that the Respondent is adequately secured by virtue of sufficient security deposit, amounting to Rs 5,97,30,146/-, already furnished by the Petitioner, therefore the demand for Bank Guarantee would pre-empt the entire procedure for recovery in accordance with law.
8. Learned Counsel for the Petitioner has placed reliance on the Madhya Pradesh Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Users) Regulations, 2023, the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, and the Telangana Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2024, to contend that, upon a captive generating plant losing its captive status for a particular year, the consequence envisaged under the regulatory framework is the levy of cross-subsidy surcharge and additional surcharge, as applicable. It has been submitted that none of the

aforesaid regulations contemplate adjustment or recovery of such charges through invocation of a security deposit.

9. Learned Counsel further submitted that the Petitioner has, over the past ten years, consumed 100% of the energy generated from its captive generating plant and has never been in default of the prescribed consumption requirements. Learned Counsel further submitted that a certificate issued by the Company Secretary has been annexed to the said affidavit, certifying that the shareholding of the Promoter and Promoter Group stands at 43.23%, which is well in excess of the minimum requirement of 26% prescribed under the applicable regulatory framework.
10. Learned Counsel for the Petitioner while replying to the Respondent has also contended that the provisions of Clause 6.1 of the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024 are intended to operate by way of consequences only upon failure of the captive generating plant to satisfy the conditions required for maintaining captive user status.

Submission of the Respondent

11. Learned Counsel for the Respondent submitted that the Petitioner has entered into an agreement with the Respondent for standby contract demand/support of 15 MVA along with a banking arrangement of 9.5 MW, in accordance with Clause 8 of the Captive Power Plant Regulations, 2023. It was submitted that the present issue pertains to the requirement of furnishing a security deposit on or before 15th July of every year in the form of an unconditional and irrevocable Bank Guarantee, for an amount equivalent to 51% of the captive consumption for a one-year period, to the concerned distribution licensee towards the estimated cross-subsidy surcharge, additional surcharge, and any other charges as may be determined from time to time, in terms of Clause 6 of the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024.
12. Learned Counsel further pointed out that in the event the captive user fails to satisfy the criteria relating to ownership or consumption as specified under Rule 3 of the Electricity Rules, 2005, read with the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, such captive user would lose its captive status for the relevant year, thereby attracting levy of cross-subsidy surcharge, additional surcharge,

and other applicable charges, in accordance with law.

13. Learned Counsel further submitted that, in consonance with the aforesaid Regulations, the Respondent has sought furnishing of an irrevocable Bank Guarantee equivalent to 51% of the captive consumption for one-year period, along with disclosure of the quantum of captive consumption and supporting documents. It was further submitted that the Petitioner has sought exemption from the requirement of furnishing the said Bank Guarantee, which, according to the Respondent, constitutes a mandatory obligation under the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024.
14. Learned Counsel has further submitted that mere reliance placed by the Petitioner on Rule 3 of the Electricity Rules, 2005 cannot be construed as exhausting the statutory obligations of a captive generating plant. It has been argued that the Commission, in exercise of its powers under Section 181 of the Electricity Act, 2003, has framed the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, which supplement the provisions of the Act and the Rules by prescribing the methodology, procedure, and consequences for verification of captive status.
15. Learned Counsel for the Respondent has strongly contended that Clause 6.1 of the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024 explicitly mandates that the captive user "shall be required" to furnish a Bank Guarantee. It was also argued that the use of the expression "shall" leaves no discretion to treat the requirement as optional and furnishing of the Bank Guarantee is lawful extension of regulatory powers to safeguard distribution licensee and request for exemption of Bank Guarantee is misconceived and contrary to Regulations.
16. Learned Counsel reiterated that an undertaking to pay charges or pre-empting procedure cannot substitute the statutory Bank Guarantee Requirement. Bank Guarantee ensures timely and undisputed recovery.

Commission's Observations and findings

17. The Commission considered the submission made by the parties and perused the materials available on records.
18. Further, Clause 6 of the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024 states that:

“6. Consequence of failure to meet Captive User status

6.1. The CaptiveUser shall be required to submit the security deposit by 15th of July of every year in the form of unconditional and irrevocable Bank Guarantee (BG) for an amount equivalent to 51% Captive consumption for one-year period, to the concerned distribution licensee as a payment security mechanism towards estimated cross subsidy surcharge, additional surcharge and any other charge as may be decided from time to time by the Commission.

6.2. The Bank Guarantee (BG) shall have a term of 12 months and will have to be renewed/revised annually of an amount equivalent to 51% of its estimated Captive consumption by 31st of May or after completion of Captive verification by the Commission, whichever comes first.

6.3. In case the Bank guarantee is not renewed/ revised by 31st of May before its expiry date of 15th of July, the Bank guarantee shall be invoked by the Distribution licensee towards its cross-subsidy surcharge and additional surcharge or any other applicable Open access charges.

6.4. In case Bank guarantee is not renewed/revised by 31st of May before its expiry date of 15th of July the Bank guarantee shall be forfeited by the Distribution licensee towards its cross-subsidy surcharge and additional surcharge or any other applicable Open access charges.

Provided that there shall be no exemption from Cross Subsidy Surcharge and Additional Surcharge on the electricity consumed by other consumers who are receiving power from this Captive generating plant and are not the Captive consumers.

6.5. If the CGP or Captive User fails to meet the criteria of ownership and/or consumption, specified in Rule 3 of Electricity Rule 2005 and in these Regulations, as the case may be as amended from time to time, by the end of the financial year, such CGP or CaptiveUser shall lose its Captive status for that year leading to imposition of Cross Subsidy Surcharge and Additional Surcharge along with other charges as applicable on open access consumers which shall be payable to the concerned distribution licensee(s).” – **Emphasis added**

19. In line with the above clause of Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, the Commission observes that submission of Bank Guarantee is a mandatory obligation of the Captive User and not optional in nature.

ORDER

20. Considering the above facts and circumstances, and in view of the mandatory provisions envisaged under Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, the Commission finds the Petition to be devoid of merit and hence hereby rejected.
21. Accordingly, the petition stands disposed off.

Sd/-

Member(T)

Sd/-

Member(L)

Sd/-

Chairperson