

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

**Case No. 28 of 2025**

Grasim Industries Limited..... Petitioner

Versus

Jharkhand Bijli Vitran Nigam Limited & Anr ..... 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. Dhananjay Kr. Pathak, Advocate

For the Respondent : Mr. Sachin Kumar, Sr. Standing Counsel and  
Mr. Vivek Aditya, Advocate

**Date – 30<sup>th</sup> January, 2026**

1. The Petitioner M/s Grasim Industries Limited has filed the instant petition under clause 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-M/s Grasim Industries Limited are as under: -
  - i. To Exercise power under Clauses 8 and 10 of the Regulation, and exempt the Petitioner from furnishing the Bank Guarantee to 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 04.07.2025 issued by the Respondent no. 2 requiring the Petitioner to furnish the Bank Guarantee.

The factual matrix of the case as submitted by the parties may be appreciated in the following manner.

**Submission of the Petitioner**

3. Learned Counsel for the Petitioner submitted that the Petitioner is a public limited company engaged in the manufacture of Chlor Alkali and allied chemicals, etc. and the Petitioner has established and commissioned its captive power plant of capacity 2X30 MW at Garhwa Road, for meeting its power needs since 2000.

4. Learned Counsel appreciated the Commission that the entire energy generated from Petitioner's captive power plant is consumed by the Petitioner itself. It has further been contended 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. It has been asserted that failure to satisfy either of the aforesaid conditions would result in the generating 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 pointed out that neither the Electricity Act, 2003 nor the Electricity Rules, 2005 prescribe any requirement for a captive generating plant to furnish a security deposit in the form of a Bank Guarantee for the purpose of adjustment of charges in the event of failure to meet the conditions prescribed for maintaining captive status.
6. It has also been submitted that the Petitioner, for several preceding years, been consuming the entire energy generated from the captive generating station. The Petitioner has placed on record the requisite shareholding pattern and details of energy consumption, as mandated under the Jharkhand State Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2024, for verification by the Commission.
7. Learned Counsel has contended that, having complied with the prescribed criteria for a captive generating plant, it does not fall within the ambit of Clause 6 of the aforesaid Regulations and the provisions contained under Clause 6.1 of the Regulations are directory in nature and not mandatory. Without prejudice to the same, it has been submitted that the Commission is vested with the power to grant relaxation under Clauses 8 and 10 of the said Regulations.
8. Learned Counsel also submitted that the Petitioner has never defaulted on the requirement of consuming not less than 51% of the energy generated from the captive generating station during the past several years and that it expects to continue to comply with the said requirement in future as well and 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 has also stated that the Respondent is adequately secured by virtue of sufficient security deposit already furnished by the Petitioner.
9. Learned Counsel 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 further submitted that none of the aforesaid regulations contemplate adjustment or recovery of such charges through invocation of a security deposit.

10. Learned Counsel further 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. It has further been submitted that issuance of a Bank Guarantee by a banking institution necessarily entails deposit of an equivalent cash amount, which would result in substantial funds being blocked, thereby having far-reaching adverse implications on the financial health of the Petitioner's establishment.

#### **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 7.5 MVA along with a banking arrangement, 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 for the Respondent contended that, in consonance with the aforesaid Regulations, the Respondent has sought for furnishing of an irrevocable Bank Guarantee equivalent to 51% of the captive consumption for a one-year period, along with disclosure of the quantum of captive consumption and supporting documents. It has also been 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. The Respondent 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 emphasized 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 has been argued that the use of the expression "shall" leaves no discretion to treat the requirement as optional and furnishing of the Bank Guarantee is required to be made in advance and constitutes a statutory pre-condition, independent of and not contingent upon the verification process to be undertaken after 15th July of the relevant year.

#### **Commission's Observations and findings**

16. The Commission considered the submission made by the parties and perused the materials available on records.
17. The 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 Captive User 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****

18. 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. The certificate issued by the Commission is for the preceding financial year and the Bank Guarantee to be submitted is in the form of Security deposit for the subsequent/ensuing Financial Year.

**ORDER**

19. Considering the above facts and circumstance 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.
20. Accordingly, the Petition stands disposed off.

Sd/-

Member (T)

Sd/-

Member (L)

Sd/-

Chairperson