

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION  
RANCHI**

Case No. **22** of **2010**

Shri **Mukhtiar Singh**, Chairperson  
Shri **T. Munikrishnaiah**, Member (Tech)

Dated: 30<sup>th</sup> October 2010

**ORDER**

IN THE MATTER OF

Case No. **22** of **2010**

M/s Adhunik Power and Alloys Limited ..... Petitioner

Versus

State Load Despatch Centre, Ranchi & another ..... Respondents

Counsel for the Petitioner: Shri Biren Poddar, Advocate  
Shri Deepak Sinha, Advocate  
Shri D.P. Mishra, Advocate  
Shri Piyush Poddar, Advocate  
Ms N. Agarwal, Advocate

Counsel for the Respondents: Shri Rajesh Shankar, Advocate  
Shri Abhay Prakash, Advocate with  
Shri S. Ahmed, ESE, SLDC  
Shri S. K. Mishra, EEE, JSEB  
Shri Ram Sewak Singh, AEE, JSEB

1. A petition has been filed by M/s Adhunik Power and Alloys Limited (hereinafter referred to as “the petitioner”) for direction to the State Load Despatch Centre (hereinafter referred to as “the Respondent”) for issuing concurrence under Regulation 8 (1) of the Central Electricity Regulatory Commission Open Access Regulations, 2008 read with clause 3.1 of the Short Term Open Access Inter-State Transmission (Bilateral Transaction) Procedure for Scheduling, in order to facilitate the petitioner to sell the power to M/s Neepaz V Forge (I) Limited, a subsidiary company of the petitioner in the State of Maharashtra.

2. It has been stated in the petition that the petitioner is a public company engaged in the business of manufacturing iron and steel products in the State of Jharkhand and, for their own use, have set up a 30 MW Captive Power Plant at Kandra in the district of Saraikela-Kharsawan of Jharkhand State. The petitioner further adds that they want to use the surplus power for their another subsidiary Company namely Neepaz V Forge (I) Limited, situated in Aurangabad district of Maharashtra State.

3. Though the petitioner has entered into a 12 years agreement with their subsidiary company, but from the heading of the petition as well as paragraph 6 of the said petition, it transpires that the petitioner is trying for Short Term Open Access. In order to apply to the Nodal Agency for Short Term Open Access, the petitioner sought prior concurrence/NOC from the respondent-SLDC, Jharkhand, Ranchi. On not getting any response from the respondent-SLDC, the present petition has been filed.

4. Since the State Load Despatch Centre of Jharkhand, Ranchi is being managed by the Jharkhand State Electricity Board, the later was noticed, who have appeared and filed their Counter Affidavit.

5. Heard both the parties at length.

6. The respondent-JSEB has questioned the jurisdiction of the Commission in entertaining the petition. According to the learned counsel for the respondent-JSEB, the Nodal Agency in this case is the Regional Load Despatch Centre of the region where the point of drawal of electricity is situated i.e. Western Load Despatch Centre. For this he refers to Regulation 5 of the Central Electricity Regulatory Commission (Open

Access in inter-State Transmission) Regulations, 2008. He also pointed out that the redressal mechanism is given in Regulation 26 of the said Regulations, according to which, all disputes arising under the said Regulations shall be decided by the Commission based on an application made by the person aggrieved. The learned lawyer pointed out that here the Commission means the “Central Electricity Regulatory Commission” as defined in Regulation 2(1)(d) of the said Regulations.

7. On the other hand, the learned counsel for the petitioner argued that this Commission is fully competent to entertain the petition under Section 86(1)(f) of the Electricity Act, 2003

8. Before proceeding further, the Commission feels that the issue of jurisdiction has to be sorted out first.

9. As relied upon by the learned counsel for the petitioner, Section 86(1)(f) of the Electricity Act, 2003 is reproduced below:

*“adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration,”*

10. Section 86 of the Electricity Act, 2003 defines the functions of the State Commission. These functions are to be performed by the State Commission in relation to all the stakeholders within the State. Here, as made out in the petition, it is a fact that the generating company is in Jharkhand but the buyer is situated in Maharashtra. Moreover, Section 86(1)(f) of the Electricity Act, 2003 applies to the licensees and the generating company. True, the petitioner has Captive Power Plant and as such can be accepted as generating company. But the buyer is not a licensee. As such, we feel that Section 86(1)(f) of the Electricity Act, 2003 is not relevant in the present case.

11. On the facts and circumstances, as made out in the petition, we feel that the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, which is relied upon by the petitioner also, is more appropriate here. As per these Regulations, as pointed out by the learned counsel for the respondent-SLDC, the Nodal Agency will be the Western Regional Load Despatch Centre because the point of drawal of electricity is situated in the State of Maharashtra and in case of the collective transactions the Nodal Agency is “National Load Despatch Centre”. We agree that there is a dispute between the petitioner and the SLDC, Jharkhand, Ranchi. But in the given situation, we feel that Regulation 26 of the said Regulations is more relevant here. Regulation 26 of CERC (Open Access in inter-State Transmission) Regulations, 2008 reads as under:

“All disputes arising under these regulations shall be decided by the Commission based on an application made by the person aggrieved.”

12. Here the Commission means “Central Electricity Regulatory Commission” as is defined in Regulation 2(1)(d) of the said Regulations. That being the legal position, we feel that this Commission do not have the jurisdiction to entertain the petition of the petitioner.

13. With this the petition is disposed off.

Sd/-  
(T. Munikrishnaiah)  
Member (E)

Sd/-  
(Mukhtiar Singh)  
Chairperson