

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 6 of 2005

In the matter of
Application of Bhushan Steel and Strips Ltd
for grant of license and interim relief.

Dr Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S.B.Kulkarni, Member

Dated: 9th November, 2005

ORDER

1. M/s. Bhushan Steel and Strips Limited (BSSL) filed an Application dated 18th April, 2005 for grant of licence for supply of power from its captive power plant in pursuance of Order dated 4th April, 2005 passed in Writ Petition No. 882/2005 by the Hon'ble Division Bench of High Court of Judicature at Bombay. In addition, BSSL have filed an Application seeking interim relief to permit it to continue to sell the surplus power to M/s Vipras Castings Ltd. In its Application, the Petitioner has prayed that –

“It is, therefore, most respectfully prayed that this Hon'ble Commission may kindly be pleased to permit the Applicant to continue to sell the surplus power to M/s Vipras Casting Ltd. till the disposal of the Application for grant of licence.”

2. Further, the Petitioner clarified that the said Application is filed under sub-section (b) of Section 14 of Electricity Act 2003 and the MERC (Distribution License Conditions) Regulations 2004 and the 'area of supply' was proposed to be a plot of land at Savroli Village, Khalapur Taluka, Raigad District, as per details provided under the said Application. The Petitioner also submitted the fees of Rupees Five lakh on 18th May, 2005 for processing the said Application, as Initial Licence Fee upon grant of Licence under Section 15 of the Act' prescribed under MERC (Fees and Charges) Regulations, 2004.

3. Meanwhile, M/s Vipras Castings Ltd (VCL), referred as Respondent No. 3 under Petition for grant of interim relief pursued the matter through its various submissions to permit BSSL supply power to VCL in view of impending closure of their operations due to non-availability of power supply either from BSSL or M/s Maharashtra State Electricity Distribution Co. Ltd (MSEDCL).

4. The Commission conducted the preliminary hearing for admissibility of the Petition on 10th June, 2005. During the hearing, M/s MSEDCL argued that the said Application for grant of licence should not be considered for admission, due to non-submission of requisite technical information and mandatory information required under Item Nos. 9 and 17 as per prescribed format, in addition to other objections as filed through their response dated 13th June, 2005. Prayas through their response letter dated 9th June, 2005 has submitted that Application for grant of second license within area of existing distribution licensee will have to be dealt with in accordance with Sixth proviso of Section 14 of EA 2003, other related provisions and additional requirements as prescribed by Central Government and provisions outlined under National Electricity Policy regarding minimum area for second licence. Prayas further requested the Commission to consider the Application for second licensee after fulfilling all other requirements, significant policy and economic implications resulting therefrom and alongwith other pending Applications for second licence.

5. The Commission granted several adjournments solicited by the Petitioner and Respondent on 21st June 2005, 19th July 2005, 26th July 2005 and later on 27th October 2005 wherein the Commission directed the Applicant to state on affidavit how the Application fulfills the requirements of Government of India's Notification dated 23rd March 2005 under sixth proviso to Section 14 and other relevant guidelines of National Electricity Policy.

6. During the hearing on 27th October 2005, the Petitioner once again requested for adjournment in view of its anticipation that State Government may issue requisite notification for declaration of 'Rural Area' under EA 2003 and that their proposed area of supply shall fall under area to be notified as 'Rural Area'.

7. The Commission heard the matter again in admission stage on 8th November 2005. During the hearing and through its letter dated 7th November 2005, the Petitioner submitted that in the absence of specific notification from Government of Maharashtra for 'Rural Area' under EA 2003, they wish to withdraw their Application for grant of license with intention to re-submit the same once the 'Rural Area' are notified under the EA, 2003 by Govt. of Maharashtra. In view of above, the Petitioner also sought refund of the fees paid towards processing of the Application.

8. During the hearing, MSEDCL submitted that they would not have any objection to the withdrawal of Application by the Petitioner, however, MSEDCL submitted that they should be adequately compensated for the cost incurred by MSEDCL in pursuing the matter at various forums including Hon'ble High Court and Hon'ble Supreme Court, as Respondent to the case.

9. The Commission notes that adequate opportunity and time has been given to the Applicant, and the Applicant does not wish to pursue the matter for grant of license any further pending issuance of requisite notification by GoM, under which the Applicant has desired to base its Application. Further, the Commission also notes that neither MSEDCL nor VCL have expressed any objection to such withdrawal of Application by the

Applicant except that MSEDCL has sought compensation for the costs incurred in the matter.

10. Accordingly, the Commission grants permission to the Applicant to withdraw its Application for grant of licence and grant of interim relief and the initial licence fees submitted by the Applicant shall be refunded within three weeks from the date of this Order. The Commission notes that the grounds for withdrawal of Application as submitted by the Petitioner, are beyond its reasonable control. Accordingly, the Commission does not consider it necessary to award any compensation to Respondents in the matter. Further, the Petitioner may pursue the Application for grant of licence at later date in conformance with the prevalent Policy Guidelines and Regulations, in case it desires to do so.

With this Order, the Commission disposes the Application of M/s Bhushan Steel and Strips Limited. No order as to costs to be awarded to MSEDCL.

Sd/-

(A. Velayutham)
Member

Sd/-

(S B Kulkarni)
Member

Sd/-

(Dr. Pramod Deo)
Chairman, MERC

Sd/-

(M.K. Kundu)
Director, MERC