

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 94 of 2011

In the matter of

**Petition filed by M/s R.L. Steel and Energy Ltd. for Non compliance of Order
passed by the Commission dated 02.06.2011 in Case No. 31 of 2011.**

Shri. V.P. Raja, Chairman

Shri. Vijay L. Sonavane, Member

M/s. R.L .Steels and Energy Ltd
Aurangabad

.....Petitioner

V/s

Maharashtra State Electricity Distribution Co. Limited (MSEDCL)
5th Floor, Prakashgad,
Bandra (East), Mumbai – 400 051

.....Respondent

ORDER

Dated: August 23, 2011

M/s R.L. Steel and Energy Ltd. submitted a Petition under affidavit on July 06, 2011 under Sections 142 and 149 of Electricity Act, 2003 for Non compliance of Order dated 02.06.2011 in Case No. 31 of 2011. The prayers of the petitioner are as follows:

- a. *The Respondent and the concerned officers of the Respondent who ought to have obeyed the order; be punished for Non compliance of the order of this Hon'ble Commission dated 02.06.2011 passed in Case No. 31 of 2011 by imposing highest penalty that can be levied u/s. 142.*
- b. *All other just and equitable relief be granted to the petitioner for the effective adjudication of this case."*

2. M/s. R.L. Steel and Energy Ltd. in its Petition submitted as under:
 - a) MSEDCL started charging voltage surcharge @ 2% to the Petitioner from billing month of April 2010 and continued to charge it till the billing month of October 2011. Since the Voltage surcharge was included in monthly bill the Petitioner was constrained to pay the same, though the Petitioner was not liable to pay it.
 - b) The Petitioner tried its level best to persuade the Respondent that the voltage surcharge is not applicable to the Petitioner, but in vain. Thereafter, the Petitioner filed a Clarification Petition before this Hon'ble Commission which was registered as Case No. 52 of 2010 and was decided on November 9, 2010.
 - c) After the Clarificatory Order passed by this Hon'ble Commission, the Petitioner requested the Respondent for the refund of the amount of voltage surcharge which was wrongly recovered by the Respondent from the Petitioner and pursued the matter but in vain.
 - d) Thereafter the Petitioner filed contravention petition for Non compliance of Hon'ble Commissions Order dated March 5, 2010 passed in Case No. 71 of 2009 and Order dated November 9, 2010 passed in Case No. 52 of 2010 which was registered as Case No. 31 of 2011 and is decided on June 2, 2011. Vide this Order, the Hon'ble Commission directed the Respondent to refund the amount of voltage surcharge to the Petitioner within 30 days from the issue of order and in anticipation of the compliance of the order did not levy any penalty upon the Respondent.
 - e) The period of 30 days lapsed as on July 2, 2011. However the Respondent willfully disobeyed the order. Therefore, the Petitioner is constrained to file this Petition.
 - f) The Petitioner also submitted that the Petitioner has given details of the earlier proceedings in chronological events and the Petitioner submitted that at present, there is no other proceeding pending before any other court in respect of the same. The Petitioner submitted that the Petitioner has not received any notice relating to appeal against the Order dated June 2, 2011 till the date of submission of this Petition.
3. The Commission vide Notice dated July 12, 2011 scheduled a hearing in the matter on July 20, 2011 and directed the Petitioner to serve the copy of the Petition to the Respondent and four authorized Consumer Representatives.
4. During the hearing held on July 20, 2011, MSEDCL submitted that it is implementing the Order of Commission as per best of its ability after the Tariff Order

dated September 12, 2010 and stopped levying Voltage surcharge on consumers which are supplied on lower voltage than specified in the MERC (Standards of Performance of Distribution licensees, Period of giving supply and determination of Compensation) Regulations, 2005. MSEDCL has filed an Appeal before Hon'ble Appellate Tribunal for Electricity contesting the MERC Order dated November 09, 2010 in Case No. 52 of 2010.

5. During the hearing held on July 20, 2011, Shri Karandikar, Advocate of Petitioner submitted that MSEDCL has no will to obey the Order dated June 2, 2011. Further, MSEDCL has not approached the Commission for any extension till the expiry of 30 days period which indicates MSEDCL's wish to disobey the Order. Hence MSEDCL should be punished for non compliance of the order of this Hon'ble Commission dated June 2, 2011 passed in Case No. 31 of 2011 by imposing highest penalty that can be levied under Section 142 of the Electricity Act 2003.

6. Having heard the Parties and after considering the material placed on record, the Commission is of the view that:

a) The Commission in its Order dated June 02, 2011 in Case No. 31 of 2011 has directed MSEDCL to refund amount collected from the petitioner against the voltage surcharge from April 2010 to October 2010 within 30 days from the issue of the said Order and to report compliance to the Commission within seven days after making the refund as directed.

b) The Commission directs MSEDCL to implement the above Order dated June 02, 2011 in Case No. 31 of 2011 and comply with the corrective action at the earliest and report such compliance within two weeks from the date of this Order

With the above observations and directions, the present petition stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman