

No.: N/31/15

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 19th November, 2015

Present:

- | | |
|---------------------------------|----------|
| 1. Sri M.K. Shankaralinge Gowda | Chairman |
| 2. Sri H.D. Arun Kumar | Member |
| 3. Sri D.B. Manival Raju | Member |

OP No.15 / 2015

BETWEEN :

M/s.Star Metallics and Power Private Limited
(A subsidiary of the Sandur Manganese & Iron Ores Ltd)
Metal & Ferroalloys Plant,
Vysanakere,
Mariyammanahalli – 583 222
Hospet Taluk,
Bellary District.

Corporate Office :

2C, Redifice Signature,
No.6, Hospital Road, Shivajinagar,
Bengaluru – 560 001
Karnataka

[Represented by Shri Prashant, T. Pandit, Advocate]

.. PETITIONER

AND :

Gulbarga Electricity Supply
Company Limited (GESCOM),
Station Road,
Kalaburagi – 585 102

[Represented by Just Law, Advocates]

.. RESPONDENT

ORDERS

- 1) The question for consideration in this petition is, whether a captive coal based thermal generator having a generating plant with a certain maximum rated capacity can reduce operational capacity of the plant up to a minimum operating load of that plant for the purpose of retaining the captive status of the generating plant.
- 2) The material facts stated in the petition are as follows :
 - (a) The petitioner owns a Ferroalloys plant with two submerged Electric arc furnaces comprising of one 15 MVA and another 20 MVA furnace commissioned in the year 1968 and 1977 respectively and the same are located at Vyasanakere near Hospet in Bellary District, for production of Manganese alloys such as Siliconmanganese, Ferromanganese, etc.
 - (b) The petitioner, with a view to meet the energy requirement and also to ensure stable and continuous power to its furnaces, has established a 32 MW maximum rated capacity captive thermal coal based power plant at the same location. The minimum operational capacity of the said power plant is 22 MW.
 - (c) The petitioner was running both submerged electric furnaces for production of Manganese alloys such as Siliconmanganese, Ferromanganese when the business was thriving. The petitioner states that, for the present, it is unable to operate economically both furnaces due to market constraints as there is a severe drop in demand of Ferroalloys. Therefore, the petitioner now proposes to restrict its production by operating only one furnace reducing its captive consumption of electricity, so that the petitioner can retain

- the captive status of its generating plant by consuming not less than 51% of the aggregate electricity generated in such plant determined on an annual basis.
- 3) Previously, the petitioner had come forward before the Commission with the same question through a letter. The Commission *prima facie* felt that there might be no bar to run the plant with a minimum operational capacity. However, it felt that, the better procedure would be for the Petitioner to file a petition before the Commission so that the interested party would be heard in the matter. Therefore, the petitioner has approached the Commission with the present original petition by impleading GESCOM as the respondent, as the power plant in question is situated in its jurisdiction.
 - 4) The respondent has appeared and filed its statement of objections. It is contended that the petitioner cannot approach this Commission seeking such reliefs and the question raised by the petitioner does not fall under Section 86(1)(f) of the Electricity Act, 2003. The respondent has generally denied all other facts mentioned in the petition.
 - 5) We have heard the learned Counsel for the petitioner and the respondent.
 - 6) After considering the facts of the case and the relevant provisions, we are of the view that there is no bar legally to run the generating plant with a minimum operational capacity with a view to maintain consumption of electricity of not less than 51% of the aggregate quantum of electricity generated in such plant determined on annual basis.

- 7) As per Section 7 of the Electricity Act, 2003, any generating plant should comply with the technical standards relating to connectivity with the grid as specified by Central Electricity Authority (CEA). The CEA has specified, CEA (Technical Standards for Construction of Electrical Plants and Electrical Lines), Regulations, 2010. In the said Regulations, there are certain provisions specifying technical standards for construction of different types of thermal generating stations. We do not find any provision in the said Regulations, prohibiting to run the generating plant with a minimum operational capacity under any circumstance.
- 8) The decision in Appeal No. 116 of 2009 and IA No.218 and 219 of 2009 dated 18.05.2010 of Hon'ble Appellate Tribunal for Electricity between Chattisgarh State Power Distribution Company Ltd – Vs – Hira Ferro Alloys Ltd., & Others, supports the view that the petition in the present form is maintainable and the Commission has the jurisdiction to declare the captive status of any captive generating plant in the event of a doubt or clarification is sought for by the concerned. Para No.27 of the said Judgement is as follows :

"27. A generating Company which fulfills the special conditions prescribed in Section 2(8) read with Rule 3 above is categorized as captive power plant. Therefore, the captive generating plant will also be subject to the regulatory control of the State Commission inasmuch as a generating company. The proviso of Section 42(2) exempts a captive consumer from payment of cross subsidy surcharge. It is the State Commission which has the jurisdiction to determine whether the exemption provided under Section 42(2) can be accorded or not in the same manner as it is entrusted with the responsibility of determination of tariff and charges payable by the consumers in the State".

- 9) It is made clear that for claiming captive status the requirements stated in Rule 3 of the Electricity Rules, 2005 shall be complied with.
- 10) For the foregoing reasons, we pass the following :

ORDER

We answer the question raised above in the affirmative. The captive status can be claimed by the Petitioner upon fulfillment of the requirements stated in Rule 3 of the Electricity Rules. 2005.

Sd/-

(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER