

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION

No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052

Dated : 24th July, 2018

Present:

Shri M.K. Shankaralinge Gowda .. Chairman
Shri H.D. Arun Kumar .. Member
Shri D.B. Manival Raju .. Member

Complaint No. 02 / 2017

BETWEEN:

- 1) Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru – 560 001.
- 2) State Load Despatch Centre,
28, Race Course Cross Road,
Bengaluru – 560 009.

.. **COMPLAINANTS**

[Represented by Indus Law, Advocates]

AND:

Surana Industries Pvt. Ltd.,
Integrated Steel Complex,
Plot No.231-234,
Raichur Growth Centre, KIADB,
Raichur – 584 102

.. **RESPONDENT**

[Respondent remained absent]

ORDERS

- 1) The present Complaint is filed under Section 142 of the Electricity Act, 2003 (Act), by the Petitioners (Complainants), praying for imposition of penalty

against the Respondent, for non-compliance of the Order dated 13.10.2016, passed in OP No.23/2015, on the file of this Commission, directing the Respondent to pay 23,27,03,477/- (Rupees Twenty Three Crores Twenty Seven Lakhs Three Thousand Four Hundred and Seventy Seven) only, with interest, etc., to the Petitioners (Complainants).

- 2) The Notice issued to the Respondent, by Registered Post Acknowledgment Due (RPAD), was returned, unserved, with an endorsement that the Respondent-Industry was locked. The Notice to the Respondent was published in the Newspaper and such service of Notice was taken as sufficient. The Respondent did not appear, before this Commission, when the case was heard on various dates.
- 3) It is found that, even during the proceedings in OP No.23/2015, the Respondent had remained absent.
- 4) The learned counsel for the Petitioners (Complainants) submitted that, for the last three or four years, the Respondent has closed its Captive Power Plant and locked its premises. The learned counsel further submitted that, the Petitioners were not able to ascertain as to, whether the Respondent is having assets sufficient to meet with the amounts due under OP No.23/2015, or any portion of it.
- 5) The Petitioners have not impleaded the persons, who are responsible for the conduct of the business of the Company during the relevant period,

in the present proceedings. The present Complaint is only against the 'Company', which is a legal person.

- 6) The learned counsel for the Petitioners (Complainants) submitted that, mere non-payment of the amount, directed to be paid in OP No.23/2015 by the Respondent, would attract punishment under Section 142 of the Act. Therefore, the learned counsel has prayed for imposition of penalty of Rs.1,00,000/- (Rupees One Lakh) only, for the contravention of the directions issued in OP No.23/2015 and also for imposition of additional penalty of Rs.6,000/- (Rupees Six Thousand) only for every day, during which the non-compliance continued.
- 7) For punishing any person under Section 142 of the Act, this Commission has to satisfy itself that, such person has contravened any direction issued by the Commission. In the case of a direction for payment of any amount against a person, it should be shown that, such person was capable of paying the amount or a substantial portion of it, to come to the conclusion that, there was contravention by such person of the direction issued by the Commission.
- 8) It is also not the case of the Petitioners (Complainants) that, the persons in-charge of, and responsible for the conduct of the business of the Respondent-Company, have mismanaged the property of the Company. A direction to a Company is a direction against the persons, who are in-charge of the conduct of the business of the Company. Therefore, such

persons are also liable to answer the claim against a Company, and in case of their failure to do so, they would be liable for punishment.

- 9) The Petitioners (Complainants) have not established the above requirements and therefore, we are of the considered opinion that, mere non-payment of the amount due to the Petitioners, in OP No.23/2015, is not sufficient to attract any punishment, by way of imposition of penalty under Section 142 of the Act.
- 10) For the foregoing reasons, we pass the following:

ORDER

The Complaint stands dismissed.

Sd/-

(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER