

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005  
Tel. 022 22163964/65/69 Fax 22163976  
Email: [mercindia@merc.gov.in](mailto:mercindia@merc.gov.in)  
Website: [www.mercindia.org.in](http://www.mercindia.org.in) / [www.merc.gov.in](http://www.merc.gov.in)**

**Case No. 122 of 2016**

**Date: 13 October, 2016**

**CORAM: Shri. Azeez M. Khan, Member  
Shri. Deepak Lad, Member**

**Petition of M/s Jsons Foundry Pvt. Ltd. regarding denial of Short Term Open Access**

M/s Jsons Foundry Pvt. Ltd .....Petitioner

V/s

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)

Maharashtra Energy Development Agency (MEDA) .... Respondents

**Present during the hearing**

For the Petitioner : Ms. Dipali Sheth, (Adv)

For the Respondent, MSEDCL : 1. Ms. Deepa Chawan, (Counsel)  
2. Shri A.V.Bute, (Rep)

For Consumer Representative : Shri Ashok Pendse, (Rep) TBIA

**Daily Order**

Heard the Advocates of the Petitioner and the Respondents.

1. The Petitioner submitted that:

- (i) The Commission had issued an Order dated 26 October, 2015 in Case No. 200 of 2014 wherein the prayer for premature EPA termination was rejected by the Commission. The Petitioner had filed an appeal before ATE challenging the above Order, which is now subjudice. The issue in this Case is neither similar nor relevant to that of the Commission's Order in Case No 200 of 2014.
- (ii) It had commissioned five wind mills having total capacity of 4.3 MW at Shirala (Sangli) and entered into Energy Purchase Agreement (EPA) with MSEDCL for 13 years on November 2006, May 2007, July 2008 and August 2008, respectively. As per Article 12.01 of the EPA, Petitioner issues monthly invoices for sale of energy to MSEDCL for its all five units. Accordingly, MSEDCL has made payment till August, 2015. However, MSEDCL has failed to make payments towards outstanding invoices from September, 2015 onwards till date, and also late payment surcharge in respect of the

bills raised till date. As per the payment mechanism, MSEDCL is expected to pay in 45 days. Letters were sent to MSEDCL on 25 January and 14 February, 2016 regarding the payment of the outstanding dues, to which MSEDCL had not replied.

- (iii) Upon failure to pay the outstanding dues, considering the default under Article 13.02 of EPA, Petitioner sent a Notice on 6 March, 2016 to MSEDCL to cure the breach by making the payment of the principal outstanding dues within thirty days. The Notice specified that the EPA shall stand terminated on the expiry of the period of thirty days. However, MSEDCL failed to pay the outstanding dues and outstanding interest till date, and not replied to the Notice. Therefore, on 12 April, 2016, the Petitioner sent a legal Notice regarding termination of the EPA due to the non-payment of the total outstanding dues. However, MSEDCL again failed to reply to the Notices of the Petitioner or raise any dispute pertaining to termination of the EPA.
  - (iv) On the same day, i.e. 12 April, 2016, Petitioner submitted four Short Term Open Access (STOA) applications for self use of wind energy generated from its wind units at Shirala. MSEDCL, vide its letter dated 29 April, 2016, rejected the STOA Applications stating that the Petitioner has executed Long Term EPA with MSEDCL for 13 years for its wind generators and, as per the Commission's Order in Case No. 200 of 2014, the EPA cannot be terminated prematurely.
  - (v) MSEDCL neither disputed the outstanding dues nor the termination of the EPA. Hence, the Commission may direct MSEDCL to issue STOA permission for self use. Petitioner also requested the Commission to dispose of the matter expeditiously, and reiterated that the Petition is only for STOA for self-use.
2. MSEDCL submitted that:
- (i) The Commission's Order in Case No. 200 of 2014 is related to premature termination of EPA, which is challenged by the Petitioner before ATE, and as such the matter is sub-judice.
  - (ii) In the light of the above, in reply to the Petitioner's letter dated 12 April, 2016 for STOA, MSEDCL vide its letter dated 29 April, 2016 had replied that, as per the Commission's Order in Case No. 200 of 2014, EPA cannot be terminated prematurely, and till the existence of the EPA, STOA cannot be granted.
3. The Commission observed that, since the Petitioner is a Generator as well as a consumer, MSEDCL, with the consent of the Petitioner, could have taken appropriate steps for settlement of its payment dues within time by adjustment of the consumer's bills.
4. The Petitioner sought two weeks to file its Rejoinder to the submissions made by MSEDCL, which is granted by the Commission, with a copy to MSEDCL and Authorised Consumer Representatives.

**Case is reserved for Order.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**