

**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**  
**Website: [www.mercindia.org.in](http://www.mercindia.org.in) / [www.merc.gov.in](http://www.merc.gov.in)**

**Case No. 122 of 2017**

**Date: 6 December, 2017**

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

**Petition of MSEDCL under Section 94 of Electricity Act, 2003 read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 for Review of the Commission's Order dated 15 .02.2017 in Case No. 86 of 2015.**

Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) .....Petitioner

v/s

Century Rayon .....Respondent

**Appearance**

For Petitioner : Smt. Deepa Chawan, Advocate

For Respondent : Shri. Vijay Agarwal, Advocate

For Authorised Consumer Representative : Dr. Ashok Pendse (TBIA)

**Daily Order**

1. Heard the Advocates of MSEDCL and the Respondent and Authorized Consumer Representative.
2. Advocate of MSEDCL stated as below:
  - a. The Petition is filed for Review of the Commission's Order dated 15 February, 2017 in Case No. 86 of 2015 and the ambit of the Review is limited to a small portion, i.e. Para. 15 of the Order.
  - b. The Commission's observations in Para. 15 of the impugned Order have given a general character to the Kalika Order (Case No. 88 of 2012) and its Review Order (Case No. 105 of 2013) dated 17 July, 2014 in Case No. 105

of 2013 (Kalika Case), though the Orders in these Cases were confined to Kalika Steel and 16 Co-Petitioners only.

- c. These observations have widened the scope of the Orders in the Kalika Case which may result in multiplicity of litigations. These observations / clarifications are errors apparent, and hence the impugned Order needs to be reviewed.
- d. MSEDCL anticipates that generalizing the Kalika Case in Para. 15 of the impugned Order would have a financial impact of about Rs. 4000 Crores, which will be a big setback to MSEDCL which will have to be passed through ARR.
- e. Supreme Court, in the Case of Mohinder Singh Gill Vs. Chief Election Commissioner, (1978) 1 SCC 405, has held that later Orders cannot explain the earlier Orders. Hence, the explanation given by the Commission in Para. 15 needs to be omitted.

3. Advocate of Century Rayon stated as below:

- a. No fresh points are raised by MSEDCL in its Review Petition.
- b. The grounds raised by MSEDCL were already considered by the Commission while passing the impugned Order.
- c. MSEDCL has already complied with the CGRF and other Orders related to the same matter in which the Kalika Orders were referred to. MSEDCL's stand that the Kalika Case Order was confined to Kalika Steel and 16 Co-Petitioners only would amount to discrimination and be against the principles of natural justice. Even before the Kalika Case, MSEDCL had complied with the Order of the Electricity Ombudsman regarding Paul Strips dated 3 February, 2010, and not challenged that Order.
- d. MSEDCL, under the guise of review, is in fact seeking to Appeal against the impugned Order and the Commission is not the appropriate forum for such appeal.
- e. The Supreme Court Judgement cited by MSEDCL is not applicable to this Case.

4. Dr. Ashok Pendse, for Thane - Belapur Industries Association (TBIA, an Authorised Consumer Representative) stated that MSEDCL's argument is limited to the observations in the impugned Order which have expanded the scope of the Kalika Case. However, on the basis of the Kalika Case, several Orders have already been passed by CGRFs, and asked what would happen to them.

**The Case is reserved for Order.**

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

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