



सत्यमेव जयते

केन्द्रीय विद्युत विनियामक आयोग

CENTRAL ELECTRICITY REGULATORY COMMISSION



Dr. Pramod Deo
Chairperson

D.O.No. 01/Fin. Divn/2004-05/CERC
30th November, 2011

Dear *Sri Uma Shankar,*

I am writing to you in connection with operation of the CERC Fund created under the Electricity Act, 2003, and with reference to the recent communications (copies enclosed) from the Ministry of Power in this context - one dated 28th October, 2011 categorizing release of funds from the Public Accounts of India to CERC as grants-in-aid, and the other dated 3rd November, 2011 requiring the Commission to subject its accounts to audit by the internal audit team of Ministry of Power. These requirements are not in tune with the letter as well as spirit of the Act and the rules framed thereof.

The provision of separate fund for the Regulatory Commission was made in the Act with a view to ensuring autonomy to the Commission. Ministry of Finance also reiterated this commitment of financial autonomy of the regulators in the guidelines issued in January, 2005 to provide that the *funds of Regulatory Bodies may also be maintained in the Public Accounts but operated in such a manner as will protect their independent status*. Comptroller and Auditor General of India (CAG) in its report (2008) also observed that *'these instructions of the Ministry of Finance directed all ministries and departments of the Government to ensure that funds of Regulatory Bodies are maintained in the Public Accounts but operated in such a manner as will protect their independent status'*.

The Central Commission has been given the powers under section 79 (1) (g) of the Act to levy fee. Further, as per section 99 of the Act, it has been provided that the revenue generated from fee would be kept in a separate fund. It has also been provided in section 98 of the Act that if there is a shortfall of revenue to meet the budgeted expenditure of the Commission, the Central Government shall bridge the gap by way of grants which will also be put in the said fund. Pertinently, the revenue generated at present by CERC by way of fee is adequate to meet its expenditure. During 2010-11 and 2011-12, the Commission has not requested for any grant-in-aid to supplement the revenue stream of the Commission.

CERC Fund Rules, 2007 issued in pursuance of section 99 of the Act, provide that the CERC fund would be parked in the Public Account of India. Accordingly, during the years 2010-11 and 2011-12, Rs. 37.48 crore was deposited by the Commission into the Public Accounts of India. The Public Account Funds do not belong to Government and have to be finally paid back to the persons and authorities who deposited them. Further, as per the Fund Rules, on the request of the Commission, amounts from the fund shall be released against the Commission's annual budget twice in the financial years. Accordingly, the Commission vide its letters dated 30th March, 2011 and 9th September 2011 sought release of its 2011-12 Annual Budgetary requirement of Rs. 31.48 crore in two tranches to meet its requirement for 2011-12.

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It follows from the above that release of funds from CERC Fund, which are kept in the Public Account of India, cannot be categorised as 'Grant-in-aid' or for that matter cannot be subjected to the requirements of compliance of the terms and conditions appended with the grants-in-aid provided by the Government of India generally from the Consolidated Fund of India. The release of funds by Ministry of Power vide letter No.25/10/2006-R&R (Vol.II) dated 28th October, 2011 as 'Grant in Aid' therefore needs to be modified to merely a release of funds from Public Accounts of India to the Commission to meet its Budgetary requirement without the attendant conditionalities appended along with a release of funds as a 'Grant in aid'.

The other issue relates to the audit of accounts by an internal audit team of the Ministry of Power. As per Section 100 (2) of the Act, the accounts of the Commission are audited by the Comptroller and Auditor General of India. Accordingly, ever since 2004-05, the C&AG have been auditing the accounts as well as transactions of CERC. I may emphasise here that there have been no major Audit observations by C&AG in its Audit Reports in respect of the Commission. CERC already has its own system for internal audit as an aid to the higher management for monitoring and internal control. The requirement of internal audit of the Ministry of Power to audit the accounts of the Commission is not envisaged in the Act and the Rules framed in this regard, and also compromises the concept of autonomy of the Regulators.

It is therefore requested that the sanction issued by the Ministry of Power designating the release of funds to CERC as grants-in-aid be suitably amended. Further, in view of the internal Audit system in the Commission as well as audit of the Commission's Accounts by C&AG, there may be no further additional requirement of Internal Audit by Ministry of Power.

Best regards.

Yours sincerely,



(Dr. Pramod Deo)

Encl : As stated

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