

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. SM/003/2014

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A. K. Singhal, Member**

Date of Order: 24.6.2014

In the matter of

Non-compliance of the Central Electricity Regulatory Commission
(Payment of Fees) Regulations, 2012.

**And
In the matter of**

Subhash Kabini Power Corporation Limited
Mfar Silvrline Techpark, 2nd Floor, Plot No. 180,
EPIP Zone, 2nd Phase, Whitefield
Bangalore-560 066

.....Respondent

ORDER

By order dated 26.5.2005, Subhash Kabini Power Corporation Limited (hereinafter referred to as "the licensee") was granted trading licence for Category 'A' to trade in electricity within the country except the State of Jammu and Kashmir in terms of Regulation 6 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2004. Consequent to the notification of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions



for grant of trading licence and other related matters) Regulations, 2009 (hereinafter Trading Licence Regulation), the licence stands re-categorized as category 'IV'.

2. In our order dated 12.3.2014, we had directed as under:

"3. In accordance with the Section 19 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), where the licensee in the opinion of the Commission, makes willful and prolonged default in doing anything required of him by or under the Act or the Rules or the Regulations, the Commission may revoke the licence after serving a notice of not less than three months. Under the Payment of Fee Regulations, the licensee is required to pay the licence fee for the year 2013-14 by 30.4.2013. The respondent has failed to deposit the licence fee within the stipulated period.

5. As per Regulating 7 (a) of the Trading Licence Regulations, the licensee is required to regularly pay the licence fee specified by the Commission from time to time. The respondent has not responded to the letters issued by the staff of the Commission for depositing the licence fee. The conduct of the licensee amounts to non-compliance of the provisions of the Trading Licence Regulations and Payment of Fee Regulations. In our view, the licensee is not entitled to hold the licence when he has failed to pay the licence fee in violation of the regulations. Accordingly, we direct the respondent to file its response as to why its licence should not be revoked for will full default in depositing the licence fee. This order shall also be treated as notice under sub-section (3) of Section 19 of the Act and unless otherwise directed by the Commission, the licence of the licensee shall stand revoked after expiry of the period of three months from the date of issue of this order."

3. The respondent has not filed any reply to the notice dated 12.3.2014.

4. Section 19 of the Electricity Act, 2003 provides for the revocation of licence as under:

"19. Revocation of licence-(1) If the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely:

(a) where the licensee, in the opinion of the Appropriate Commission, makes willful and prolonged default in doing anything required of him by or under this Act, or the rules or regulations made thereunder;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to



render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefore-

(i) to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(ii) to make the deposit or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than three months notice in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation."

5. In our order dated 12.3.2014, the respondent was directed to explain as to why its trading licence should not be revoked for willful default in depositing the licence fee. In response, the respondent has not filed any reply to the notice. A period of three months has already lapsed since the issue of notice to the respondent. Therefore, we are of the view that the trading licence issued to Subhash Kabini Power Corporation Limited should be revoked in public interest. In exercise of our power under Section 19 of the Electricity Act, 2003, we revoke the licence granted to Subhash Kabini Power Corporation Limited with immediate effect. We further direct that if it comes to the notice of the Commission that Subhash Kabini Power Corporation Limited has undertaken



any trading during the period from 1.4.2013 (i.e. date of default of payment of licence fee) till the date of issue of this order, the same shall be considered as illegal and unauthorized and appropriate action under the Electricity Act, 2003 shall be taken against Subhash Kabini Power Corporation Limited.

6. Petition No. SM/003/2014 is disposed of in terms of above.

Sd/-
(A. K. Singhal)
Member

sd/-
(M.Deena Dayalan)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

