

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 10 of 2007 &**  
**M.A. No. 2 of 2010**

**In the matter of**  
**Petition filed by MSEDCL initiating enquiry in respect of revocation / suspension of licence**  
**of MPECS**

**Shri V.P. Raja, Chairman**  
**Shri Vijay L. Sonavane, Member**

Maharashtra State Electricity  
Distribution Company Limited  
Prakashgad, Bandra (E),  
Mumbai 400 051

.... Petitioner

Vs.

Mula Pravara Electric Co-operative Society Ltd  
Post Shirampur, Tal. Shirampur,  
Dist. Ahmednagar

... Respondent No.1

The Principal Secretary (Energy)  
Industries, Energy and Labour Dept  
Government of Maharashtra,  
Mantralaya, Mumbai 400 032

... Respondent No. 2

The Secretary (Co-Operation & Marketing)  
Co-Operation – Marketing & Textile Department  
Government of Maharashtra  
Mantralaya, Mumbai 400 032

... Respondent No.3

The Mula Pravara Veej Grahak Sangathana  
Through Shri Gorakshanath Kundalik Vikhepatil,  
Having office at Shirampur, District Ahmednagar

... Intervener

The Ahmednagar Zilha Shramik Sabha,  
At Post Shrirampur.  
Through Shri Dyaneshwar Bhagwant Aher,  
Having Office at Shrirampur, District Ahmednagar ...Intervener

Akhil Bharatiya Grahak Panchayat,  
Branch – Shrirampur  
Shri Anil V. Kulkarni,  
Gurudatta Colony,  
Near Kamgar Hospital,  
Shrirampur, Dist. Ahmednagar. ...Intervener

Shri Ramesh Ghewarchand Kothari,  
Merchants Association Shrirampur,  
Shrirampur, Dist. Ahmednagar ...Intervener

Shri Gorakshnath Kundlik Vikhe,  
President  
Mula Pravara Electric Co-op Society  
Employees Credit Co-operative Society,  
Shrirampur, Dist. Ahmednagar. ...Intervener

Shri Anna Patilba Unde,  
Pravara Institute of Research and Education  
In Natural and Social Science,  
Loni, Dist. Ahmednagar ...Intervener

Shri A.T. Wadkar,  
Shrirampur Industrial Estate,  
Shrirampur, Dist. Ahmednagar. ...Intervener

### **ORDER**

**Dated: 15 June, 2012**

The Petitioner filed a Petition on 25 May, 2007 seeking the initiation of enquiry in respect of revocation / suspension of licence of the Respondent No.1 for the following reasons, stated in brief:

- (i) That the Respondent has since October 1977 defaulted in making payments of regular bills to the erstwhile MSEB (whose distribution functions have been vested in the Petitioner company) for electricity supplied by MSEB to the Respondent. This default continues till date, resulting in arrears amounting to Rs. 951.49 crore. The amount of arrears is increasing by around Rs. 12 crore every month.
- (ii) Due to the huge amount of arrears the Petitioner in turn, is in default of approximately Rs. 500 crore to Maharashtra State Power Generation Company Limited (MSPGCL) and other suppliers and contractors. This will in turn affect power supply to the entire State.
- (iii) That the High Court of Judicature at Bombay, Nagpur Bench, vide its Order dated 30 April, 2003 in Writ Petition No. 3399 of 2000 expressed concern as to why the licence of MPECS (the Respondent No.1 herein) is not being revoked and its assets being handed over to MSEB for adjustment towards the dues / arrears and / or disconnection of electricity supply by MSEB to the consumers of the Respondent No.1 as a consequence thereof.
- (iv) That the Petitioner objected to the continuation of the Respondent No.1 as a licensee and supply of power by MSEB to the Respondent No.1 at “viable Tariff”, and creation of regulatory asset as suggested by the Commission vide letter dated 27 January, 2004 to the State Government.
- (v) The condition under which the licence of the Respondent No.1 was renewed on 21 May, 1999 was that it would regularly pay the erstwhile MSEB the monthly energy charges and the amount of arrears. However, the Respondent No.1 has

failed to comply with these conditions which were stipulated in its renewed licence. Thus, the Respondent No.1 is in breach of licence conditions.

- (vi) The financial position of the Respondent No.1 is such that it is unable to fully and efficiently discharge the duties and obligations imposed on it by its licence.

In the background of the above facts, stated in brief, the Petitioner has sought to invoke the provisions of Section 19 (revocation of licence) and Section 24 (suspension of licence) of the Electricity Act, 2003 (EA 2003). The Petitioner has stated that it would be in public interest to do so.

4. After hearing the parties the Commission vide its Order dated 2 February, 2009 adjourned the matter sine die in view of the fact that the Respondent No. 1 had filed Civil Appeal Nos 6044 of 2008, 6043 of 2008 and 4231 of 2008 before the Hon'ble Supreme Court, challenging the very basis for seeking revocation / suspension of license, namely the inability of the Respondent to pay and clear the outstanding dues, and these were pending in the said court. . The Commission took the view that the issue of dues and arrears of the Petitioner and continuation of the Respondent No.1 as a licensee are also part of the civil appeals filed by the Respondent No.1.

5. Subsequently the Petitioner, MSEDCL, filed a Miscellaneous Application on 19 November, 2009 to recall the aforesaid Order dated 2 February, 2009 and to restore and revive the proceedings. The Petitioner submitted inter alia that the Hon'ble Supreme Court vide its Order dated 20 July, 2009 was pleased to dismiss the application filed by the Respondent No.1 seeking interim relief / stay in the aforementioned Civil Appeals. The Petitioner also placed on record a copy of the said Order of the Hon'ble Supreme Court.

6. The matter was subsequently restored, revived and admitted by the Commission vide Order dated 8 February, 2010. Thereafter, the Commission on 1 April, 2010 issued an Interim Order appointing the Administrative Staff College of India (ASCI) to enquire into and to ascertain whether the Respondent, MPECS, is in default in performing any of the duties and obligations cast upon it under the EA 2003 or Rules and Regulations made thereunder and also terms and conditions of its license and also to ascertain whether it is in a position to fully and efficiently discharge the duties and obligations imposed on it by its license on a long term basis. The Commission took the view that the financial position of the Respondent must be examined before concluding whether it is able to fully and efficiently discharge the duties and obligations imposed on it by its license.

7. The Commission admitted Intervention Applications received from (i) Mula Pravara Veej Grahak Sanghatana, (ii) Ahmednagar Zilla Shramik Sabha, (iii) Akhil Bharatiyas Grahak Panchayat, (iv) Merchants Association, Shirampur, (v) MPECS Employees Credit Co-op Society, (vi) Pravara Institute of Research and Education in Natural and Social Science, and (vii) Shirampur Industrial Estate. The Commission directed the above Interveners to serve copies of their applications on the parties.

8. MSEDCL had also filed a Miscellaneous Application (M.A. No. 2 of 2010) in the matter, inter alia submitting that MSEDCL has begun regulating power supply of MPECS exclusively on the grounds that MPECS has failed to provide either a revolving letter of credit or any other instrument sufficient to ensure regular payment of electricity bills, necessary as per the Commission's Order.

9. An enquiry report was submitted by ASCI on 30 July, 2010. Replies thereto were sought by the Commission from the parties.

10. Subsequently, hearings were held by the Commission. On 28 December, 2010 the Commission issued a notice to the Respondent No.1 to show cause as to why the license granted to it on 28 January, 1971 and extended till 31 January, 2011 should not be immediately suspended in terms of the provisions of Section 24 of the EA, 2003, pending the decision of the Commission in this matter. A reply in the matter was filed by the Respondent No. 1.

11. In the meanwhile, the existing license of Respondent No.1 was due to expire on 31 January, 2011. In order to decide the grant of distribution license for supply of electricity in the talukas of Shrirampur, Rahuri, Nevasa, Sangamner and Rahata talukas of Ahmednagar District, which is the supply area of the Respondent No.1, the Commission invited applications for distribution license under Section 12 read with Section 14 of the EA 2003. The only two contenders that remained to be evaluated were the Petitioner and the Respondent No.1. for grant of license for fresh period consequent to the expiry of license of Respondent No.1 on 31 January, 2011. After evaluating the applications of both the Petitioner and the Respondent No.1, the Commission issued Order dated 27 January, 2011 in Case No.85 and 87 of 2010 rejecting the application of Respondent No.1 and granting distribution license to the Petitioner. An appeal under Section n 111 of the EA 2003 was preferred by the Respondent No.1 from this Order. The Hon'ble Appellate Tribunal for Electricity (ATE) decided the appeal vide its Judgment dated 16 December, 2011 in Appeal No.39 of 2011 in terms whereof, *inter alia*, the Hon'ble ATE has set aside the Order dated 27 January, 2011 and remanded the matter to the Commission with a direction to reconsider the application for licence of the Respondent No. 1 and dispose of on merits in accordance with the provisions

of the Act and the Commission's General Conditions of supply Regulations and with a further direction to consider for grant of licence to both the parties by allowing them to operate in the same area. The matter is currently pending before the Commission.

12. In the above conspectus, facts and circumstances and especially when the distribution license of the Respondent No.1 has already expired on 31 January, 2011 and there is a direction from the Hon'ble ATE to decide afresh the license application of Respondent No.1 for a fresh period, the present petition seeking the revocation / suspension of license of Respondent No.1 has really become infructuous. Accordingly, the present petition and the Miscellaneous Application filed thereunder stand dismissed as infructuous.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V.P. Raja)  
Chairman