

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 109 of 2009

In the matter of
Petition of M/s. Power Controls, Nagpur seeking directions upon MSEDCL
regarding Vendor's Registration for the supply of Distribution Transformer of 63,
100 and 200 kVA, 11/0.433 kV Class

Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri V. L. Sonavane, Member

M/s. Power Controls, Nagpur

..... Petitioner

Versus

Maharashtra State Electricity Distribution Company Ltd

..... Respondent

ORDER

Date: April 01, 2010

M/s. Power Controls, carrying out business from Hingana Industrial Estate, Nagpur have submitted a Petition under affidavit on 11th January, 2010 (rectified the deficiencies on 15th January, 2010), under Sections 57(1), 57(2), 57(3) and Section 86(1)(i) of the Electricity Act, 2003 (“EA 2003”), seeking directions upon the Respondent (MSEDCL) to confirm the Petitioner as a Registered Vendor of MSEDCL for supply of Distribution Transformer of 63, 100 and 200 kVA, 11/0.433 kV Class.



2. The Petitioner has prayed as follows:

“MSEDCL may be ordered to confirm the petitioner as ‘Registered Vendor of MSEDCL for the Supply of Transformers’, and its name may be included in the list of Registered Vendors.”

3. The Petitioner submits that it is a proprietorship business wholly owned by Shri Nathu Gangadhar Rambhad. It is submitted that he is a repairer of distribution transformers. In the year 2008, the Petitioner started the manufacturing of distribution transformers of 63 kVA, 100 kVA and 200 kVA capacitors having voltage ratio of 11000/433 and got these transformers type tested as per tender specifications of MSEDCL and IS-2026 and IS-1180. The Petitioner thereafter applied for Online Vendor Registration for supply of distribution transformers to MSEDCL on 30th January, 2009 with the necessary fees of Rs. 25,000/- vide Money Receipt dated 6th November, 2008. Accordingly after completing all formalities, MSEDCL had informed the Petitioner through a computer generated e-mail dated 23rd May, 2009 as follows:

“...MSEDCL is pleased to inform that, subsequent to your request for the registration and verification of the documents, your firm is hereby registered with the MSEDCL as a Registered Vendor to participate in the e-Tendering process.”

4. It has been submitted by the Petitioner that on the basis of above registration, the Petitioner had approached various offices of MSEDCL, stating that the Petitioner is a Registered Vendor and their transformers may be accepted for Agricultural and Infrastructural Construction work. But the field officers of MSEDCL refused to consider the Petitioner as a Registered Vendor, stating that unless the Head Office of MSEDCL approves him as a Registered Vendor, his transformers could not be ordered by the electrical contractors working for MSEDCL in the field of Agricultural and Infrastructure projects.

5. It is submitted that on making enquiries regarding the above with the Head Office of MSEDCL by sending an application under Right to Information Act, 2005, it was informed that, the Petitioner is registered only for participating in E-Tendering Process which is used by the Material Management Cell of MSEDCL for the procurement of material, whereas list of registered vendors for supply of materials for various projects being implemented in MSEDCL is prepared by Project Section of MSEDCL Head Office, Mumbai. The Petitioner was asked to approach the concerned section for the same.

6. It is submitted that the Petitioner had further sent a letter dated 4th November, 2009 to the Executive Director (Projects) for which the Petitioner had got no reply. Further on 6th December, 2009, the Petitioner sent a letter to the Managing Director, MSEDCL, as a reply to which the Chief Engineer (Stores) sent a letter to the Petitioner saying that the Petitioner is eligible to participate in the e-tendering process of Material Management Cell of MSEDCL.
7. The Petitioner submits that it is clear that MSEDCL does not want the Petitioner to participate in the supply of transformers for Agriculture projects and Infrastructure Projects, which is a barrier raised by MSEDCL to protect the interest of a few.
8. Further to the Commission's letter dated 20th January, 2009 asking the Petitioner to rectify certain deficiencies in the petition, the Petitioner removed the deficiencies and submitted the same on 15th February, 2010. It is submitted that the petition is being filed under Sections 57(1), 57(2), 57(3) and Section 86(1)(i) of the EA 2003.
9. The Commission, vide Notice dated 3rd March, 2010, fixed an admissibility hearing in the matter on 15th March, 2010.
10. In the hearing held on 15th March, 2010, Shri Nathu Gangadhar Rambhad, proprietor of the Petitioner, appeared on behalf of the Petitioner. Shri P. U. Shinde, Exe. Director (CP) and Shri A. N. Gujar, Chief Engineer, MSEDCL, appeared on behalf of MSEDCL. The Petitioner submitted that even though he has been registered with MSEDCL as a Vender for participating in e-tendering for supply of distribution transformers, the Field Officers of MSEDCL are not permitting him to supply the distribution transformers for Agricultural and other works. Hence, the Petitioner has filed this Petition before the Commission for redressal of his grievance.
11. Shri P. U. Shinde, Exe. Director (CP) of MSEDCL submitted during the hearing that all registered contractors are permitted to participate in the tendering process of MSEDCL, which is conducted through a very transparent procedure. There are certain criteria which have been fixed by the management of MSEDCL and whosoever fulfills these criteria is eligible to participate in the tendering process.
12. The Petitioner has admitted in the hearing that, he is not fulfilling the financial criterion set by MSEDCL and further submitted that MSEDCL has set such criterion to protect the interest of some particular suppliers. Further, MSEDCL has submitted that the Petitioner has not quoted in any of the e-tenders.



13. Having heard the parties, the Commission is of the view that the present petition is not maintainable because the provisions under which the present petition has been filed are not applicable to the present case. The issue raised by the Petitioner is not one that relates to specification of standards of performance of a licensee or failure to meet such standards as stipulated under Section 57. There is therefore no question in case of prayer made by the Petitioner to enforce standards with respect to quality, continuity and reliability of service by licensees as stipulated under Section 86(1)(i). Though these statutory provisions have been mentioned in the Petition in order to file it none of these Sections have any applicability to the present case. Apart therefrom, the Petitioner has raised issues in the nature of a dispute or difference between the intended supplier (i.e. the Petitioner) and the purchaser (i.e. the Respondent, MSEDCL). The Commission is not the appropriate forum to agitate these issues.

In the circumstances, the present petition stands dismissed as not maintainable.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC