

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri A.K. Basu, Chairperson**
2. **Shri Bhanu Bhushan, Member**
3. **Shri A.H. Jung, Member**

Petition No.31/2004

In the matter of

Grant of inter-state trading in electricity

And in the matter of

Global Energy Limited

..... Applicant

The following were present

Shri Sitiesh Mukherjee, Advocate, GEL

**ORDER
(DATE OF HEARING:9.3.2006)**

The applicant has made the application for grant of licence for trading in electricity for category 'A'. It was found to be *prima facie* eligible for grant of licence and therefore, the Commission by its order dated 6.9.2004 had proposed to grant the licence, subject to publication of notice under sub-section (5) of section 15 of the Electricity Act, 2003 (the Act) to invite suggestions or objections to the proposal.

2. In response to the notice published by the Commission, an anonymous complaint dated 13.9.2004 was received in the Commission's office through e-mail alleging that Shri Harry Dhaul, Managing Director of the applicant was going to be charge-sheeted by CBI for the fraud committed by him with regard to Belgundi Cements Ltd, a sister concern of the applicant. Therefore, in terms of

the Commission's order dated 28.9.2004, a copy of the complaint was supplied to the applicant with a direction to file its comments on the allegations made therein. The applicant was further directed to file on affidavit the details regarding all pending cases, (civil and criminal), involving it, its sister concern Belgundi Cements Ltd and any of the persons on the Board of Directors of these two companies, so as to indicate the nature of the case, parties involved, nature of relief sought, name of the Court where pending, and the present status of each case.

3. The applicant filed a petition before the Hon'ble Delhi High Court to question propriety of asking for the information by order dated 28.9.2004. The petition was subsequently transferred to the Appellate Tribunal for Electricity where it has been considered as an appeal against the order dated 28.9.2004. The counsel for the applicant, appearing before the Appellate Tribunal submitted that the details called for vide said order dated 28.9.2004 would be furnished. The appeal was withdrawn and was accordingly disposed of by order dated 1.2.2006.

4. In pursuance of the statement made before the Appellate Tribunal, the applicant has filed the detailed information under an affidavit with regard to the applicant itself, Belgundi Cements Ltd. and their promoters. However, the applicant has not submitted its comments on the complaint, also called for by order dated 28.9.2004.

5. The application is now listed for hearing consequent to filing of the affidavit by the applicant.

6. Heard Shri Sitesh Mukherjee, learned counsel for the applicant.

7. It was noticed that the Appellate Tribunal while disposing of the Appeal by its order dated 1.2.2006 had noted that the Commission would continue the interim order till final decision is taken with regard to the question whether or not trading licence should be granted to the applicant, subject to the condition that in case, the applicant would like to enter into a fresh contract for supply of power to a party, prior permission shall be taken by the applicant from the Commission before execution of such a contract. Learned Counsel for the applicant has submitted that the applicant will obtain prior permission of the Commission whenever it proposes to execute a fresh contract for trading of electricity. He has also informed that at present the applicant has only one contract in hand, under which power is bought from Arunachal Pradesh and sold to ASEB. The applicant is directed to file the duration of the present contract. He has stated that in view of the subsequent developments, the applicant does not propose to file any comments on the anonymous complaint.

8. The application was also heard on 14.10.2004. By the order of same date, the applicant was directed to file an affidavit that in case the licence for trading was granted, it would not make any application before any Commission for grant of transmission licence without surrendering the trading licence, because as per

the Memorandum of Association of the applicant, it can establish and carry on the business of transmission of electricity which is not permissible in view of the third proviso to Section 41 of the Act. The applicant was further directed to clarify the role of Shri Mikhail Dhaul, its Director (Projects), in connection with the construction of the transmission system meant for evacuation of power, to be ultimately taken over by Karnataka Power Transmission Ltd. No affidavit has been filed by the applicant on these two issues. The applicant is directed to file the affidavit as already directed.

9. In view of the anonymous complaint received through e-mail, the Commission had approached CBI to ascertain the details of the case, if any, investigated or being investigated by CBI involving the applicant or Belgundi Cements Ltd. CBI has informed that a case was registered against Shri Harry Dhaul, Smt. Laxmi Dhaul (wife of Shri Harry Dhaul) and certain other unknown persons under section 120-B read with section 420 of Indian Penal Code and the relevant provisions of the Prevention of Corruption Act, 1988, and FIR was filed in the Court of Special Judge, CBI, Dharwar. The allegation is that Shri Harry Dhaul and others entered into a criminal conspiracy to cheat Central Bank of India, Mumbai Main Office in the matter of sanctioning, disbursing and availing various credit facilities from the Bank in the form of term loan, DPG etc and cheated the Bank to the tune of more than Rs.39 crore. As per the report from CBI, Hon'ble High Court of Karnataka quashed the name of Smt. Laxmi Dhaul from FIR against which CBI filed an SLP before the Hon'ble Supreme Court.

10. Learned Counsel for the applicant has submitted that the Hon'ble Supreme Court had allowed prosecution of Smt. Laxmi Dhaul to continue. He has stated that the charge-sheet was consequently filed before the trial court, but prosecution has once again been stayed by the Hon'ble High Court of Karnataka. The applicant is directed to place on record copies of the order of the Hon'ble Supreme Court and the Hon'ble High Court of Karnataka

11. In para 3 of the affidavit dated 15.2.2006 it has, *inter alia*, been stated as under:

“3. The Applicant has taken a reasonable care to furnish the detailed information of legal cases involving Global Energy Ltd and Belgundi Cements Ltd. and their promoters. In case, inadvertently any information has been left out then the Applicant shall provide the same as soon as it comes to its notice”

12. The affidavit contains a guarded statement. There is a need to make a categorical averment in the affidavit since, before taking a view on the application, the complete information has to be available before the Commission. Therefore, the applicant shall file on affidavit a categorical statement whether or not any other case is pending and if pending, it shall furnish the details thereof.

13. Department of Power, Govt. of Tripura has also filed an affidavit before the Commission, objecting to grant of licence, alleging that the applicant has failed to arrange evacuation of power contracted and make payments to Tripura Govt. as per its commitments. It is stated that the applicant has not allowed to invoke LC for releasing the outstanding dues and instead it has filed a civil suit at Panchkula, to restrain State Bank of Patiala to invoke LC for payment to Tripura

Govt. We direct that a copy of the affidavit filed by Tripura Govt. be furnished to the applicant who shall file its response thereon, duly supported by affidavit.

14. In addition, the applicant shall also file a copy of the annual accounts duly audited for the year 2004-05, and the complete details and particulars of cases pending before BFIR/AFIR involving Belgundi Cements Ltd, a reference to which has been made in the affidavit filed on behalf of the applicant on 15.2.2006.

15. To sum up, the following details/information shall be filed by the applicant, on affidavit, namely:

- (a) Duration of the present contract for trading;
- (b) An affidavit to the effect that the applicant will not make any application before any of the Commissions for grant of transmission licence without surrendering the trading licence, if granted;
- (c) Role of Shri Mikhail Dhaul in connection with the construction of the transmission system as called for vide order dated 14.10.2004;
- (d) Copy of order of the Hon'ble Supreme Court allowing continuation of prosecution of Smt. Laxmi Dhaul;
- (e) Details regarding stay of case by the Hon'ble High Court of Karnataka;
- (f) A categorical averment regarding the pendency of cases as per para 12 above;
- (g) Response to the suggestion/objections received from Govt. of Tripura;
- (h) Copy of the annual accounts for the year 2004-05 duly audited;
- (i) Complete details and particulars of cases pending before BFIR/AFIR involving Belgundi Cements Ltd.

16. List this petition on 25th April 2006 for further directions.

Sd/-
(A.H.JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 16th March, 2006