

**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.103/2006  
(Suo motu)**

**In the matter of**

Re-organisation of State Electricity Boards under Section 131 of the Electricity Act, 2003

**And in the matter of**

1. M.P. Power Trading Co. Ltd, Jabalpur
2. Gujarat Urja Vikas Nigam Ltd, Vadodara
3. Ministry of Power, Govt. of India, New Delhi ... **Respondents**

**ORDER**

M.P. Power Trading Company Ltd (MPPTCL) by its letter dated 13.6.2006 addressed to the Bench Officer of the Commission sought to inform the Commission that the State of Madhya Pradesh had decided to incorporate under the Companies act, 1956, a State Government owned company for the purpose of trading in electricity. In pursuance of the aforesaid decision, the letter adds, a company was incorporated under the Companies Act, 1956 in the name and style of "M.P. Power Trading Company Ltd" on 2.5.2006. A copy of each of certificate of incorporation, Memorandum of Association and Articles of Association was also sent along with the letter dated 13.6.2006, which, inter alia, stated that MPPTCL was also issued a certificate for commencement of business on 31.5.2006. It was further informed that the State Government of

Madhya Pradesh vide Extraordinary Gazette notification dated 3.6.2006, issued in exercise of powers conferred under sub-sections (1), (2), (5), (6) and (7) of Section 131 of the Electricity Act, 2003 (the Act), read with sub-sections (1), (2), and (3) of Section 23 and sub-section (2) of Section 56 of Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 made rules for regulating transfer and vesting of the functions, properties, interest, rights and application of MPSEB relating to bulk purchase and bulk supply of electricity along with the related agreements and arrangements in the State Government and retransfer and re-vesting thereof by the State Government in MPPTCL. It was also informed that MPPTCL, a deemed trading licensee, had started functioning with effect from 3.6.2006.

2. Subsequently, a copy of order dated 19.7.2006 in suo motu Petition No.66/2006 made by Madhya Pradesh Electricity Regulatory Commission (MPERC) was received from the Deputy Secretary of MPERC bringing to the Commission's notice that MPPTCL was seeking operation under inter-State trading category which is within the jurisdiction of this Commission. Accordingly, it was advised by MPERC that this Commission "should exercise regulatory control on the newly formed Trading Company looking to the overall restructuring scenario in Madhya Pradesh".

3. Based on the facts and communications received from MPPTCL and MPERC, the matter was examined on the administrative side by the

Secretariat of the Commission. In the light of this examination, Secretary of the Commission by his letter dated 4.8.2006, informed Chairman-cum-Managing Director of MPPTCL that MPPTCL could not undertake inter-State trading of electricity without obtaining a valid licence in accordance with the provisions of the Electricity Act, 2003 and that continuance of inter-State electricity trading amounted to contravention of the provisions of the Act. In response to the Secretary's letter dated 4.8.2006, and without contesting the correctness of the views expressed therein. MPPTCL by its letter dated 17.8.2006, informed that it was "discharging its functions as a facilitator only rather than a trader without contravening any provisions of the Electricity Act, 2003" . The letter received from MPPTCL was again examined on the administrative side by the Secretariat of the Commission. MPPTCL was advised by the Secretary of the Commission under his letter dated 25.8.2006 that if it was carrying out the business of inter-State trading, it would amount to contravention of the provisions of the Act, which is punishable under Section 142 thereof.

4. MPPTCL by its further letter dated 1.9.2006 addressed to Secretary of the Commission has stated that the two communications received from the Commission purporting to hold that MPPTCL cannot undertake inter-State trading is without any merit as well as is required to be withdrawn by the Commission on merits and on procedural grounds. It has been strongly contended that the interpretation of the provisions of the Act, conveyed by the Secretary of the Commission under his letters dated 4.8.2006 and 25.8.2006

was without following the principles of natural justice since no opportunity of hearing was afforded to MPPTCL to explain the position. In the opinion of MPPTCL, it was clearly a valid licensee to undertake inter-State trading by virtue of proviso to Section 14 read with Section 131 and 172 of the Act and also by virtue of the provisions of Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000.

5. As MPPTCL in its letter dated 1.9.2006 has raised the technical objection of denial of reasonable opportunity, for proper appreciation of the issues involved, we consider it appropriate to give an opportunity of hearing to MPPTCL. Accordingly, we direct that notice be issued to MPPTCL, through its Chairman/Managing Director, directing it to explain under which provisions of law should it be deemed to be an inter-State electricity trader, and why it is not necessary for it to obtain a licence for this purpose from this Commission.

6. WRLDC in its letter dated 23.8.2006 addressed to General Manager (Commercial), Gujarat Urja Vikas Nigam Ltd., (GUVNL) has pointed that GUVNL is undertaking transactions which are of the nature of inter-State trading in electricity. WRLDC has sought a clarification whether GUVNL has been exempted from obtaining licence from this Commission for this purpose. GUVNL has been created as a result of reorganisation of GEB under Section 131 of the Act. The Secretariat of the Commission has informed that there are no records to indicate that GUVNL has been undertaking inter-State trading in

electricity, though there is no doubt that GUVNL has not been granted licence for inter-State trading by this Commission. Since the issue arising in case of GUVNL is similar to that raised by MPPTCL in its correspondence with the Secretariat of the Commission, we direct that a notice may also be issued to GUVNL to explain whether it has been involved in inter-State trading in electricity and if so, the authority for undertaking such transactions.

7. List this petition for further directions on 31.10.2006. Meanwhile, MPPTCL and GUVNL may file their replies duly supported by affidavit latest by 15.10.2006 along with details of trading undertaken during 2006-07. Ministry of Power, Govt. of India may also convey its views/advice, if any, in the above matter to the Commission latest by 15.10.2006.

Sd/-  
**(A.H. JUNG)**  
**MEMBER**

Sd/-  
**(BHANU BHUSHAN)**  
**MEMBER**

Sd/-  
**(ASHOK BASU)**  
**CHAIRPERSON**

New Delhi dated the 19<sup>th</sup> September, 2006