BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY COMMISSION AT AHMEDABAD

Date 18th August, 2001

CORAM: Justice S.D. Dave, Chairman
Shri B.M. Oza Member

CASE NO. 41 OF 2001

ORAL ORDER
18/08/2001

This Petition has been taken out by "Suvikas", the NGO working at Surendranagar and has been presented under the signature of Mr. Navin Jobanputra, the Executive Director.

The Petition appears to be under Chapter VI of the Electricity Regulatory Commissions Act 1998. We propose to revert to the provisions contained therein at a little bit later juncture.

Shri Jobanputra, the Executive Director is present on behalf of the Petitioner "Suvikas". The GEB has been represented by Mr. C.N. Khorasia, Superintending Engineer. They have also submitted a written Memorial against the Petition. The Under Secretary to the Government of Gujarat in Energy & Petrochemicals Department has sent us a communication dated 13th August, 2001. There has been a reference to a fax message dated 18/7/2001 and there has been a reiteration saying that, now the State Government is not required to add anything further by way of submissions before us.

When the reference is made to the Petition filed by "Suvikas", it appears that, as many as six prayers have been prayed for, in the relief clause. But before going to the reliefs, which have been prayed for in the Petition, it would be appropriate, if certain facts are noticed by us.

It is known to all concerned that this Commission has issued tariff orders dated 10th October, 2000. Any how, under the subsequent orders, as a result of additional subsidy granted by State Government the time frame for continuing the pre-revised rates of HP based tariff for agriculture consumers has been extended and later on, on the basis of a proposal or a request coming from the State Government, in form of a Petition it has been decided, that the extension granted in the original time frame shall stand extended further upto 31/10/2001.

The prayer clause would go to show that according to the Petitioner, the agricultural consumers or the consumers in the farm sector, who are within the earthquake affected areas should be permitted to pay the charges for the energy consumed on Horse Power based formula and that the date for making necessary application for fixing the meters which is 31/3/2001 should be extended up to 31/3/2002. Certain other ancillary and consequential reliefs have also been prayed for.

We have heard Mr. Navin Jobanputra, the Executive Director, Suvikas and Mr. C.N.Khorasia, the Superintending Engineer who appears on behalf of the GEB. Upon the consideration of the submissions coming from Mr. Jobanputra and after having perused the necessary literature in this respect, we are of the opinion that the Petition cannot be recognized and reliefs as prayed for cannot be granted.

The reasons for the above said conclusion are obvious. We have noticed that the tariff orders came to be given / pronounced on 10/10/2000, but later on as a result of the additional subsidy granted by State Government the pre-revised rates for HP based tariff for agriculture consumers were continued up to 31/10/2001. The net effect of this order would be that, the consumers in the farm sector who are at present being billed on the basis of the Horse Power, shall continue to be paying charges on the same basis till 31/10/2001. The applications are required to be made for the installation of the meters till 31/3/2001. This applies to all the consumers in the farm sector and therefore such consumers within the earthquake affected areas also would, automatically be included in

the same. Therefore, the consumers for whom "Suvikas" is before us, do get the said benefit.

Any how, the prayer appears to be a specific and specialized one, for the farm sector consumers residing within the earthquake affected areas. We do not see any reason to make distinction between the consumers, namely, the farm sector consumers in non-earthquake-affected-area and the farm sector consumers in the earthquake affected area. It will be pertinent to note that this class also gets benefit up to 31/10/2001, as pointed out by us.

When it appeared during the course of the arguments that the above said prayer cannot be granted, because it would be an effort to create a class within the class. Mr. Navin Jobanputra had tried to argue that by invoking the powers under Chapter VI of the Electricity Regulatory Commissions Act 1998, we can direct or advise the Government to see that relief as prayed for by the Petitioner can be recognized by the State Government. Any how, upon careful reading of the provisions contained in Chapter VI of the Act of 1998, it appears that no such prayer can be granted by us.

Moreover, in the reply dated 13/8/01, in the form of a communication, the Government in the Energy & Petrochemicals Department have made it abundantly clear that the farm sector consumers of the earthquake affected areas are getting the benefit like other farm sector consumers and therefore no special case, can be made out for the above said farm sector consumers i.e. within the earthquake affected areas.

Looking to what has been stated above, we are of the opinion that the Petition cannot be recognized and prayers as prayed for in the Petition cannot be granted.

There has been one more and a special reason for us to come to the above said conclusion. The tariff orders dated 10/10/2000, accept the principle that all the

consumers irrespective of the sector to which they belong, must be billed for the energy consumed on the basis of the metered consumption. Ofcourse, the time frame has been given with a view to obtain the above said ideal situation. We would not prefer to order anything, which would violate the above said fundamental principle accepted by us, at the Commission, in the above said tariff orders.

Looking to the above said, we are of the opinion that the present Petition requires to be dismissed. We order accordingly.

Sd/- **Sd/-**

(JUSTICE S.D. DAVE) **(B.M.OZA)**
CHAIRMAN **MEMBER**

Place: Ahmedabad
Date: 18th August, 2001