

**BEFORE THE JOINT ELECTRICITY REGULATORY COMMISSION**  
**FOR THE STATE OF GOA AND UNION TERRITORIES AT GURUGRAM**

**PETITION NO. 111 OF 2023**

**DATE OF ORDER: 10.05.2024**

**IN THE MATTER OF:** Petition under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 and directions to the Electricity Department – Lakshadweep to make payment of penalty as adjudicated by the Adjudicating Officer.

**And in the matter of:**

...PETITIONER

The Bureau of Energy Efficiency

versus

Executive Engineer (ELe),

Lakshadweep Electricity Department

Kavaratti-Lakshadweep -682555

...RESPONDENT

**Parties Present:**

Petitioner

1. Ms. Namrata Mohapatra, Advocate, Bureau of Energy Efficiency
2. Sh. Rajendra Sharma, Legal Expert, Bureau of Energy Efficiency

Respondent:

1. Sh. Dharwesh Khan, Executive Engineer, Lakshadweep Electricity Department
2. Sh. Mohammad Kasim, Junior Engineer, Lakshadweep Electricity Department

The Petitioner filed a Petition against the Electricity Department – Lakshadweep under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 and directions to the Respondent to make payment of penalty as adjudicated by the Adjudicating Officer.

**A. Submissions of the Petitioner**

1. On 02.02.2023 The Bureau of Energy Efficiency ("**Petitioner**") filed a Petition against the Lakshadweep Electricity Department ("**Respondent**") under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 ("**Petition**") before the Joint Electricity Regulatory Commission for the State of Goa and Union Territories at Gurugram ("**Commission**")
2. The Petitioner is a statutory body set up by the Central Government on 01.03.2002 under the provisions of the Energy Conservation Act, 2001 ("**EC Act**"). The Respondent was included within the scope of the EC Act through statutory order No. 3445(E) dated 28.09.2020.
3. On 07.10.2021 the Petitioner as per the Clause (g) of sub-Section 2 of Section 58, read with Clause (q) of sub-Section 2 of Section 13 of the EC Act along with the approval of the Central Government notified the Regulations 2021 known as "*The Bureau of Energy Efficiency (Manner and Interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021*" ("**Regulations 2021**").
4. The Regulations 2021 framed by the Petitioner for energy audit in Electricity Distribution Companies ("**DISCOMs**") provides broad framework for conduct of annual energy audit and quarterly energy accounting with necessary pre-requisite and reporting requirements. The relevant clauses of the Regulations 2021 are given below:

***"3. Intervals of time for conduct of annual energy audit. -***

*(1) Every electricity distribution company shall conduct an annual energy audit for every financial year and submit the annual energy audit report to the Bureau and respective State Designated Agency and also made available on the website of the electricity distribution company within a period of four months from the expiry of the relevant financial year:*

*Provided that on the commencement of these Regulations, the first annual energy audit of every electricity distribution company shall be conducted within six months from the date of such commencement, by taking into account the energy accounting of electricity distribution company for the financial year immediately preceding the date of the commencement of these Regulations.*

*(2) Where a new electricity distribution company is established after the commencement of these Regulations, such electricity distribution company shall conduct its first annual energy audit on completion of the first financial year from the date of being notified as designated consumer.*

*Explanation. — If any entity created as a result of merger, demerger, slump sale, acquisition, change of control or any other corporate restructuring of, or involving, any existing electricity distribution company, such entity shall not be considered as a new electricity distribution company for the purposes of this sub Regulation.*

**4. Intervals of time for conduct of periodic energy accounting. -**

*(1) Every electricity distribution company shall —*

*(a) ensure that all feeder wise, circle wise and division wise periodic energy accounting shall be conducted by the energy manager of the electricity distribution company for each quarter of the financial year; and*

*(b) submit the periodic energy accounting report to the Bureau and respective State Designated Agency and also made available on the website of electricity distribution company within forty five days from the date of the periodic energy accounting.*

*(2) After the commencement of these Regulations, every electricity distribution company shall, notwithstanding anything in sub-Regulations (1), —*

*(a) conduct its first periodic energy accounting, for the last quarter of the financial year immediately preceding the date of such commencement; and*

*(b) conduct its subsequent periodic energy accounting for each quarter of the financial year for a period of two financial years from the date of such commencement, and submit the periodic energy accounting report within sixty days from the date of periodic energy accounting.*

5. According to the above-mentioned provisions of the Regulations 2021, the Respondent must conduct periodic energy accounting by in-house energy manager and similarly annual energy audit by an accredited energy auditor (by engaging a third-party agency). The Regulations also makes it mandatory for the

Respondent to create a centralized energy accounting and audit cell with sufficiently qualified personnel.

6. The Petitioner to create awareness and facilitating the compliance of the Regulations 2021 organized region-wise webinars/workshops for DISCOMs. The Petitioner sent the invitation by email dated 15.11.2021 to the DISCOMs including the Respondent to join these webinars/workshops.
7. The timeline for the compliance of the Regulations by the Respondent is mentioned herein below:
  - i. The **First Periodic energy accounting report** (Quarter-II) from period 01.07.2021 to 30.09.2021 was to be submitted by 06.12.2021.
  - ii. The **Subsequent periodic energy accounting report** (Quarter- III) from period 01.10.2021 to 31.12.2021 was to be submitted by 01.03.2022.
  - iii. The **Subsequent periodic energy account report** (Quarter-IV) from period 01.01.2022 to 31.03.2022 was to be submitted by 30.05.2022.
  - iv. The **Annual energy audit report for FY 2020-21** was to be submitted by 06.04.2022.
  - v. The **Subsequent Annual energy audit report for FY 2021-2022** was to be submitted by 31.07.2022.
8. The Central Government in accordance with the Section 14 (i) of the EC Act issued a letter dated 27.10.2021 addressing the Chief Secretary, ACS/ACS/Principal Secretary/ Secretary (Energy/ Power) of all State Governments and UTs to inform about the Regulations 2021. It was instructed through this letter that all the distribution companies governed under the various provisions the EC Act, 2001 are required to have its 1<sup>st</sup> energy audit conducted by an accredited energy auditor within six months i.e. by 06.04.2022 for FY 2020-21 and periodic energy accounting for the last quarter (by energy manager ending September 2021 by 06.12.2021).

9. The Petitioner issued a letter dated 18.11.2021 addressed to the Respondent informing that as per Clause 5(g) of the Regulations 2021, the DISCOMs shall create a centralized energy accounting and audit cell comprising of a nodal officer, an energy manager etc. The Nodal Officer will be the point of contact for all communication / activities related to the compliance of the Regulations 2021. The Petitioner requested to provide the details of energy audit cell in a prescribed format as mentioned in the letter.
10. The Petitioner sent two letters dated 09.12.2021 and 28.01.2022 to the Respondent requesting the submission of the 1<sup>st</sup> annual energy audit report and periodic energy accounting reports. It was also informed to the Respondent that non-compliance of the Regulations 2021 will attract penal provisions of the EC Act.
11. The Petitioner informed the Respondent through the letter dated 23.02.2022 that the 2<sup>nd</sup> periodic energy accounting reports for Q3 of FY-2021-22 (period 01.10.2021 to 31.12.2021) must be submitted on or before 01.03.2022. The Respondent was also reminded about the non-submission of the 2<sup>nd</sup> energy accounting report and the noncompliance of Regulations 2021 would attract the penal provision as per the EC Act.
12. However, the Respondent did not submit the 1<sup>st</sup> energy accounting report, therefore, the Petitioner issued a show cause notice dated 04.03.2022 to the Respondent for non-compliance of the provisions of the Regulations 2021 and directed the Respondent to explain the reasons of non-submission of 1<sup>st</sup> energy accounting report.
13. The Respondent in response to the show cause notice sent a letter dated 23.03.2022 to the Petitioner, wherein it is stated that as the Lakshadweep Islands have a dispersed geography therefore, they are trying to identify organizations who have the capabilities to undertake the energy accounting activity from the main land.
14. The Petitioner vide letter dated 23.05.2022 requested the Respondent to submit 1<sup>st</sup> and 2<sup>nd</sup> energy accounting report for Q2 and Q3 of FY 2020-21 with a copy to

state designated agency by 06.12.2021 and 01.03.2022 respectively as per Regulations 2021. Further, the Petitioner directed the Respondent to submit their response and reasons for non – submission of the report along with a copy of 1<sup>st</sup> & 2<sup>nd</sup> energy accounting report on or before 31.05.2022 failing which penal action would be initiated in accordance with the provisions of the EC Act.

15. The Petitioner sent another letter to the Respondent requesting submission of its periodic energy accounting report of FY 2021-22 and 1<sup>st</sup> & 2<sup>nd</sup> annual energy audit reports for FY 2020-21 & FY 2021-22, duly providing reasons for non - submission of the report.
16. The Petitioner issued a show cause notice dated 19.01.2023 to the Respondent in continuation to the previous notices and directed for submission of the response to the show cause notice stating the reasons for non-compliance of the Regulations 2021 and non-submission of the reports along with a copy of periodic energy accounting report and annual energy audit report within a period of 7 days.

**B. Submissions of the Respondent**

17. The Respondent on 05.12.2023 submitted their Reply against the said Petition in compliance of the interim order dated 13.11.2023 passed by the Adjudicating Officer.
18. The Respondent is the deemed distribution licensee to supply electricity in the entire Lakshadweep Islands. The Respondent is the smallest distribution licensee with a generation and distribution system across 10 islands.
19. The Respondent, submitted that it is functioning with a limited number of staff. They clarified that all the staff involved in the establishment and accounting sections belong to a common cadre of Lakshadweep administration and that the only staff directed under the Respondent are those involved in technical roles. Additionally, the Respondent consists of one division headed by an Executive Engineer, who in turn heads 10 subdivisions each headed by an Assistant Engineer.

20. It was submitted by the Respondent that as per the Regulations 2021, feeder wise, circle wise and division wise periodic energy accounting had to be conducted by the Energy Manager. However, it was submitted that due to the department's structure of 10 subdivisions spread across 10 different islands, it was challenging to consolidate data from these subdivisions into one division. Furthermore, they encountered challenges in establishing a centralized energy accounting and audit cell with sufficiently qualified personnel. Due to the Regulations 2021 being a new one, the Respondent is not well- equipped with the manner, and formalities to conduct energy audit because of the limited staff and their inability to be sent for training when required, due to issues such as non-availability of timely conveyance.
21. It was pertinently mentioned by the Respondent that, two of the officials of the Respondent had attended the workshops conducted by the Petitioner at Bangalore on 17.11.2022, which turned out to be helpful for the Respondent and it cleared various doubts regarding the Regulations for them.
22. Subsequently, the Respondent submitted the periodic energy account reports for the period Q2, Q3, Q4 of FY 2021-2022 and Q1, Q2 of FY 2022-2023 through its letter dated 06.04.2023. The periodic energy accounting report for the period of Q3 and Q4 of FY 2022-23 was submitted to the Petitioner through letter dated 18.10.2023. The Respondent also submitted that the periodic energy accounting report for the period of Q1 FY 2023-24 was made available to the Petitioner on 01.11.2023.
23. The Respondent further submitted that the Petitioner had, through a letter dated 27.02.2023 Ref No: NMEEE-11018/4/2021-BEE/8755-56, informed that as a one-time measure during the initial period, a third-party agency was engaged by BEE to conduct the annual energy audit for DISCOMs in the Union Territory of Lakshadweep for FY 2020-21 and 2021-2022. Hence, the same was not undertaken by the Respondent. Subsequently, the Respondent floated a tender for energy auditing for the FY 2022-23, and M/s. Ingenius Energy Consultancy Pvt Ltd was selected as the winner of the bid.



24. The Respondent submitted that, from now onwards, they shall submit quarterly periodic energy accounting reports and annual energy accounting reports to the petitioner and state designated agency as per the timeline specified in the Regulations 2021.
25. The Respondent further submitted that, non-compliance of Regulations 2021 was not intentional and consistent efforts have been made by the Respondent for compliance of Regulations 2021 irrespective of various difficulties faced.

**C. Rejoinder of the Petitioner**

26. The Petitioner submitted a Rejoinder on behalf of the Petitioner to the Reply filed by the Respondent ("**Rejoinder**") dated 04.01.2024 in compliance of the interim order.
27. The Petitioner submitted that upon bare perusal of the Reply, it is evident that it has been based on frivolous premises with the intention to deviate the issue at hand and hence deserves to be set aside.
28. The Petitioner submitted that the Respondent is admitting that the Regulations 2021 has prescribed mandatory compliances for submission of periodic energy accounting reports and annual energy audit reports by in-house energy manager and annual energy audit reports compiled by an accredited energy auditor (third party agency) on time to the Petitioner with a copy to the state designated agency.
29. The Petitioner submitted that averments of the Respondent regarding not having better understanding of the Regulations 2021 is false and frivolous since, the Petitioner organised workshops and awareness programs for all the DISCOMs including the Respondent. The Petitioner submitted that the Respondent had all the resources yet they failed to appoint adequate staff for completion of the compliances as per the Regulations 2021.
30. The Petitioner submitted that as per Regulations (g) (i) of Regulations 2021, the Electricity Distribution Company shall create a centralized energy accounting and audit cell comprising of a nodal officer, energy manager, information technology officer and a financial manager having professional experience of not less than five years. Further, in case more staff is required for energy audit and accounting purpose, then the, DISCOMs is required to recruit adequate staffs to complete the

submission of the reports in time. The Petitioner further stated despite complete awareness of the requirements under the Regulations 2021, the energy accounting audit cell with adequately qualified personnel was not created by the Respondent, and therefore, the Respondent is liable to pay penalty under the relevant provisions of the EC Act.

31. The Petitioner submitted that the tender floated for appointment of energy auditor was not done in a timely manner and the accredited auditors list is available on the website of the Petitioner still no active effort was taken by the Respondent in hiring an adequate person for the job.
32. Furthermore, the Petitioner denied the claim of the Respondent that it has been submitting the reports on time. The Petitioner also submitted that the Regulations 2021 apply strictly to all DISCOMs in India and no condonation of penalty or exemption can be granted when sufficient awareness and training was given by the Respondent with respect to the Regulations 2021. As per the Petitioner the Respondent is clearly in violation of the Section 26 of the Act, 2001 since, it has not complied with the Regulations 2021 and is liable to pay penalty.

#### **D. Analysis and Findings**

33. The Adjudicating Officer heard the Petitioner and the Respondent at length.
34. The Adjudicating Officer acknowledges the rapid population growth in India, leading to an escalating demand for electricity. Consequently, there is a pressing need to conserve electricity and natural resources to maintain ecological balance and ensure their availability for future generations.
35. Globally, there is a collective effort to optimize the use of power generated from natural resources, necessitating conservation measures. The Government of India, notably through various Regulations, has demonstrated commendable efforts in this regard.
36. The Ministry of Power is actively implementing initiatives to conserve energy, assigning distinct energy efficiency targets to industries and establishments based on their consumption levels and potential for energy savings.
37. The establishment of the Petitioner under the EC Act, by the Central Government signifies its commitment to energy conservation. The purpose of the Petitioner is

to contribute to policy development and strategy formulation, emphasizing self-Regulations and market principles. The primary goal is to reduce the energy intensity of the Indian economy, in line with the EC Act. This objective will be realized through collaborative efforts and active participation of all stakeholders, ensuring the widespread and sustained adoption of energy efficiency practices across sectors.

38. The Adjudicating Officer has examined the entire records placed before her and has noted that the Respondent has failed to submit periodic audit reports of FY 2020-21, FY 2021-2022 and FY 2022-23 on time. The Petitioner sent several letters requesting the submission of the 1<sup>st</sup> annual energy audit report and the periodic energy accounting reports time and again. It was also informed by the Petitioner that non-compliance of the Regulations 2021 will attract penal provisions under the EC Act. Despite several reminders by the Petitioner, the respondent failed to submit the periodic audit reports on time.
39. The Respondent is functioning with a limited number of staff. They also clarified that all the staff involved in the establishment and accounting sections belong to a common cadre of Lakshadweep administration and that the only staff directed under the Respondent are those involved in technical roles. Additionally, the Respondent consists of one division headed by an Executive Engineer, who in turn heads 10 subdivisions each headed by an Assistant Engineer. It was challenging to consolidate data from these subdivisions into one division. Furthermore, they encountered challenges in establishing a centralized energy accounting and audit cell with sufficiently qualified personnel.
40. The Petitioner had, through a letter dated 27.02.2023 Ref No: NMEEE-11018/4/2021-BEE/8755-56, informed that as a one-time measure during the initial period, a third-party agency was engaged to conduct the annual energy audit for DISCOMs in the Union Territory of Lakshadweep for FY 2020-21 and 2021-2022. Subsequently, the Respondent floated a tender for energy auditing for the FY 2022-23, and M/s. Ingenius Energy Consultancy Pvt Ltd was selected as the winner of the bid.
41. The Respondent stated that periodic energy accounting reports for the period of Q2, Q3, Q4 of FY 2021-22 and Q1, Q2 of FY 2023-24 vide letter dated 06.04.2023

was sent to the Petitioner. Further, Respondent stated that periodic energy accounting reports for the period of Q2 of FY 2023-24 was submitted to BEE on 15.01.2024. The Respondent further admitted that, from now onwards, it shall submit quarterly periodic energy accounting reports and annual energy accounting reports to the petitioner and state designated agencies as per the timeline specified in the Regulations 2021.

42. The Respondent pleaded that non-compliance of Regulations 2021 was not intentional and that consistent efforts have been taken by the Respondent for compliance of Regulations 2021 irrespective of various difficulties faced.
43. It is evident from the above submissions of the Petitioner and Respondent that the Respondent could not comply with the Regulations 2021 of the BEE for the reasons and difficulty cited by the Respondent in regard to constraints of resources and geographical limitations are acknowledged by the Petitioner. The Petitioner itself engaged a third party agency to conduct the energy audit for the Discom in the Union Territory of Lakshadweep. The Respondent further also deputed its officials to attend the workshop conducted by BEE at Bangalore on 17.11.2022. The Respondent clarified that non compliance of BEE Regulations 2021 by LED are not intentional and consistent efforts has been made by LED for compliance of BEE Regulations / irrespective of various difficulties faced by them.
44. The Central Government is working immensely to boost Lakshadweep Island's tourist economy hence, adequate energy is required for the development of the islands. Thus, the Adjudicating Officer hereby gives the following directions to the Respondent.
  - a. Directs the Respondent to comply with the Regulations 2021 notified by the Petitioner and submit the requisite form for energy audit as provided in the Regulations 2021;
  - b. To comply with the Regulations 2021, which stipulates quarterly energy accounting by DISCOMs, through a certified energy manager.
  - c. To ensure annual energy audit by an independent accredited energy auditor, for which a suitable person may be nominated for monitoring timely energy audit as specified in the Regulations 2021 notified by Central Government. The Respondent shall ensure compliance in accordance with EC Act & the

Regulations made thereunder failing which it shall be liable for consequences as envisaged under the EC Act.

45. In view of the above directions and order, this Petition is disposed of.

Sd/-



(Jyoti Prasad)

Member (Law), JERC

Adjudicating Officer

