

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Present:

1. Shri J.L. Bajaj, Chairman
2. Shri S.C. Dhingra, Member
3. Shri Arun Sarkar, Member

In the matter of:

Appointment of an arbitrator under clause 18 of the agreement of supply.

And

M/s Ammausi Textiles Mills Limited, Lucknow
Represented by Shri. Naresh Agarwal, Managing Director, Ammausi Textiles Mills
Limited, Lucknow

---Petitioner

Vs.

U.P. Power Corporation Ltd., Lucknow
Represented by Sri. D.D Chopra, Advocate

----Respondents

Lucknow

Date: 24th February, 2003

Order

M/s Ammausi Textiles Mills Limited, Lucknow Vs. UP Power Corporation Ltd.

The petition is against the recovery notice dated 23rd October 2000 served by Tehsildar, Lucknow for recovery of Rs.5372006=87 on account of electricity charges.

2. The petitioner entered into an agreement (hereinafter referred as 'agreement of supply') on 5th December 1973 with M/s Cooperative Electricity Supply Society Ltd. (CESS) (now under control of UPPCL) for supply of 800 KVA load. On the request of the petitioner, the load was reduced by CESS to 550 KVA w.e.f. December 1998. The supply of the petitioner was permanently disconnected in January 1998 on account of non-payment of electricity charges and the petitioner was served a notice dated 23rd October 2000 by Tehsildar, Lucknow for recovery of Rs.5372006=87 on account of electricity charges. The petitioner has requested the Commission to either direct the respondents to adhere to the provisions of the agreement of supply or appoint an arbitrator to settle their dispute under clause 18 of the agreement of supply.

3. The respondents have submitted a copy of the Hon' ble High Court's order dated 7th October 2002 on the writ petition filed by the petitioner. The Court has stated,

"The petitioner has submitted an application for appointment of an Arbitrator under section 11 of the Arbitration and Conciliation Act (in short the 'Act') the said application is alleged to be pending in this court.

The petitioner has further filed an application under Section 9 of the Act which is alleged to be pending before the District Judge.-----

In case the petitioner deposits half of the amount with respondent No.2 within three weeks from today, no further recovery shall be made till the matter under Section 9 of the Act is decided by the District Judge.

The writ petition is, accordingly, disposed of finally."

4. The counsel of the respondents argued that the petitioner has taken recourse to different avenues to somehow withhold the legitimate dues of the respondent. The

petitioner cannot seek relief on the same issue in various forums. Therefore, the present petition of the petitioner is not maintainable and is liable to be dismissed with cost.

5. The petitioner accepted that the matter for the appointment of an arbitrator is pending in the court of Districts Judge, Lucknow.

The matter is subjudice, and no action is required on the part of the Commission. Hence, the petition is dismissed.

(Arun Sarkar)
Member

(S.C Dhingra)
Member

(J.L Bajaj)
Chairman

Lucknow
24th February 2003