

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

In the matter of: Petition No. 355/2006(R – 558/ 2006 dated 8.6.2006)

Petitioner:

Mr. Vijay Kumar Kesarwani
Prop.: M/s Hotel Anurag 163/162, Hewett Road, Allahabad

Respondents:

1. Executive Engineer , Electricity Urban Distribution Division, Rambagh, Allahabad
2. Executive Engineer, Electricity Urban Distribution Division, Kalyani, Allahabad.
3. Chief General Manager, UPPCL, Allahabad Area, Allahabad

Order (Hearing for Admission)

1. This petition filed under clause 7.13 of Electricity Supply Code 2005 relates to checking report dated 11.2.2006, the disconnection of supply, and the final assessment bill served to the consumer dated 24.2.2006, raised by E.E. EUDD, Rambagh, Allahabad. Request for interim relief by staying the operation of letter dated 27.2.2006 along with assessment bill dated 24.2.2006, as well as restoration of power supply has been made.
2. Hearing on admission today in presence of Shri D.D.Chopra, counsel for petitioner, and Shri A.S.Rakhra, counsel for the respondents. Shri A. S. Rakhra objected to Shri D. D. Chopra's contention regarding admissibility of petition before the Commission, and stated that the same grounds are applicable in the present matter as has already been directed by the Commission in such theft related interim relief petitions.
3. On Commission's specific query as to what is the remedy available to the consumer already disconnected since over last four months, when the licensee has failed to approach the Special Court, Shri Rakhra contended that the Commission may issue directions to the respondents to approach the Special Court within 2 weeks, if not already done.
4. Prima facie the Commission observes, the charges levelled are for theft for which the assessment has been raised by the respondents, which is to be adjudicated by the Special Court, while the petition contends the matter is to be dealt under section 126 of the Electricity Act 2003. The Commission would not go in the merits of the case when it is not empowered to adjudicate in either case.
5. However, the supply is lying disconnected since 12.2.2006 on non-payment of assessed dues, to which, objections have been raised by the petitioner, who is ready to pay correct assessment. Also since no filing before the Special Court have been made by the

respondents, as informed by Shri D. D. Chopra, which tantamount to violation of section 151 of the Electricity Act 2003, and also denial of natural justice as the Act has not bestowed upon the consumer the right to approach the Special Court.

6. In view of the above, the Commission directs the respondent to approach the Special Court within 3 days so that the petitioner has a remedy, or else restore the supply within 5 days of this order.

(R.D.Gupta)
Member

(Vijoy Kumar)
Chairman

Lucknow, Dated: 13th June 2006.

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

In the matter of: Review of Commission order dated 13.6.2006 in Petition No. 355/2006(R – 587/2006 dated 8.6.2006)

Petitioner:

Mr. Vijay Kumar Kesarwani, Prop.: M/s Hotel Anurag 163/162, Hewett Road, Allahabad

Respondents:

1. Executive Engineer , Electricity Urban Distribution Division, Rambagh, Allahabad
2. Executive Engineer, Electricity Urban Distribution Division, Kalyani, Allahabad.
3. Chief General Manager, UPPCL, Allahabad Area, Allahabad

Order (Hearing dated 6.7.2006)

1. Where as a review petition dated 27.6.2006 had been filed by the petitioner under order 47 Rule 1 of Code of Civil Procedure read with clause 150 of Conduct of Business Regulation against the Commission order dated 13.6.2006, with the prayer for restoration of Electric Supply on some interim payment.
2. The Commission in its order dated 13.6.2006 had directed the respondent to approach the Special Court within 3 days so that the petitioner has a remedy, or else restore the supply within 5 days of this order.
3. The petitioner informs that the case had been filed within the stipulated period before the Special Court, but the Special Court may take some time to adjudicate.
4. The other grounds cited by the petitioner are that they are incurring heavy financial loss, and that the procedure given in ESC-2005 was not followed – no checking report provided, and neither any MRI was done. Also the Power Supply was disconnected a day after the checking. The petitioner also contends that the device was connected or could affect the performance of the meter.
5. Hearing today in presence of Shri D.D.Chopra, counsel for petitioner, and Shri A.S.Rakhra, counsel for the respondents.
6. Shri A.S Rakhra opposed the review petition, firstly, because the conditions of review were not established not being in the jurisdiction of the Commission, and secondly, since the licensee had already approached the Special Court,, and the Special Court was vested with the matter, the interim relief for reconnection should be adjudicated by the Special Court.

7. Shri D. D. Chopra pleaded that since the FIR investigation report was not submitted to the Special Court, it might therefore further stall the final adjudication of liability of the petitioner, and requested the Commission to treat this as a mercy petition for restoring the supply on some payment until final adjudication by the Special Court.
8. The Commission observes that the intention in the order dated 13th June 2006 was for speedy disposal by filing before the Special court in 3 days or else, restoration of supply in 5 days seeing that the supply was lying disconnected since nearly 4 months.
9. The Commission also observes that the Special Court may hold the trial on a date beyond Commission's control, and cannot also consider the prayer of the petitioner for restoring the supply on an interim payment, and therefore intends to leave the aspect of adjudication to the Special Court.
10. Notwithstanding the above, the Commission is also aware that the procedure laid down in clause 8.1 to 8.3 of the Supply code 2005 was to facilitate uniformity in approach adopted by the authorized officers of different licensees in dealing with inspection and assessment in theft of electricity related matters. Contrary to following the procedure as laid down in the Supply Code, sometimes the officers of licensee contravene the procedure, which is a matter of concern to the Commission. This arbitrariness only waste licensee's own collection effort on one hand, and leads to unnecessary litigation on the other. It is therefore imperative, that a judicious approach in assessment of theft and, procedure laid in the Supply Code be strictly followed, and certified to this extent by the concerned officer.
11. In the light of above, the Commission advises that the respondent may consider an out of Court settlement by appointing a committee to resolve the issues raised by the petitioner. The Petition stands disposed.

(R.D.Gupta)
Member

(P. N. Pathak)
Member

(Vijoy Kumar)
Chairman

Lucknow, Dated: 7th July 2006.