

समक्ष विद्युत उपभोक्ता व्यथा निवारण फोरम, (द.वि.वि.नि.लि.),

कानपुर मण्डल, कानपुर ।

परिवाद संख्या- 44/2021

इन्डस टावर लि., छठवां फ्लोर, बी.बी.डी. विराज टावर विभुती खण्ड,  
गोमती नगर, लखनऊ (उत्तर प्रदेश)

----- परिवादी /आवेदक

बनाम

अधिशायी अभियन्ता, विद्युत वितरण खण्ड

घाटमपुर, कानपुर नगर ।

-----विपक्षी

- अध्यासीन (उपस्थित) : (1) श्री संतोष कुमार तिवारी (कार्यवाहक अध्यक्ष/तकनीकी सदस्य)  
(2) श्री संजीव कुमार गुप्ता (सदस्य/अनु.)

निर्णय

The complainant, M/s Indus Towers Ltd. is a company, which has been duly, granted registration by the department of Telecommunications (DoT), Ministry of Telecommunication & Information Technology for the purpose of carrying on the business of providing Telecommunications infrastructure and Assets. That company authorized advocate Mohd. Kausar Jah prayed for following (a) Command/direct the opposite party to waive off the Arrears and surcharge demanded by them now, after a lapse of almost several years, as per the provisions of section 56 (2) of the Electricity Act 2003. (b) Command/direct the opposite party to revise the electricity dues after making due reconciliation of the account of the complainant and return/adjust the amount already paid by the complainant to the opposite party adhering to the provisions of section 6.5(c) of the Uttar Pradesh Electricity Supply code 2005. (c) To adjust the excessively charged amount from the complainant in the bill of the coming months as per the provision of section 6.5 (c) of the Uttar Pradesh Electricity Supply code 2005. (d) Command the Opposite Parties to furnish an up to date revised and correct bill and to waive the amount shown as Previous Arrears and Late Payment Surcharge (LPSC) and interest thereon which is

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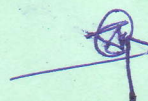
being illegally charged from the complainant on the basis of an illogical figure of Arrears arrived at by the opposite party as per section 6.5 (b) (i) of the Uttar Pradesh Electricity Supply code 2005. (e) Command/direct the Opposite Party to provide us with a revised reading of the meter after waiving the previous arrears, LPSC and interest and adjusting the amounts already paid by the complainant. (f) Command the opposite party to not to initiate any recovery proceedings under section 5 till the pendency of the suit and neither should they stop the supply of electricity to the aforementioned site. (g) Award the costs of the instant complaint. (h) Issue direction to the opposite party to ensure that the complainant is billed for its tower drawing electricity through rural feeder as per rural schedule tariff.

Complaint has been submitted in written (pg no. 1/1 to 1/12). As per Para 1 the instant complaint of the complainant is not registered in any other court / forum. Para 2 They stated that the company, which has been duly, granted registration by the department of Telecommunication (Dot), Ministry of telecommunications and Information Technology for the purpose of carrying on the business of providing Telecommunications Infrastructure and Assets. The complainant is duly recognized as an Infrastructure Provider Category No IP-1. Under the authority granted by the DoT as aforesaid, the complaint company is entitled to establish and install telecommunication infrastructure for cellular operators who are deemed to be licensees under Section 4 of the Indian Telegraph Act, 1885 (hereinafter referred to as the "Telegraph Act") for operating telecommunication network infrastructure support services. Such services are categorized as "Essential Services" under the Telegraph Act and are strictly in the nature of public utilities under the said statute. As per Para 3 They stated that in the year 1999, the Uttar Pradesh Electricity Reforms Act 1999 (hereinafter referred to as the 'Act of 1999') was passed with the object of providing for the restructuring of the electricity industry in the State of Uttar Pradesh, the rationalization of generation, transmission, distribution and supply of electricity in the State, regulation by an independent electricity regulatory Commission of the




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electricity industry in the State including the purchase, distribution, supply and utilization of electricity, the quality of service, tariff and other charges keeping in view the interest of the consumers utilities, creation of an environment which will attract participation of private sector entrepreneurs in the electricity industry in the State and generally for taking measures conducive to the development and management of the electricity industry in the State in an efficient, economical and competitive manner and for matters connected therewith or incidental thereto. Further, as per Section 3 of the said Act, the Uttar Pradesh Electricity Regulatory Commission (UPERC) was established to further the aforesaid objects of the said Act of 1999. As per Para 4 They stated that is submitted that the applicant company, for the purpose of providing telecommunication infrastructure in Herani Patra, Ghatampur as requested by the telecom operators, set up its cellular mobile tower at Herani Patra, Ghatampur after making a huge amount of capital investment and also obtained as electricity connection (Account No 1101/014537) from the Opposite Parties and got an electricity meter installed at the said site. As per Para 5 that the meter has not functioning properly since few months after its installation, and the complainant herein tried, in vain, to get rectified and kept running from pillar to post for the same but his request unfortunately fell on deaf ears. As per Para 6 Consumer stated that the complaint, being a bonafide consumer, kept paying his electricity dues regularly and on time but it came as total shock to the complainant when the bill (Billing Month Feb 2017 shown as Annexure-1) showed an arrear and surcharges of INR 12,56,015/- This figure of arrears appeared out of thin air whereas the complainant had been very prompt and up to date in paying his electricity dues. As per Para 7 that as it is, section 56(2) of the electricity Act 2003 clearly states that "Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall



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not cut off the supply of the electricity". As per Para 8 considering the aforementioned Law it is very evident that the opposite Party cannot claim the aforementioned bill amount as Arrears and Surcharge as the same has not been shown as outstanding, ever as this is the first time that such a bill has been issued by the opposite party for the side though the electricity connection was put at the said site. As per Para 9 that the complainant is having a Rural electricity connection in the middle of a rural agricultural farm and it is not Urban electricity connection and the complainant is getting electricity supply from rural feeder and the complainant. It is pertinent to mention that the bills of the complainant should be calculated as per the actual meter reading from the rural feeder. As per Para 10 that despite many requests made by complainant to the opposite parties regarding faulty meter and the resulting inaccurate reading, no heed was paid to such requests by the latter. As per Para 11 that section 5.5 of the U.P. Electricity supply code clearly states that periodical inspection of the meter are ought to be carried out by the licensee (Opposite Parties in the case), but which alas, it seldom happens. Had the opposite parties not shirked off their responsibility in carrying out this inspection and had they done their job properly per the set rules and carried out the inspection as mandated by the aforementioned law, so much of unnecessary harassment and trouble suffered by the Complaint would have been avoided. As per Para 12 that it is a matter of right for every consumer to get the accurate bill for the product or service he is being charged for, which is this case, unfortunately, has been denied to the complainant by the opposite party as the onus to provide an accurate bill on a periodical basis was on the opposite party as per section 6.1 (d) and (c) of U. P. Electricity Supply Code 2005. Para 13 that section 6.5 (b) (i) of the Uttar Pradesh Electricity Code 2005 states in no uncertain terms that, "If the Complaint is found to be correct by the competent authority, a revised bill shall be issued within 7 days of the complaint and consumer shall be given 7 days to make the payment. The Consumer shall not be charged any late payment surcharge (and he shall be eligible for timely payment rebate, if any



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applicable) if the payment is made by the revised due date of payment. If payment has already been made, excess amount shall be adjusted in subsequent bill". Para 14 that the aforesaid negligence and gross miscalculation on the part of the opposite parties in not reconciling the bill correctly cannot withstand the litmus test of reasonableness, fairness and equity as such is in violation of Article 14 of the constitution of India.

### निष्कर्ष

परिवादी के अधिकृत विद्वान अधिवक्ता मो कौसर जाह को तथा विपक्षी अधिशाषी अभियन्ता वि. वि. खं. घाटमपुर, कानपुर नगर के अधिकृत विद्वान अधिवक्ता श्री शुभम त्रिपाठी के तर्कों को सुना गया व पत्रावली पर उपलब्ध दस्तावेजी साक्ष्यों का अवलोकन किया गया। इस परिवाद को प्रभावी रूप से निस्तारित करने हेतु निम्नलिखित बिन्दु पर विचार करना है :-

- 1 (a) विद्युत विलों की धनराशि में विद्युत वितरण कोड 2005 के धारा 6.5 (c) के अनुसार संशोधन किया जाये।
- (b) अधिक जमा की गयी धनराशि का समायोजन आगामी विलों में विद्युत वितरण कोड 2005 की धारा 6.5 (c) के अनुसार किया जाये।
- (c) विपक्षी को विद्युत वितरण कोड 2005 की धारा 6.5 (b) (i) के अनुसार विलम्ब अधिभार (LPSC) को माफ करने हेतु निर्देशित किया गया।
- (d) वाद खर्च के भुगतान हेतु आदेश पारित किया जाये।
- (e) अन्य कोई आदेश जिससे उपभोक्ता का अधिकार संरक्षित रहे।

2. विपक्षी द्वारा पत्रांक संख्या 2941/वि.वि.ख.घा./कान. दिनांक 17.09.2022 (का. सं. 7/1 ता 7/4) दाखिल किया गया और अभिलिखित किया गया है कि इण्डस टावर लि. के अर्न्तगत एयरसेल टेलीविचर लि. ग्राम हिरनी पतारा घाटमपुर संयोजन संख्या 781726742687 (946/1101/014537) स्वीकृत भार 20 कि.वा. का संयोजन का अन्तिम बिल माह मार्च 2017 तक का बिल रु. 23,584/- जमा हुआ था। इसके पश्चात कोई भी बिल नहीं हुआ। उपखण्ड अधिकारी व अवर अभियन्ता, घाटमपुर ग्रामीण द्वारा प्राप्त करायी गयी विच्छेदन आख्या के आधार पर संयोजन दिनांक 20.03.2017 से अप्रयोग है जिसके आधार पर उपभोक्ता की पी. डी. फाइनल की कार्यवाही पूर्ण कर दी गयी है तथा उपभोक्ता पर बकाया धनराशि रु. 13,77867.59 को समाप्त कर दिया गया है। वर्तमान में उपभोक्ता पर कोई भी बकाया शेष नहीं है।


3. विपक्षी द्वारा पत्रांक संख्या 3099/वि.वि.ख.घा./का. दिनांक 06.10.2022 (का. सं. 8) दाखिल किया गया और अभिलिखित किया गया है कि इण्डस टावर लि. ग्राम हिरनी पतारा घाटमपुर संयोजन संख्या 781726742687


(946/1101/014537) स्वीकृत भार 20 कि.वा. के संयोजन की पी. डी. फाइनल कर दी गयी है। तथा इस कार्यालय के पत्रांक संख्या 2941/वि.वि.ख.घा./कान. दिनांक 17.09.2022 के द्वारा आपके समक्ष संलग्नो सहित दिनांक 19.09.2022 को अधोहस्ताक्षरी के द्वारा स्वयं उपस्थित होकर पत्रावली उपलब्ध करा दी गयी थी। उपरोक्त संयोजन में कोई भी बकाया नहीं है।

उपरोक्त परिस्थितियों में परिवादी द्वारा दाखिल परिवाद निस्तारित किये जाने योग्य है।

### आदेश


इन्डस् टावर्स लिमिटेड, पता- टावर्स-1, 2<sup>nd</sup> फ्लोर, ओकाया सेन्टर B-5, सेक्टर-62, नोयडा, (उत्तर प्रदेश) का परिवाद बिलिंग से सम्बन्धित विवाद का निराकरण विपक्षी द्वारा किए जाने के कारण निस्तारित किया जाता है। पक्षकार अपना अपना वाद व्यय स्वयं वहन करें।


  
(संजीव कुमार गुप्ता)  
सदस्य/अनु०

  
(संतोष कुमार तिवारी)  
कार्यवाहक अध्यक्ष/तकनीकी सदस्य

दिनांक:- 19/10/2022

प्रस्तुत आदेश आज हस्ताक्षरित एवं दिनांकित होकर खुले फोरम में उदघोषित किया गया।

  
(संजीव कुमार गुप्ता)  
सदस्य/अनु०

  
(संतोष कुमार तिवारी)  
कार्यवाहक अध्यक्ष/तकनीकी सदस्य

दिनांक:- 19/10/2022

Distribution :- (i) परिवादी (ii) विपक्षी (iii) प्रबंध निदेशक (द.वि.वि.नि.लि.)  
(iv) मुख्य अभियन्ता (वितरण), कानपुर मण्डल, कानपुर (v) रिकार्ड प्रति