

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Present:

1. Shri Vijoy Kumar, Chairman

2. Shri Arun Sarkar, Member

In the matter of:

Admissibility of the Petition- Challenging the Order No. 9703 dated 18th October, 2003 of the appellate Committee, UPPCL, Shahjahanpur

And

M/s Shiv Rice Mills, Shahjahanpur

Represented by Sri. Madhukar Dixit counsel

---Petitioner

Vs.

U.P. Power Corporation Ltd., Lucknow

Lucknow

Date: 8th January, 2004

Order

M/s Sri. Shiv Rice Mills, Shahjahanpur Vs. UPPCL.

In this petition, the petitioner has challenged the order No. 9703 dated 18th October, 2003 of the appellate committee, Shahjahanpur. The appellate committee has rejected the appeal of the petitioner against the UPPCL notice dated 8th January, 2003. In the notice, UPPCL has asked the petitioner to pay Rs.4,62,842=47 towards the electricity dues payable by the petitioner up to November, 2002.

In the petition, the petitioner has stated that on 9th April, 2001 the petitioner was served a notice, under section 3 of UP Government Electrical undertaking (Dues of Recovery) Act, 1958 for payment of Rs.1,57,928=37 by UPPCL. The petitioner had approached the Hon'ble High Court against this order. The Hon'ble court ordered as follows:

“Sri. Sudhir Agarwal, who appears for the respondent, is granted 3 weeks time to file counter affidavit.

List in the week commencing 11-2-2002, showing name of Sri. Sudhir Agarwal, as counsel for the respondents.

Meanwhile it is directed that if the petitioner deposits the charges for the actual consumption of electricity and also the minimum charges for the period of six months w.e.f. 11-12-99, the recovery of the balance amount in pursuance of the citation dated 29.6.01 shall remain stayed till 8-4-2002, while calculating the amount, adjustment shall be given for Rs.25000/= which the petitioner has already deposited. The Executive Engineer concerned shall furnish the details of the amount, which the petitioner is required to deposit in terms of this order, within a week of his moving an application along with certified copy of this order. After the aforesaid amount has been deposited, the property of the petitioner, which has been attached in proceedings for recovery of the amount, shall be released.”

The counsel of the petitioner has submitted that no hearing took place after the above judgment of the High Court. He argued that this order of the High Court has nothing to do with the present petition. As his client has been provided new connection by the respondent. Secondly, since the appellate committee

has heard the appeal of his client, without raising the objection that matter is before the Hon'ble High Court. This court should also hear this petition.

It is clear from the letter No.188 dated 8th January, 2003 of the Ex Engineer, UPPCL annexed with the petition that the demand of Rs.4,62,842=47 is in continuation of the demand of Rs.1,57,928=37 stayed up to 8th April, 2003 by the Hon'ble High Court vide above order. Therefore, the demand of Rs. Rs.1,57,928=37 and demand of Rs.4,62,842=47 can not be treated independently. Hon'ble High Court has provided 3 weeks time to the respondent for filing counter affidavit and even specified the date for next listing of the case. There should not be any doubt that matter is before the Hon'ble High Court. Second argument of the counsel does not sustain as hearing by the appellate committee does not bind this Commission to hear the petition. The Commission refuses to admit the petition.

(Arun Sarkar)
Member

(Vijoy Kumar)
Chairman

Lucknow
8th January, 2004