

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition No.638 /2009 & Interim relief no. R-1504/2009

In the matter of:

Petition under clause 7.13 (i) of Electricity Supply Code 2005 along with the provision of clause 9.5 of Electricity Supply Code 2005 and an application for interim relief.

In the matter of:

1. M/s Surya Processes Pvt. Ltd., Bistrakh Road, Chapraula, Ghaziabad.
 2. M/s Samtel Colour Ltd., Bistrakh Road, Chapraula, Ghaziabad.
 3. M/s Sanchi Paper Mill Ltd., 5892, Bistrakh Road, Ghaziabad
- Petitioner

Versus

1. MD, UPPCL, Shakti Bhawan, 14, Ashok Marg, Lucknow.
2. MD, PVVNL, Victoria Park, Meerut.
3. Executive Engineer, EUDD-V, Ghaziabad

Respondents

ORDER

(Hearing on 16.11.2009)

The petitioner has filed the petition under the provision of clause 7.13 (i) & clause 9.5 of Electricity Supply Code 2005 on 30.10.2009.

Further the petitioner submitted the Hon'ble High Court's order dated 30.10.2009 passed in writ petition no. 5907 (MS) of 2009 along with the application for interim relief on 4.11.2009.

The Commission observed that the Hon'ble High Court in its order dated 30.10.2009 has stated

“In the light of the aforesaid provision, the petitioner has moved a complaint on 15.10.2009 which is still pending consideration before opposite party no. 4 and but till date no order has been passed thereon. Accordingly, the petitioner is suffering huge loss day-to-day. He further informs that petitioner has moved an application for interim relief.”

The factual position is that the application for the interim relief was received on 4.11.2009 along with the Hon'ble High Court order dated 30.10.2009, whereas the counsel for the petitioner had stated before the Hon'ble High Court that the application for interim relief has already been moved before the Commission.

The Commission further observed that the counsel for the petitioner has filed the Vakalatnama for M/s Surya Processes Pvt. Ltd. and the Vakalatnama for the other petitioners no. 2 & 3 are not annexed and are also not made available at the time of hearing. Shri Vishal Dixit, Counsel for the petitioner submitted that he is appearing for M/s Surya Processes Pvt. Ltd. only.

Shri Vishal Dixit submitted that the provisions of the clause 3.4 d (ii) of the Electricity Supply Code 2005 are arbitrary and contrary to the industrial development of the area. He further submitted that the provision for consent of the original consumer of an independent feeder for tapping by prospective consumer and cost sharing of common portion of that feeder with the prospective consumer should be done away with. He further submitted that the petitioner is ready to deposit the whole amount of the estimate for tapping on the M/s Samtel Colour Ltd. feeder and requested the Commission to grant the interim relief by directing the respondents to tap the petitioner from M/s Samtel Colour Ltd. feeder as the petitioner is suffering huge loss on day to day basis.

Shri Vishal Dixit submitted that M/s Sanchi Paper Mill Ltd. has already been connected on M/s Samtel Colour Ltd. feeder.

Shri Manoj Dwivedi counsel for the respondents submitted that the supply to the petitioner can not be tapped from M/s Samtel Colour Ltd. feeder unless the petitioner provides the consent of the original consumer M/s Samtel Colour Ltd. as per the provisions of the clause 3.4 d(ii).

As per the Hon'ble High Court order dated 30.10.2009:

“considering the facts and circumstances of the case, I hereby issue a direction to the opposite party no. 4 to proceed with the petitioner's complaint and dispose of the same expeditiously. If the opposite party no. 4 feels any difficulty in expeditious disposal of the complaint, he shall entertain the petitioner's application for interim relief and shall pass appropriate order thereon within a period of one week from the date of production of a certified copy of the order before him. No further action is required by this Court, therefore, with the aforesaid observation and direction, the writ petition is disposed of finally.”

In view of the directions of the Hon'ble High Court the Commission is hearing the case for expeditious disposal. The Commission observes that:-

1. The petitioner has approached the Commission under clause 7.13 (i) of the Electricity Supply Code which has a provision for filing complaints of general interest of a group of consumers.

The Commission is of the view that the present complaint is of individual nature and pertains to the individual interest of the petitioner and hence the petitioner should approach the Consumer Grievance Redressal Forum (CGRF) under clause 7.10 of the Electricity Supply Code as provided under section 42 of the Electricity Act 2003.

Hon'ble Supreme Court in appeal (Civil) 2846 of 2006 in the case of Maharashtra Electricity Regulatory Commission Vs Reliance Energy Ltd. and others observed that :

“The consumers who still feel not satisfied with the order passed by the licensees/distribution companies can approach the appropriate forum

constituted under Section 42(5) of the Act and, if still not satisfied, with the order passed by the appropriate forum to approach the Ombudsman under Section 42(6) of the Act.”

As stated by the counsel for the petitioner no. 1 that petitioner no. 3 i.e. M/s Sanchi Paper Mill Ltd. has earlier been connected on the same feeder it is apparent that no difficulty is arising in giving effect to provision 3.4 d(ii) and also there is no dispute regarding the interpretation of this provision.

Hence the Commission does not find any appropriate reason to clarify / amend the foresaid clause and the consumer may approach the CGRF for remedy.

The petition is hereby disposed.

(Rajesh Awasthi)
Chairman

Dated: 17.11.2009