

CASE NO.:
Appeal (civil) 3381-3382 of 2008

PETITIONER:
UTTARANCHAL JAL VIDYUT NIGAM LTD. AND ANR.

RESPONDENT:
JAIPRAKASH ASSOCIATES LTD.

DATE OF JUDGMENT: 02/05/2008

BENCH:
S.B. SINHA & LOKESHWAR SINGH PANTA

JUDGMENT:
JUDGMENT

O R D E R
[Arising out of SLP(C) Nos. 16035-16036/2007]
WITH

CIVIL APPEAL NOS. 3387-3388, 3385-3386 & 3383-3384 OF 2008
[@ SLP(C) Nos.16037-16038, 17266-17267 & 17683-17684 of 2007]

Leave granted.

The short question which arises for consideration in this appeal is as to whether the

Committee constituted by the Appellants, conforms to the requirements of Regulation 23(ii) of the Electricity Supply (Consumers) Regulations, 1984 or not.

We may notice the factual matrix of the matter in brief.

Respondent herein filed a suit inter alia questioning the quantum of the bills for consumption of electrical energy raised against them. The interim orders were passed therein subject to the condition that the respondent deposited 50% of the demand raised by the U.P. Jal Vidyut Nigam Ltd., the predecessor in interest of the appellant Corporation.

A special leave petition was filed thereagainst by the respondent. By an order dated 16.1.2002, a Division Bench of this Court disposed of the said matter on the suggestion of the learned counsel appearing on behalf of the respondents that his clients were ready and willing to withdraw the suit and approach the appellate authority under the said regulation for ventilating their grievances, whereupon this Court directed:

On a consideration of the above contentions raised by the learned counsel for the parties and the facts and circumstances of the case, we set aside the order under challenge and grant leave to the appellant to file an appeal before the prescribed authority under Regulation 23(ii) within two weeks. If such an appeal is filed, the Appellate Authority will decide the same on merits expeditiously, without raising any objection as to limitation. In the meantime the respondent Board will not take coercive steps for realization of the amount as per the impugned notices for a period of three months and by which time the appellant may take steps for obtaining appropriate interim order from the Appellate Authority, if necessary.

The appellant will withdraw the suit within two weeks and the respondent will withdraw the appeal within a week after re-opening of the High Court after winter vacation, subject to the withdrawal of suit by the appellant plaintiff. It is made clear that on the expiry of the time granted for the withdrawal of suit, the interim order granted by the trial court will stand dissolved.

Pursuant to or in furtherance of the aforesaid direction, the appellant herein, by

Office Memorandum dated 9.4.2002, constituted a Committee consisting of:

1. Shri L.K. Jain,
General Manager (P&M), JVP - Chairman
2. Shri A.K. Agaral,
Deputy General Manager
(Account), UJVNL - Member
3. Shri Naresh Kumar Mittal
General Manager (R&P), JVP - Member

However, the constitution of the said Committee was later on changed by an Office Memorandum dated 18.11.2002 being:

1. Shri Lalit Kumar Jain,
General Manager (O&M) &
General Manager (Distribution),
Uttaranchal Jal Vidyut Nigam Ltd.
Dehradun. - Chairman
2. Shri Chaturvedi,
General Manager (R&P) &
Zonal General Manager, (Distribution)
Uttaranchal Jal Vidyut Nigam Ltd.
Dehradun. - Member
3. Shri A.K. Agarwal,
Deputy General Manager (Accounts)
Uttaranchal Jal Vidyut Nigam Ltd.
Dehradun. - Member

The question which arose for consideration before the High Court in the writ petition filed by the respondents was that whether the Committee constituted conformed to the statutory requirements or not. The High Court opined that the constitution of the Committee was illegal being not in conformity with the said regulations.

Mr. Pradeep Mishra, learned counsel for the appellants would submit that as the appellant No.1 is a hydro power generating company which has come into being after the setting up of the U.P. State Electricity Regulatory Commission Act (Electricity Reforms Act), 1998, in terms whereof U.P. Jal Vidyut Nigam Ltd. came into being as a generating company. However, upon the bifurcation of the State of U.P. in terms of U.P. State Reorganization Act, 2000, the appellant has been constituted. By reason of reorganization of the State, the liabilities of the respondents have been transferred to the appellant. It was urged that as the appellant is not a distribution company and, being a hydro power generating company, there does not exist any post of Chief Engineer (Distribution) in its establishment. There is also no post of Chief Engineer (Zone) or Chief Engineer-II and instead, there are Chief General Manager and General Manager (E&M) respectively.

Mr. P.S. Mishra, learned senior counsel appearing on behalf of the respondents very fairly stated before us that this Court itself may direct constitution of an appropriate Committee.

In that view of the matter, we are of the opinion that interest of justice would be subserved if a Committee is constituted by the appellant with the following officers:

- (1) Present incumbent/officiating on the
post of Chief General Manager
- (2) Seniormost Deputy General Manager (Accounts)

(3) Another General Manager who may be nominated by the Chairman of the appellant-Corporation.

The Committee must be constituted within a period of four weeks from the date of

communication of this order.

We would request the said Committee to dispose of the appeals preferred by the respondents as expeditiously as possible and preferably within a period of three months from the date of its constitution.

The appeals are disposed of with the aforementioned direction. There shall be no order as to costs.

JUDIS