
(2003) 01 SC CK 0032

In the Supreme Court Of India

Case No : Interlocutory Application No's. 13-16 in civil Appeal No's. 1144-1147 of 2000 and Transfer Petition (C) No. 769 of 2002

Bhilai Power Supply Company Ltd.

APPELLANT

Vs

State of M.P. and Others
Daewoo Power India Ltd. and
Another Vs Madhya Pradesh Electricity Board and Others

RESPONDENT

Date of Decision : 21-01-2003

Acts Referred:

Madhya Pradesh Re-organisation Act, 2000 — Section 58

Citation : (2003) 1 ARBLR 530 : (2003) 2 AWC 1295 Supp : (2003) 1 JLJ 242 :
(2003) 1 JT 336 : (2003) 1 PLJR 260 : (2003) 1 SCALE 372 : (2003) 2 SCC 216

Hon'ble Judges : Shivaraj V. Patil, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : Arvind Sawant, P. Chidambaram, K. Parasaran and C.S. Vaidyanathan, Bharat Sangal, Girish Gokhale, Sangeeta Panicker, Rana Ranjit Kumar Singh, P.S. Shroff and Sunil Dogra, P.K. Parbhat, for S.A. Shroff and Co., Vivek Tankha, Gen., S. K. Agnihotri, Yogmaya, Anil K. Pandey, Sakesh Kumar and Rameshwar Prasad Goyal, Ravindra Shrivastava, Genl., for Chhattisgarh, Prakash Shrivastava, Superna Shrivastava, Sanjay Kapur, Shubhra Kapur, Manik Karanjawala, Pramod Dayal and Manoj Swarup, for appearing partie, for the Appellant;

Final Decision : Allowed

Judgement

Arijit Pasayat, J.

I.A. Nos. 13-16/2002

1. Prayer in these IAs is for direction to the M.P. State Electricity Board (in short 'the MP Board') to refund security deposits made along with interest thereupon, in compliance with the judgment of this Court in C.A. Nos. 1140-1143/2000.
2. The prayer has been resisted by the M.P. Board on the ground that pursuant to the Madhya Pradesh Re-organisation Act, 2000 (in short the Re-organisation Act') the original Board has been succeeded by the two Boards i.e. M.P. Board and the

Chattisgarh Electricity Board (in short 'Chattisgarh Board'). The liability, if any, should be discharged by the Chattisgarh Board. It is pointed out that originally there were 9 projects which were involved and 7 related to the re-organised M.P. State while 2 related to the newly constituted Chattisgarh State. Two projects have not come into existence is the stand of the Chattisgarh State. It was further submitted that in terms of Section 58 of the Re-organisation Act, the Central Government has to quantify the assets and liabilities and the follow-up action be taken. Since that has not been done finally, it would be inappropriate to direct the M.P. Board to liquidate the liabilities.

3. A somewhat similar stand was adopted by the State of M.P. In response, learned counsel for the Chattisgarh State and the Chattisgarh Board submitted that the amounts collected as security deposit were kept as fixed deposits in scheduled bank by M.P. Board and, therefore, it is the responsibility of the M.P. Board to liquidate the liability. Reference was also made to an order passed by this Court in IAs 37-40 in C.A. Nos. 1140-1143/2000 where the M.P. Board had undertaken to refund the security deposit.

4. What would be the rights available to the State of M.P. and Chattisgarh under the Re-organisation Act is really of no consequence so far as the present petitions are concerned. The undisputed position is that the applicants in the IAs are entitled to refund of the security deposit made. They cannot be made to suffer because the two States and two Boards do not appear to have reached an agreement so far as sharing the assets and liabilities and other connected aspects are concerned. The original M.P. Board took security deposit with clear undertaking to refund the same with interest. It is the said Board which has kept the security deposit amount in fixed deposit in nationalized bank earning interest. This fact is not disputed. Admittedly the original M.P. Board continues to exist as on today. Hence, it is the original M.P. Board, which is bound to refund the security deposits with interest as undertaken at the time of accepting the same and the said amount is to be paid without prejudice to the right of the Electricity Board concerned in getting adjustment or recovery from the State of Chattisgarh or the Electricity Board of Chattisgarh as the case may be. Although it is noticed in the order dated 29.11.2001 made in I.As. 37-40 that the learned counsel for the Board made a plea that it may not be made precedent in regard to other claims but in order to be just, fair, consistent and having regard to what is stated above, we think it appropriate to pass a similar order. Hence, we direct the original M.P. Electricity Board to pay a sum of Rs. 55.23 crores to the appellants along with interest at the rates charged by the bank for fixed deposit in 12 equal monthly installments commencing from 1.3.2003. The said payment would be made without prejudice to the right of the Electricity Board concerned in getting adjustment or recovery of the amount from the Chattisgarh Electricity Board or State of Chattisgarh as the case may be in accordance with the provisions of Re-organisation Act.

5. The learned counsel for the parties made some submissions in support of the

respective contentions as to the rights and liabilities of the respective States or the Boards based on Section 58 of the Re-organisation Act. In our opinion, it is neither desirable nor necessary to express our opinion on the rival contentions for the limited purpose of dealing with the I.As. for refund of the security amount deposited. All the contentions of the parties on larger questions as to the respective rights and liabilities between the two States and the respective State Electricity Board are available to them to be urged in other proceedings, if need be. Our observations made in this order are confined only for the disposal of the present I.As.

Transfer Petition (C) No. 769/2002

6. Transfer of an appeal pending before the High Court of Madhya Pradesh was sought for on the ground of pendency of IAs 13-16 before this Court. Since, we have disposed of the IAs. the prayer for transfer is not accepted, as the appeal in question can be adjudicated by the High Court of Madhya Pradesh.

7. The transfer petition is disposed of accordingly.