
(2011) 05 UK CK 0072

In the Uttarakhand High Court

Case No : Writ Petition (M/s) No. 580 of 2011

Datt Infrastructure and Services Ltd.

APPELLANT

Vs

The Electricity Ombudsman Uttarakhand and Another

RESPONDENT

Date of Decision : 24-05-2011

Acts Referred:

Electricity Act, 2003 — Section 42(6), 42(6)(5)
Uttaranchal Electricity Regulatory Commission (Appointment and Functioning of Ombudsman) Regulations, 2004 — Regulation 3(5)

Citation : (2011) 05 UK CK 0072

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—Heard Sri Siddhartha Sah, Advocate for the Petitioner, Sri Pracheta Singh, Advocate for Respondent No. 1 and Sri Vipul Sharma, Advocate for Respondent No. 2.

2. The Petitioner is a company which has filed the present writ petition for the following prayers:

i. Issue a writ, order or direction in the nature of mandamus directing the Uttarakhand Electricity Regulatory Commission (UERC) to appoint a permanent Ombudsman as per Regulation 3 (5) Uttaranchal Electricity Regulatory Commission (Appointment & Functioning of Ombudsman) Regulations 2004 so that earlier order of the Hon"ble High Court can be complied effectively.

OR

ii. issue a writ, order or direction in the nature of mandamus directing the Uttarakhand Electricity Regulatory Commission to hold hearing of representation bearing No. 3/2008 Datt Infrastructure and Services Ltd. v. Managing Director Uttaranchal Power Corporation Ltd. and Ors. itself instead of the current Ombudsman.

iii. Issue any other writ, order or direction which this Hon''ble Court deems fit and proper under the facts and circumstances of the case.

3. As far as first prayer of the Petitioner is concerned, the counsel representing Uttarakhand Electricity Regulatory Commission Sri Vipul Sharma has stated that the Commission has already issued an advertisement for the post of Ombudsman in "Dainik Jagran" dated 11.5.2011. The counsel representing the Uttarakhand Electricity Regulatory Commission has made a statement that the Ombudsman will be shortly appointed. Based on these submissions made by the counsel representing the Uttarakhand Electricity Regulatory Commission, as far as first prayer is concerned, writ petition has already become in fructuous.

4. Regarding second prayer, it cannot be granted inasmuch as per Section 42(6) of the Electricity Act, 2003 only an Ombudsman is authorized to hear the appeal arising out of decision of a forum established for redressed of grievances of the consumers. Section 42(6) of the Electricity Act,2003 reads as under:

42. Duties of distribution licensees and open access. -

(1)

(2)

(3)

(4)

(5)

(6) Any consumer, who is aggrieved by non-redressed of his grievances under Sub-section (5), may make a representation for the redressed of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

5. What the Petitioner wants from the Uttarakhand Electricity Regulatory Commission is to hear the appeal/representation of the Petitioner against the order of redressed forum. This cannot be done as the authority which can hear the representation of the Petitioner is only an Ombudsman. Therefore, second prayer also cannot be granted.

6. Writ petition therefore fails and is accordingly dismissed.

7. No order as to costs.