
(2014) 06 SHI CK 0008
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 153 of 2004

Himachal Pradesh State Electricity Board	APPELLANT
Vs	
Mohit Chaudhary	RESPONDENT

Date of Decision : 02-06-2014

Acts Referred:

Electricity Act, 2003 — Section 42, 42(5), 42(6), 57

Citation : (2014) 06 SHI CK 0008

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Shrawan Dogra, Sr. Advocate with Ms. Nishi Goel, Advocate for the Appellant; Rahul Mahajan, Advocate, for Respondent No. 1, Mr. Naresh Kumar Sood, Senior Advocate with Ms. Mohini Sharma, Advocate, for Respondent No. 2, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Sanjay Karol, J.—Issue which arises for consideration in the present petition is as to whether order dated 01.05.2004 (Annexure P-3) passed by the Himachal Pradesh Electricity Regulatory Commission (respondent No. 2), is within the ambit and scope of provisions of the Indian Electricity Act, 2003 (hereinafter referred to as the Act) being contrary to the law laid down by the apex Court in Maharashtra Electricity Regulatory Commission Vs. Reliance Energy Ltd. and Others, and Civil Appeal No. 2005 of 2011, titled as M/s. H.P. State Electricity Board through its Superintending Engineer Versus M/s. Gujarat Ambuja Cements Ltd. and others. In effect jurisdictional issue is raised.

2. Respondent No. 1, a private consumer, raised an individual dispute with regard to electricity supply and connection installed by the H.P. State Electricity Board, at Dalhousie. He filed a petition u/s 57 of the Act read with HPERC Complaint Handling Mechanism and Procedure and Conduct of Business Regulations, 2001. Vide impugned order respondent No. 2, issued certain directions with regard to dispute, emanating out of bills raised for consumption of electricity supply. Also

cost (compensation) was imposed upon the supplier.

3. In *Reliance Energy (supra)*, the apex Court after taking into account various provisions of the Act and Regulations framed thereunder, clarified that Sections 42(5) and 42(6) of the Act provides for a complete machinery for redressal of grievances of individual consumers. Hence all individual grievances of consumers have to be raised only before a Forum constituted in terms of said sections. The Court further held that disputes to be adjudicated by the authorities, other than referred to in Section 42 sub section 5 do not include disputes of individual consumers. For redressal of such disputes, jurisdiction of a proper Forum so constituted under the Act, has to be invoked. This view stands reiterated by the apex Court in *M/s. Gujarat Ambuja Cements (supra)*.

4. Thus, in view of this settled position of law, respondent No. 2, who was not authorized to deal with individual disputes of consumers, had no jurisdiction or authority to entertain the complaint/petition filed by respondent No. 1.

5. Mr. Naresh Kumar Sood, learned Senior counsel appearing for respondent No. 2, has explained the circumstances necessitating issuing of the impugned order Annexure P-3. Apparently at that point in time, neither any regulations were notified nor any authority under the Act was constituted. The submission only needs to be repelled in view of law laid down by the apex Court in *M/s. Gujarat Ambuja Cements (supra)*. Parties could have exhausted their constitutional remedies.

6. Thus, impugned order dated 01.05.2004 (Annexure P-3) passed without jurisdiction, needs to be quashed and set aside. Ordered accordingly.

7. For over a decade petition has been pending before this Court. Equities have fructified in favour of the parties. Hence it is directed that remedial measures, if any, required to be taken by the petitioner, shall be done only after affording opportunity of hearing to all concerned, including respondent No. 1, and cases shall be considered sympathetically.

With the aforesaid observations, present petition stands disposed of, so also pending application(s), if any.