

(2018) 09 UK CK 0050

In the Uttarakhand High Court

Case No : Writ Petition No. 1744 (MS) of 2012

M/s Surya Roshni Ltd

APPELLANT

Vs

Uttarakhand Power Corporation Ltd.

RESPONDENT

Date of Decision : 12-09-2018

Acts Referred:

Citation : (2018) 09 UK CK 0050

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Sudhir Kumar, D.S. Patni

Final Decision : Allowed

Judgement

Alok Singh, J.

1. Petitioner Company is engaged in manufacturing of various bulbs, fluorescent tubes, lamps etc. Its manufacturing unit is in Kashipur, Moradabad

Road, District Udham Singh Nagar. Petitioner obtained a power connection of 2500 KVA on 33 KVA line for its manufacturing unit at Kashipur.

Petitioner Company applied for enhancement of load upto 5500 KVA vide application dated 06.11.2009. Respondent enhanced load of only 1500

KVA vide order dated 19.03.2010. Thereafter, respondent vide letter dated 27.07.2012 raised a demand of Rs. 75,00,000/- for enhancement of load.

Feeling aggrieved, petitioner approached this Court.

2. Heard Mr. Sudhir Kumar, Advocate for the petitioner and Mr. D.S. Patni, Advocate for respondent and perused the record.

3. Mr. Sudhir Kumar, Advocate for the petitioner has submitted that respondent Department never submitted any work estimate and for the first time

they had raised demand vide letter dated 27.07.2012. As per Regulations, while

sending the estimate the respondent Department will mention the time frame within which the work will be completed but respondent Department never sent any such communication. He has further submitted that respondent Department had not enhanced load as required by the petitioner, therefore, Department is liable to pay penalty.

4. Mr. D.S. Patni, Advocate for the respondent Department has submitted that petitioner Company cited some reasons for urgent enhancement of load, therefore, respondent Department accepted the request without carrying augmentation of 33 KVA line and additional load 1500 KVA was released. He has further submitted that vide letter dated 14.08.2012, petitioner itself informed the Department not to enhance the load as it was happy with 4000 KVA power load.

5. Regulation 9 of the Uttarakhand Electricity Regulatory Commission (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 (for short "2008 Regulations") reads as under:

9. Procedure for Enhancement / Reduction in Contracted Load:

(1) Consumers can either enhance or reduce their contracted load any time once in a financial year

(2) For this, the consumer shall have to apply to the distribution licensee in the form given at Annexure 2, which shall be made available free of cost at

distribution licensee's sub divisional/ divisional or any other office. This form can also be downloaded from the distribution licensee's website

or even photocopied.

(3) The procedure and conditions for grant of new connection as specified in Regulations 3 to 8 shall be followed for enhancement/reduction of

contracted load except that application shall be made in Annexure 2 in place of Annexure 1 and the penalty payable by the distribution licensee for

delay in effecting enhancement/reduction of contracted load shall be payable @ Rs. 500 for each day of default in place of Rs. 1000/day.

(4) Subject to the procedures and completion of formalities as per Regulation 4 and 5 of these Regulations, the distribution licensee shall complete the

works as per timelines specified in these Regulations. However, if enhancement/reduction of load does not require any alteration of line/substation

works the contracted load shall be enhanced/reduced within 30 days.

(5) A consumer seeking enhancement in load shall pay security for enhanced load after duly adjusting the amount already paid for existing load and, if augmentation or replacement of existing equipment/lines is required, the works charges for the terminal equipment and/or lines as per Table 1 above.

(6) If the reduction in load, sought by the consumer involves replacement of existing equipment, then the consumer shall pay the works charges for the terminal equipment as per Table 1 above and the difference between security deposit required for the reduced load and that already deposited shall be adjusted in the bills within the next three billing cycles.

7. In case the enhancement/reduction in load requires change in supply type from LT to HT/EHT or vice-versa, the provisions of relevant regulations shall be applicable depending upon the nature of enhanced/reduced load.??

7. Regulation 4 (8) of the 2008 Regulations reads as under:

??8. Distribution licensee shall, within one month from date of receipt of application, study the feasibility of providing such connection including route survey for line and associated works and sanction the load. In case, works related to transmission licensee at 132kV or 220 kV are required to be

executed, the distribution licensee shall immediately intimate the transmission licensee for carrying out such study and take estimate of works charges

from it. The distribution licensee shall ensure that it informs the applicant, the estimated amount that is required to be deposited, in accordance with

Table 1 given below, and the date by which the said amount is to be deposited within the said period of one month. The distribution licensee shall also

indicate in the above communication, the approximate time frame for providing such connection, which shall not be more than that specified in these

Regulations or tentative date indicated by consumer in his application, whichever is later.

8. Respondent enhanced the load vide letter 19.03.2010 (Annexure No. 2 to the writ petition). In this letter, there is no mention of estimated amount,

which was required to be deposited by the petitioner company. After passing of more than two years from the date of enhancement of the load,

respondent raised a demand of Rs. 75,00,000/-. In the demand letter dated 27.07.2012, Executive Engineer stated that by mistake, they failed to

mention the amount of augmentation of line, which amounts to Rs. 75,00,000/-. If petitioner failed to deposit the amount of augmentation, then

wherefrom the respondent Department arranged funds for enhancing the load to the tune of Rs. 75,00,000/-.

9. From perusal of Regulations 4 (8) and 9 (4), it can safely be said that if any estimated amount is required to be deposited, in accordance with Table

1, the same shall be deposited within a month. However, if enhancement of load does not require any alteration of line / substation works the

contracted load shall be enhanced within 30 days.

10. In the present case, no such demand was ever made by the respondent after receiving the application, therefore, it appears that for enhancing the

load, no alteration of line / substation work was done. As an afterthought, respondent Department raised this demand. Respondent Department

nowhere explained from whose funds work of augmentation of line amounting to Rs. 75,00,000/- was done, as demanded by the respondent, if

petitioner had not paid the amount.

11. In view of the above, petition is allowed. Impugned orders are hereby quashed. No order as to costs.