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**(1998) 05 AHC CK 0113**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 18064 of 1998**

S.K. Garg

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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**Date of Decision :** 25-05-1998

**Acts Referred:**

Constitution of India, 1950 — Article 21  
Constitution of India, 1950 — Article 21  
Constitution of India, 1950 — Article 21

**Citation :** AIR 1999 All 41 : (1998) 2 AWC 1492 : (1998) 2 UPLBEC 1211 :  
(1998) 2 UPLBEC 1200

**Hon'ble Judges :** M. Katju, J;I.M. Quddusi, J

**Bench :** Division Bench

**Advocate :** Ravi Kant, for the Appellant; S.C. and Sudhir Agarwal, for the Respondent

**Final Decision :** Disposed Of

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## Judgement

M. Katju and I.M. Quddusi, JJ.—Heard Sri Ravi Kant, learned counsel for the petitioner. Sri Sudhir Agarwal. learned counsel for the U. P. State Electricity Board and Sri Pradeep Kumar, learned Addl. Chief Standing Counsel for the State Government. The Chief Engineer, Distribution, U.P.S.E.B., Allahabad Zone is also personally present.

2. The petitioner is an Advocate practising in this Court and is also the Vice-President of Allahabad, High Court Bar Association. He has filed this petition as a public interest litigation regarding the acute shortage of electricity supply in the State because of which the citizens of the State are in great agony in this hot summer and a large number of people have already died due to heat wave in U. P. The petitioner has alleged that there are unscheduled power-cuts for long periods of time and the citizens" are living in an inferno because of that. The electricity usually goes off without notice and in this hot weather, this is adversely affecting the citizens, lives and health. Unless strong action is taken in

this regard immediately, the death toll due to heat and dehydration is likely to rise rapidly in the coming days in this summer. The temperature in Allahabad has already risen to 46°C and in some places in U. P. It has gone upto 49°C. It is alleged in paragraph 5 of the petition that the electricity goes off without notice in the town. It goes off in hospitals even when patients are undergoing operations. Likewise, in the industries where production is a continuous process, disconnection or disruption of supply causes irreparable loss. In paragraph 6, it is alleged that small industries bear the brunt of these "power-cuts. In case of failure of energy, their entire investment goes down the drain and they have to suffer recurring investment loss in the shape of re-engagement of labour and purchase of raw materials as well as the maintenance of establishment. In paragraph 7 it is alleged that domestic power consumers too have been suffering very heavily. Ailing persons are unable to bear the gruelling summer heat due to unscheduled frequent power-cuts. Students cannot prepare properly for their examinations. In paragraph 9. it is alleged that most of these problems are attributable to the mismanagement of the Board itself. The transmission losses are 45% of the revenue and the Board is deep in debt. Its employees are in collusion with big industrialists whose bills are slashed on payment of token money. A large number of persons are illegally taking wire connection by "katta" and the Board is doing nothing about it, rather the employees of the Board are often in collusion with these persons. The staff of the Board has been showering undue favour and hospitality to big consumers including public departments who do not pay their bills or get their bills reduced by collusion. Annexure-1 is the chart showing arrears of electricity in district Fatehpur. This chart shows a huge amount of arrears of Fatehpur District amounting to Rs. 2035.34 lacs. Fatehpur is only a small district and arrears in other districts would be much larger. Annexure-2 is a cutting of the newspaper Northern India Patrika of 16.5.1998 wherein it has been stated that the citizens of Allahabad are facing searing and gruelling months ahead. The U. P. Power Minister gave a statement in a press conference in the presence of the officials of the Electricity Board that unscheduled rostering would not be resorted to and that the power position would not worsen and the harried residents of this city had heaved a sigh of relief hoping that the power position would improve but nothing has been done and day after day unscheduled intermittent cuts, some lasting long hours have begun to play havoc making people, claim that the Minister's directive had fallen on deaf ears. Electricity has become a rare commodity and the citizens are never told why such cuts are being imposed without any prior notice.

3. The summer is reaching its peak and the searing heat of the day saps all energy and because of power-cuts water supply too cannot be maintained. The citizens are entitled to know when the power-cut is being imposed.

4. In paragraph 20 of the writ petition, it is alleged that big industrial towns such as Kanpur, Ghazaabad, Moradabad, Bareilly, Lucknow, Dehradun, Nainital and Allahabad have heavy arrears dues and power-cuts are on account of disrupted power supply while the officials seem to be unconcerned with the woes and

agony of the common man. In paragraph 21 of the writ petition. It is alleged that on account of shortage in power supply, the professionals too have to suffer a lot. Doctors, engineers and lawyers are forced to cut down their sittings in chambers on account of power-cuts. In paragraph 22, it is stated that the staff of the Board acts with supersonic speed, promptitude and despatch in disconnecting electricity of domestic consumers.

5. in our opinion, most of these allegations are correct because it is common knowledge that in most of the cities in U. P. there are severe, unscheduled power-cuts (worse than in Delhi) causing great agony to the citizens particularly in the hot summer. A large number of deaths have already taken place due to severe heat wave in U. P. and the death toll is likely to rise rapidly.

6. In almost every newspaper every day, one reads the news of the deaths of a large number of people due to heatwave.

7. One of us (Hon'ble Quddusi, J.) who is inspecting Judge of Kanpur Dehat had gone on inspection to Bhognipur (which is an outlying Court) where he was given an application by the members of the Bar stating therein that without prior notice suddenly power-cuts are resorted to causing disturbance in the functioning of the Court. There lawyers had informed the S.D.O. of U.P.S.E.B., Pokhraya about the inspection of the Court, but even then the officials took no notice of the same and did not supply electricity throughout the day, which affected (he Court inspection also. Copy of this complaint shall be kept on the file of this case, and necessary action shall be taken by the Board against the officials in this connection and a report submitted on the next date of hearing. Copy of the application has been given to Sri Sudhir Agarwal, learned counsel for the Board.

8. On the facts of the case, we are of the opinion that a task force should immediately be set up for remedying this malady, and we direct that this task force will consist of the Chief Secretary. U. P. Government as its Chairman and the Principal Secretaries, Power and Home, Chairman of the U.P.S.E.B.. Director General of Police, I. G. (Police) of U.P.S.E.B. and other persons to be appointed by the Chief Secretary, U. P. as its members. This task force must go into all aspects of the matter and take immediate remedial steps so that citizen may not suffer due to power-cuts and proper electric supply may be provided to the citizens. In our opinion, the basic amenities like electricity and water are absolutely essential to lead a civilised life and hence the citizens have a fundamental right to have these amenities on payment of usual charges as, in our opinion, they are part of the right to life guaranteed by Article 21 of the Constitution as interpreted in several decision of the Supreme Court, e.g., Consumer Education & Research Centre v. Union of India. 1996 (3) SCC 42, in which it has been stated (in para 22) that "the right to life with human dignity encompasses within its fold some of the finer facts of human civilization which makes life worth living." In our opinion. In the modern world, civilized life is not possible without electricity and water.

9. In our opinion, one of the main causes of the problems of the Board is the theft of electricity on a very large scale throughout the State. We have been informed that even in the city of Allahabad, there are about 20,000 illegal connections by "kalids" (apart from the big consumers and industrialists who are in collusion with the employees of the Board who set up meters which give false readings). In certain districts, particularly in western U. P., some farmers and other persons who use electricity often do not pay electricity bills. We are of the firm opinion that no one has a right to consume electricity without paying for it (unless exempted). In our opinion, the time has come when all these illegalities must be stopped and strict financial discipline is enforced. It is obvious that when in Allahabad alone, there are about 20,000 illegal connections, then there must be lacs of such illegal connections throughout the State because of which there is huge loss of the revenue. We have been informed that there is a move to regularise the illegal connections by the Board. Although we do not approve of such regularisation but we feel that taking a realistic view if the Board feels that such illegal connections should be regularised, then we have no objection to the same provided the persons make an application to the officials of the Board and pay the charges for the meter and for the electricity in accordance with the relevant tariff. Sri Sudhir Agarwal states that while regularising the power connection, the assessment for the previous six months is made before regularising the same. Hence we direct that if any person wishes to take regular connection, he can make an application for this purpose to the concerned official of the Board within three weeks from today but if no such application is made within 3 weeks, the connection will be disconnected without any notice thereafter. The application of those who apply within a period of three weeks must be disposed of within two weeks thereafter, and if the connection is sanctioned, they must pay the charges mentioned above by the due date on demand. The applications of those persons who have already applied for connection must be disposed of within two weeks from today. The consumers shall be given bills regularly which they must pay by the due date in accordance with the relevant rules and directions.

10. We further direct that the task force constituted by this order shall create a special fund for each town in U. P. out of the realisation from the amounts mentioned as well as by a special grant from the State Government. In this connection, the application made by the State Government to the Central Government for funds shall also be disposed of by the Central Government expeditiously.

11. This fund shall be used for maintenance of the transformers and electric lines and for suitable modification of the same as well as for paying the additional ad hoc seasonal staff which must be appointed soon as mentioned below. The existing transformers must be repaired immediately. This task force set up by this order may also appoint subordinate task forces for specified areas and the members thereof shall be nominated by the Chief Secretary. The task force shall appoint additional ad hoc and seasonal employees for the months of May, June

and July (which are the peak summer months when the position is more critical) and the salary of these ad hoc/seasonal employees will be paid from the special fund referred to above, but the appointees will have no lien and their service will be liable to be terminated on expiry of the period mentioned in the appointment letters. These ad hoc/seasonal appointments are necessary as the present staff is not sufficient to maintain the supply of the electricity in summer months and hence ad hoc/seasonal employees are absolutely necessary in this period.

12. Often complaints are made by the consumers that their electric supply is disconnected and often it takes several weeks to restore the connection. We direct that within 12 hours of receipt of any complaint by any consumer, the electric connection must be restored (unless it is for nonpayment of bills or malpractice or theft) except in the case of major breakdowns.

13. In our opinion, the State needs more electric power. We have read in the news item in the newspaper Northern India Patrika of 23.5.1998 in which it is stated as follows :

"New Delhi. May 22 (UNI). The Uttar Pradesh Government should immediately draw up an action plan for renovation and modernisation of its power plants, all of which are performing poorly, says a recent study.

Except the Anpara TPS (1630 MW) power station, all others --Obra TPS (1,500 MW). Panki TPS (274 MW), Harduaganj B and C (385 MW), Paricha TPS (220 MW) and Tanda TPS (370 MW) have performed much below the all India level. An action plan to ensure that performance of all those plants" increases by 16 to 20 per cent over the next two years is needed urgently, says the study conducted by the PHD Chamber of Commerce and industry : (PHDCCI)

Transmission and distribution losses in the State were also very high. Requisite augmentation and expansion of the system could not be taken up by the State Government due to paucity of funds.

Pointing out that the T. D. system in many areas in the State is overloaded and obsolete, the study suggested expansion or strengthening of the system on a priority basis.

It also called for strict measures to check theft of power in the State. All district sub-stations should be identified as energy centres" for monitoring and co-relating the revenue from these centres. The State Government must join hands with U.P.S.E.B. management to check the practice of theft of power, says the Chamber.

As per the 15th Power Survey, the peak demand in U. P. is estimated to increase from 7840 MW in 1996-97 to 11,280 MW by the end of the Ninth Plan (2001-02). There would, thus, be an increase in peak demand by about 3,500 MW which would need a capacity addition of about 5,000 MW. in addition, the peaking shortage of 1,300 MW during 1996-97 also has to be covered. The Board would, therefore, have to plan to add about 6,500 to 7,000 MW of additional generating

capacity during the next five to six years to meet the anticipated demand, says the study.

A number of hydro projects, aggregating to 2,500 MW which includes Srinagar (330 MW), Maneri Bhali two (304 MW), Lackwar Vyasi (420 MW), Vishnuprayag (480 MW) Lohari Nagpala (520 MW), are languishing in the State for want of funds for last many years. The State Government has now decided to implement these projects through private sector participation. While Mou's have been signed for some projects like Vishnuprayag, competitive bids have recently been invited for Lohari Nagpala (520 MW) and Boweli Nangprayag (132 MW) but nothing has been finalised so far.

A firm time-bound action programme for development of these projects needs to be drawn up immediately with programme monitored at the highest level suggests PHDCCI.

The study further points out that two thermal power projects-one at Roza TPS (1,000 MW) and the other at Jawaharpur (1,000 MW) are also proposed to be taken up through private sector and Mau's have already been signed. For the same bids have also invited recently for setting up a 2,000 MW thermal power plant at Partabpur in district Allahabad. It is also proposed to take up Anpara "C" with a capacity of 1,000 MW, in addition, proposals for setting up of eight or nine diesel power plants of 100 MW capacity each are also being finalised. Competitive bids were recently invited for these plants and Mau's have already been signed. In addition, bids have also been invited for setting up of naptha based power plants of 300 MW capacity at few locations in the State."

14. A perusal of the above news item indicates that a large number of power projects have not yet been finalised. Hence we direct the State Government in consultation with the Central Government and authorities concerned to finalise the same as expeditiously as possible so that the State of U. P. shall get sufficient power for its need. Sri Sudhir Agarwal, learned counsel for the U.P.S.E.B. has stated that the U.P.S.E.B. had written several times to the State and Central Government for finalising the above projects, but no action has been taken. We direct the State and Central Government to take up the matter with all seriousness in view of the urgency of the situation and take prompt steps. So that the power generation can be increased quickly. We further direct that if the application of the citizens/consumers for power connection are not decided within the period prescribed, disciplinary action shall be taken against the erring officials and the Court will take a serious view against such erring employees. Strong disciplinary action must also be taken against the Board employees who collude in power thefts.

15. We further direct the Chief Secretary, U. P. to submit a progress report before us regarding the steps taken in compliance with our order by the next date.

16. We further direct all the police officials in the State to give full support to the officials of the U.P.S.E.B. for compliance of this order. Sri Sudhir Agarwal, learned

counsel for the U.P.S.E.B. states that the police is not extending help to the Board. Hence we direct the local administration and the police to give all co-operation to the U.P.S.E.B. to comply with this order. Special interest should be taken by the officials in realizing arrears from big power consumers and penal action should be taken against them if they are committing malpractices such as tampering with the meters (whether in collusion with the Board employees or others).

17. We further direct the electricity officials to immediately devise some method by which there should not be any unscheduled power-cut and if any power-cut is to be imposed, it should be announced on the previous day by advertising it in well-known newspapers in which the timing of the power-cut and the locality in which it is to be imposed should be clearly mentioned.

18. We are informed that a number of cities, including cities smaller than Allahabad, e.g., Unnao and Hardoi are exempt from emergency rostering. We see no reason why Allahabad should also not be similarly exempt, and we direct the Board to explore the possibilities in this connection.

19. In paragraphs 13 to 18 of the short counter-affidavit filed today. It has been stated that a 400 KV sub-station is required In Allahabad for smooth supply of electricity In the city, and we direct the Power Grid Corporation of India to take necessary steps In this connection. It may be stated that Allahabad Is very Important city in U. P. In view of fact that the High Court, police Head Quarters, Central Air Command, Excise Commissioner's Office, Accountant General Office, Director of Education, C.D.A. Pension, Board of Revenue. I. G. Registration Headquarters, etc. are all located here besides Its religious Importance. It may be mentioned that as stated In para 18 of the short counter-affidavit, there are 400 KV sub-stations even In towns smaller than Allahabad, e.g., Mau, Sultanpur, Azamgarh, Muradnagar, Modinagar, Rishikesh, Unnao, etc. Hence it does not stand to reason why Allahabad should also not have a similar facility, more so when it was already sanctioned in 1987.

20. We permit the learned counsel for the petitioner to implead Central Government and Central electricity authority as respondents. Learned counsel for the petitioner will serve copy of this petition on Sri U. N. Sharma who will accept notice of the same. Sri U. N. Sharma will seek necessary instruction and shall file his reply by the next date.

21. List, as part heard before us on 16.7.1998.