

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NO. 606 OF 2017 IN
DFR NO. 2203 OF 2017**

Dated: 05th Sept.2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of:

Mr. Rama Shanker Awasthi

.... Appellant(s)

Vs.

Bajaj Energy Private Limited & Ors.

.... Respondent(s)

Counsel for the Appellant(s) :

Mr. M. G. Ramachandran
Mr. Shubham Arya
Ms. Ranjitha Ramachandran

Counsel for the Respondent(s) :

Mr. Rajiv Srivastava
Ms. Garima Srivastava
Ms. Gargi Srivastava for R-2

Mr. C. K. Rai

Mr. Umesh Prasad for R-3

ORDER

1. The Appellant who is a consumer in the State of Uttar Pradesh has filed this appeal under Section 111 of the Electricity Act, 2003

against the common order dated 24/05/2017 passed by the Uttar Pradesh Electricity Regulatory Commission (**“the State Commission”**) in Petition No.973 of 2014, 1036, 1037, 1038, 1039 and 1040 of 2015 and 1079, 1080, 1081, 1082 and 1083 of 2016 relating to the approval of final capital cost, true up of tariff for the period from Commercial Operation Date (**“COD”**) of the Power Plants upto 31/03/2014 and approval of Multi Year Tariff (**“MYT”**) for the period from Financial Year 2014-15 to 2018-19 in respect of five Power Plants (2x45 MW) established by Bajaj Energy Private Limited (**“BEPL”**). In this application the Appellant has prayed that payment of court fee on the appeal be waived.

2. In the application, the Appellant has stated that he is personally affected by the above stated orders of the State Commission. Besides the Appellant has been actively working to protect and promote public interest. It is further stated that the Appellant has been actively participating in the matters relating to public interest issues and consumer issues in the electricity sector since 2005 and the Appellant is also a member of the Advisory Committee constituted by the State Commission. The Appellant has cited Rule 55 of the Appellate Tribunal for Electricity

(Procedure, Form, Fee and Record of Proceedings) Rules 2007 (“**the said Rules**”) and stated that under this rule this Tribunal has the power to waive the payment of court fees for advancing the cause of justice or for any other reasons it considers appropriate. It is further stated that the waiver of court fees can be granted not restricted to cases where the Appellant is indigent or on consideration of the aspect of economic condition, but also when it is otherwise appropriate to do so to advance cause of justice. The Appellant has admitted that he is not an indigent person, but he is seeking waiver of court fees for advancing cause of justice and in general consumer interest.

3. We have heard Mr. Ramachandran learned counsel appearing for the Appellant. Counsel has reiterated the above submissions. Counsel submitted that the court fees in the present case is Rs.11 lakhs which will place a huge burden on the Appellant who is a consumer and therefore the court fees be waived.

4. It is true that in terms of Rule 55 of the said Rules this Tribunal can waive the payment of court fees for advancing the cause of justice or for any other reasons it considers appropriate.

Indigency of a person may be a vital consideration, but there could be cases where to advance cause of justice or for any such reason court fees may have to be waived. Thus power to waive court fees is a discretionary power. It is well settled that discretionary power has to be used with care and caution. While exercising discretion to waive court fees, this Tribunal will have to be on guard because possibility of misuse of the provision conferring discretion cannot be ruled out. In a given case a person claiming to represent consumers can be used by unscrupulous elements to evade court fees. Not in all cases can consumers say that to further cause of justice court fees be waived. It must be borne in mind that court fees are essential for functioning of the judicial system. Therefore, an order of waiver of court fees cannot be cited as a precedent. Each case will have to be considered having regard to its facts, the economic condition of the party approaching the court and the extent of monetary burden which is likely to be placed on that party.

5. Mr. Ramachandran has informed us that the Appellant has filed several appeals in this Tribunal as a consumer or as a consumer representative and has succeeded in some of them.

6. In this case the burden of court fees is Rs.11 lakhs. Having regard to the quantum of court fees in the facts of this case in our opinion 50% of the court fees payable by the Appellant deserve to be waived. We order accordingly.

7. The application is disposed of.

8. If the court fee is paid, as ordered, within four weeks, the Registry is directed to number the appeal and list it on board on **11/10/2017**.

(I. J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson