

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 67 of 2008

Dated: September 09, 2009

**Present: Hon'ble Mrs. Justice Manju Goel, Judicial Member
Hon'ble Mr. H.L. Bajaj, Technical Member**

M/s. Chhatra Chhaya Construction Pvt. Ltd. -Appellant(s)

Versus

Madhya Pradesh Electricity Regulatory Commission & Ors. -Respondent(s)

**Counsel for the Appellant(s) : Mr. K.K. Rai Sr. Adv with Mr. Niraj Sharma,
Mr. Vikrant Singh, Mr. Sumit Sharma and
Mr. GhanShyam Sanghi, Advs.**

**Counsel for the Respondent(s) : Ms. Shikha Ohri for MPERC
Mr. Naveen Sharma for R-1 to 3**

ORDER

The present appeal is against an order of the Madhya Pradesh Electricity Regulatory Commission, the Commission for short, dated 03.04.07 passed on a petition filed by the appellant on 30.06.05 seeking the following reliefs:

20. *That the respondent be ordered not to charge any strengthening charges from the petitioner with respect to chhatra chhaya Parisar Colony, Pirhampur, Dhar.*
21. *That, the respondent be directed to refund the strengthening charges of Chhatrachhaya Colony Sector A,B and D. Which is taken from the petitioner by encashing the post dated cheques.*

The petitioner's case was that the petitioner was not liable to pay any system strengthening charges and was entitled to get refund of the systems strengthening charges already paid by virtue of the Commission's order dated 09.12.04, read with the

addendum dated 02.02.05 and 110.03.05. The appellant was liable to pay these charges under the tariff in force prior to the Commission's order dated 09.12.04. The appellant's case is that the Commission has discontinued the system strengthening charges on the ground that these charges were unjustified. The appellant asked the respondent No.2 the deemed distribution licensee to refund the amount already paid towards system strengthening charges and not to demand further system strengthening charges. This was declined by the respondent No.2. The appellant approached the Commission and asked for a direction to the respondent No.2 as mentioned earlier.

It is noticed that the nature of the dispute was between the licensee and a consumer for which the Electricity Act 2003 stipulates an adjudicatory body in the form of the Consumers Grievances Redressal Forum to be established under section 42. Ombudsman is yet another Forum which can be approached in case the Consumers Grievances Redressal Forum does not satisfy the consumer. There is no provision in the Act which gives the Commission jurisdiction to settle such disputes. Accordingly, the petition before the Commission was without jurisdiction. The impugned order is therefore bad for want of jurisdiction.

We, in the appellate forum can do nothing better than declaring the impugned order to be bad for want of jurisdiction and set-aside the same on that ground. The appellant, however, should have the right to approach the appropriate Forum. We also add that following the principles embodied in section 14 of the Limitation Act the appellant should be entitled to the benefits of exclusion of the period spent before the Commission, High Court and this Tribunal in computing the period of limitation. Accordingly, the impugned order dated 03.04.07 is set aside and the appeal is *disposed of*.

(H. L. Bajaj)
Technical Member

(Justice Manju Goel)
Judicial Member