

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)
(Circuit Bench Chennai)**

IA Nos. 392, 393, 394 and 399 of 2012
in DFR No. 1844 of 2012

Dated: 20th December, 2012

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. RakeshNath, Technical Member**

In the matter of:

**Sh. Bharat Jhunjunwala
Permanent R/o
Lokshmoll, Kirti Nagar
Uttrakhand**

...Appellant (s)

**Correspondence/notice:
285, Lawyers Chamber Block 2,
Delhi High Court
New Delhi – 110 003**

Vs

**1. Uttar Pradesh Electricity Regulatory
Commission
2nd Floor, Kisan Mandi Bhawan,
Gomti Nagar, Vibhuti Khand,
Lucknow – 226010, Uttar Pradesh**

...Respondent(s)

**2. Uttar Pradesh Power Corporation Ltd
7th Floor, Shakti Bhawan
14 Ashok Marg, Lucknow – 226001
Uttar Pradesh**

**3. Central Electricity Authority
Sewa Bhawan, R.K. Puram
New Delhi – 110066**

**4. Alaknanda Hydro Power Co. Ltd.
156-159, Paigah House, SP Road
Secunderabad – 500 003**

**Counsel for the Appellant (s) : Mr. D. Singh
Mr. P.S. Sharda**

Counsel for the Respondents (s):

ORDER

The IA Nos. 392, 393, 394 and 399 of 2012 in DFR No. 1844 of 2012 have been filed by Dr. Bharat Jhunjunwala in the Appeal filed on 5.10.2012 against the orders dated 8.5.2006, 26.5.2011 and 2.7.2012 passed by the UP Electricity Regulatory Commission in the matter of Power Purchase Agreement entered into between UP Power Corporation Ltd. and Alaknanda Hydro Power Co. Ltd regarding supply of power from Srinagar Hydro Electric Project being constructed in the State of Uttrakhand.

2. The order dated 8.5.2006 is relating to approval of the Power Purchase Agreement, the order dated 26.5.2011 is relating to provisional approval of the revised estimated capital cost in respect of Srinagar Hydro Electric Project; and the order dated 2.7.2012 is relating to the grant of extension of COD of the project by the Uttar Pradesh State Commission.

3. IA no. 392 of 2012 has been filed for waiver of the court fee for the Appeals as against 3 orders and IA nos. 393 and 394 of 2012 have been filed for condonation of delay in filing the Appeal as against the order dated 8.5.2006 and 26.5.2011 respectively.

4. Subsequently, IA no. 399 of 2012 has been filed by Applicant/Appellant permitting change of date of receipt of order dated 8.5.2006 to September, 2009 instead of 3.8.2012 as inadvertently mentioned earlier and consequently condonation of delay of 1141 days instead of 17 days as prayed earlier. Applicant/Appellant has

- also filed copy of the income tax return in support of application for waiver of court fee. We have been informed by the Ld. Counsel for the Applicant/Appellant that the Applicant was earlier living in Uttrakhand but was forced to leave his place of residence due to alleged threat to his life by some persons. In the Appeal he has given his correspondence address as the lawyers chamber of High Court, New Delhi.
5. We feel that since three different orders are being challenged by the Applicant, he has to file three Appeals and has to pay court fee for three Appeals amounting to Rs. 3 lakhs. Even if we partly waive the court fee considering the financial position of the Applicant, we find one hurdle in doing so.
 6. According to Section 111 of the Electricity Act, only a person aggrieved by the order of the Appropriate Commission can prefer an Appeal before the Appellate Tribunal. The Applicant is not a consumer of the

distribution licensees of Uttar Pradesh are the beneficiaries of the PPA with Alaknanda Hydro Power Co. Ltd.

7. According to the Ld. Counsel, the Applicant/Appellant is presently living somewhere in incognito and therefore the address of correspondence in the Appeal has been mentioned as his lawyer's chamber in Delhi High Court. Even if it is assumed that he is a resident of Uttrakhand, the PPA for purchase of power from Alaknanda Hydro Power Corporation has been entered into by UP Power Corporation for supply to the distribution licensees of Uttar Pradesh.

8. Admittedly the Applicant/Appellant has neither produced any material nor indicated in the Appeal Paper Book that he is a consumer of the distribution licensees in Uttar Pradesh. Therefore, he can not be considered as a person aggrieved by the impugned orders, so as to challenge the same under Section 111 of the Act.

9. When we sought clarifications on this issue, the Ld. Counsel for the Applicant said that this Appeal has been filed as a Public Interest Litigation. We do not find any provision in the Electricity Act for filing PIL against the orders of the State Commission. In view of above, we are unable to entertain the above IAs and the Appeal. Thus, the Application Nos. 392, 393, 394 and 399 of 2012 in DFR No. 1844 of 2012 are dismissed. Consequently, the Appeal is also rejected.

10. Pronounced in the open court on this
20th day of December, 2012.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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REPORTABLE/~~NON-REPORTABLE~~

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