

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

**Appeal No. 156 of 2007**

Dated: 5<sup>th</sup> August, 2009

**Present : Hon'ble Mrs. Justice Manju Goel, Judicial Member  
Hon'ble Mr. A.A. Khan, Technical Member**

**IN THE MATTER OF:**

B.M. Verma ... Appellant

Versus

Uttarakhand Electricity Regulatory Commission ... Respondent

Counsel for the appellant : Mr. M.G. Ramachandaran, Mr. Anand K. Ganeshan  
Ms. Swapna Seshadri

Counsel for the Respondent : Mr. Suresh Tripathy, Mr. N.K. Sahoo

**ORDER RELATING TO POINTS OF DIFFERENCE UNDER SECTION 123 OF  
ELECTRICITY ACT, 2003.**

1. We have today i.e. on 4<sup>th</sup> August, 2009 delivered two judgments in this Appeal. The judgments written by one of us i.e. Mr. A. A. Khan concluded that the Appeal has to be allowed setting aside the impugned order. The other Member namely Mrs. Justice Manju Goel has concluded that the Appeal be dismissed and the Appellant is liable to pay penal charges of Rs. 20,000/- (Rupees twenty thousand only) but waiving fine of Rs. 500/- per day for continuing with the contravention of Direction.
2. The points of divergence are pivoting on the answers to following references:

- A. Whether there was or there was not a specific direction by the Commission to the appellant to enforce load shedding for all consumers without any exception whatsoever?
- B. Whether or not the Commission passed any valid order under the provisions Section 23 of the Electricity Act, 2003?
- C. Whether the direction issued by the Commission was to UPCL, the licensee and/or to the Appellant and whether or not such direction can be issue to any individual instead of besides UPCL?
- D. Whether or not the commission has the jurisdiction to impose a personal penalty on the appellant under Section 142 of the Electricity Act, 2003 for violation of any direction issued by under Section 23 of the Electricity Act?
- E. Whether or no the show cause notice issued by the Commission was to the appellant and if it was to the appellant whether such show cause notice could be issued to the appellant?
- F. Whether or not the appellant acted with mens rea?
- G. Whether or not the Appellant in his capacity as Chairman and Managing Director of UPCL had the discretion to prevent immediate disconnection of electricity to certain selective industries in view of emergency despite schedule of load shedding deemed to have been approved? If so, was the discretion exercised properly?
- H. Whether or not the appellant acted in a bonafide manner in the interest of UPCL and the State?

- I. What is the effect of the Commission not requiring the disconnection to be given effect in case of all consumers at any time after the 20.01.2007 and after the incidents of violation of direction complained of?
3. These points are being referred to the Hon'ble Chairperson of this Tribunal for further action under Section 123 of the Electricity Act. 2003.

**(A.A. Khan)**  
**Technical Member**

**(Justice Mrs. Manju Goel)**  
**Judicial Member**

Dated : 5<sup>th</sup> August, 2009

INDEX : Reportable/Non-reportable