

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

Appeal No. 74 of 2007

Dated: 5th August, 2009

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

In the matter of :
Ajmer Vidyut Vitran Nigam Limited
Hathibhata Power House
AJMER – 305001

....Appellant

Versus

1. Rajasthan Electricity Regulatory Commission
Vidyut Bhawan, Jyoti Nagar,
JAIPUR

2. Rajasthan State Mines and Minerals Limited
4, Meera Marg,
UDAIPUR

... Respondents

Counsel for the Appellant : Mr. Shyam Moorjani & Mr. Hemraj
 Mr. S.D. Asudani, Ex. Engineer (Comm.I)
 Mr. B.L. Sharma, Sr. Accountant (Comm.)
 Mr. Chander Golkani (O/C) Mr. R.B. Agarwal(O/C)
 Mr. H.G. Gupta, Sr. A.D. for Jaipur VVNL
 Mr. P.C. Sharma, DA,

Counsel for the Respondent : Mr. Nitish Nair, Mr. P.N. Bhandari,
 Mr. H.C. Gupta &
 Ms. Suchi Jain for RSMML
 Mr. R.C. Sharma, Dy. Secretary for RERC
 Mr. Gopal Gandhi, DGM, RSMM

MAJORITY JUDGMENT : UNDER SECTION 123 OF THE ELECTRICITY ACT, 2003

The Bench Comprising of Hon'ble Mr. A.A. Khan, Technical Member and Hon'ble Mrs. Justice Manju Goel, Judicial Member, after having heard the Appeal No. 74 of 2007 pronounced two differing judgments on 08.05.2008. The points of divergence

in the aforesaid judgment as culled out by the Bench was referred to the Hon'ble Chairperson as per Section 123 of the Electricity Act, 2003 on 09.05.2008 who in turn referred it to Hon'ble Mr. H.L. Bajaj, Technical Member, for hearing on the points of divergence.

2. The findings of Hon'ble Mr. H.L. Bajaj was directed to be posted before us on 30.07.2009. Going through the aforesaid findings we observe that out of four points of divergence he has reached conclusion only on two points. The remaining two points of divergence namely applicability of Principle of Estoppels and Principle of Conduct of Parties deciding the future operations have been left out for not being found necessary.

3. We have observed that on the substantive point of divergence whether the billing pattern practiced prior to November, 2005 was to be followed or not, Hon'ble Mr. H.L. Bajaj endorses the judgment of Hon'ble Mrs. Justice Manju Goel. The judgment delivered by the Hon'ble Justice Mrs. Manj Goel to that extent is a majority judgment although the points of divergence viz. applicability of Principles of Estoppels and Conduct of Parties deciding the future operations have not been answered. The Appeal stands dismissed.

(A.A. Khan)
Technical Member

(Mrs. Justice Manju Goel)
Judicial Member

Dated : 5th August, 2009

INDEX: Reportable /Non-reportable