2026 INSC 985

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5099 OF 2013

DAKSCHINANCHAL VIDYUT VITRAN NIGAM LTD. ... APPELLANT(S)

VERSUS

VIDUT LOKPAL, UTTAR PRADESH AND OTHERS ... RESPONDENT(S)

JUDGMENT

S.V.N. BHATTI, J.

1. The Appeal arises from the Order dated 06.01.2012 in MASC No. 4237 of 2008 in the High Court of Judicature at Allahabad at Lucknow Bench.

2. The Writ Petitioner is the Appellant. Before the High Court, the Appellant assailed the Order dated 27.06.2008 passed by the Electricity Ombudsman in Appeal No. (28/2008) 81 of 2008 and, through a Writ of Certiorari, sought the quashing of Clause 8 of the U.P. Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2007 ("Regulation, 2007") as *ultra vires* Sections 42(5) and 42(6) of the Electricity Act, 2003 ("Act, 2003").

3. The Appellant is the Distribution Licensee. The Respondent No. 3 is the Appellant's consumer. A few circumstances relevant to the disposal of the Appeal are as follows.

4. The Respondent No. 3 applied for an electricity connection with a 4000 KVA load. Due to contemporaneous limitations, the Appellant agreed to sanction and release a 2000 KVA load. This led to the execution of an Agreement dated 24.02.1997 between the Appellant and Respondent No. 3. According to the Appellant, owing to improved power generation, the Appellant was in a position to supply the balance 2000 KVA of power applied for by Respondent No. 3. On 31.01.1998, the Appellant offered to increase the contract load from 2000 KVA to another 2000 KVA, subject to the Respondent No. 3 entering into an agreement with the Appellant. In a letter dated 14.09.1998, Respondent No. 3 expressed its lack of interest in accepting the additional supply load communicated by the Appellant.

5. The above events occurred before the enactment of the Act, 2003. On 13.02.2007, the Appellant demanded Rs.57,74,164/- towards the Minimum Consumption Guarantee Charges ("MCGC") for the period from February, 1998 to September, 1998, with respect to the additional 2000 KVA offered to be supplied by the Appellant. The Appellant assumes that, despite being ready to supply the additional load of 2000 KVA, Respondent No.3 was not prepared to avail it, and therefore, the contracted capacity for the period would be 4000 KVA, and hence, Respondent No.3 is under an obligation to pay MCGC.

5.1 Under Section 181(2)(r) and (s) of the Act, 2003, the U.P. Electricity Regulatory Commission ("UPERC") promulgated the Regulations, 2007. It is pertinent here to refer to a few Sections of the Act, 2003, viz., Section 42(5), which refers to Redressal before the Forum; Section 42(6), which refers to the remedy before the Ombudsman, and Section 56(2), which stipulates the period of limitation for raising the bills towards consumption and incidental charges by the Appellant.

6. On 13.02.2007, the Appellant raised a demand of Rs.57,74,164/- (Rupees Fifty Seven Lakhs Seventy Four Thousand One Hundred Sixty Four) from Respondent No. 3 towards MCGC, which Respondent No.3 contested before the Authorities under the Regulations, 2007. Those decisions ultimately led to the filing of the present Civil Appeal in this Court.

7. Respondent No. 3 first approached the Consumer Grievance Redressal Forum ("CGRF") to challenge the demand dated 13.02.2007. It is a matter of record that the CGRF rendered a split verdict and, for all purposes, did not redress the consumer's grievance in respect of the demand dated 13.02.2007. Respondent No. 3 filed a Representation or Appeal before the Electricity Ombudsman under Regulation 8.1 of the Regulations, 2007. The Electricity Ombudsman set aside the demand dated 13.02.2007, and the Ombudsman's primary finding was that Respondent No. 3 did not consent to the additional load offered by letter dated 31.01.1998. There is nothing on record to show that the Appellant has released the additional 2000 KVA to Respondent No. 3. The demand dated 13.02.2007 is barred by the limitation prescribed under Section 56(2) of the Act, 2003. The Electricity Ombudsman directed the adjustment of the amounts deposited pursuant to the demand dated 13.02.2007 against future consumption bills of Respondent No. 3. The Appellant, assailing the decision of the Electricity Ombudsman, filed a Writ Petition being numbered as Misc. Single No. 4237 of 2008 before the High Court.

8. The impugned Judgment, in addressing the challenge to Clause 8 as *ultra vires* or illegal, held that any decision not favouring the consumer results in 'non-redressal of grievance of Consumer'. Section 42(6) of the Act, 2003 allows only a 'Consumer' to seek redressal from the Electricity Ombudsman. If a grievance is redressed, the Distribution Licensee has no remedy under sub-section (6). The UPERC has no authority under the said provision to provide a remedy of representation to the Distribution Licensee. To this extent, Clauses 8.1 and 8.2 of the Regulations, 2007, are *ultra vires* and inconsistent with Section 42(6) of the Act, 2003.

8.1 It was held that the bill dated 13.02.2007 was issued after the Act, 2003 took effect. Therefore, the demand ought to have been made under Section 56(2) of the Act, 2003. The reasoning on the limitation period is that, in 1998, if the consumer had to pay minimum charges, a bill should have been sent before the completion of another billing cycle. A monthly bill was issued for consumption under the Agreement dated 24.02.1997. However, no bill was issued for the additional 2000 KVA along with the regular bills. The amount fell due when the supplier was entitled to raise the bill. The word 'due' must be read as referring to a specific point in time, not as something uncertain. Also, no material or pleading shows that the sum has been continuously treated as recoverable as arrears from Respondent No. 3. Hence, the demand raised under the bill is barred by limitation. Further, the demand is barred even under the Limitation Act, 1963, because, at best, the limitation period could have been three years. In respect of the erstwhile UPSEB, the U.P. Government Electrical Undertaking (Dues Recovery) Act, 1958, provided separate provisions, and Section 5-A prescribed a limitation period of six years for filing a Suit. Even if applied, the demand raised for the first time on 13.02.2007 for an event covered by the period February 1998 to September 1998 is barred by limitation.

8.2 The finding of fact recorded regarding the Agreement dated 24.02.1997 is that, although the Agreement was executed on 24.02.1997 for an additional load of 2000 KVA, the Appellant was not in a state of readiness due to the non-availability of electricity. The Agreement stipulated that the supplier would arrange an additional 2000 KVA load within six months. After almost nine months, on 31.01.1998, the Appellant claims to have sent a letter to Respondent No. 3 stating that an additional 2000 KVA load was available. The Consumer was required to convey his consent to release the additional load. The Consumer's liability arises only when the agreed quantum of electricity is released to him, and not before. The Appellant does not contend that any consent or acceptance was conveyed by the Consumer, or that the additional load of 2000 KVA was released to him. Therefore, the Writ Petition was dismissed.

9. Hence, the Civil Appeal.

10. Mr. Rakesh Uttamchandra Upadhyay, learned Advocate on Record appearing for the Appellant, has not seriously pressed the challenge to Regulation 8 of the 2007 Regulations. Even otherwise, we have perused the finding recorded by the High Court, which limited the rejection of the challenge. Therefore, we are not re-examining the view taken by the impugned Judgment. The learned Counsel has fairly stated before us a few other ancillary arguments available to the Appellant on regulations, etc., and that such arguments are watered down by the view taken by this Court in *K C Ninan v. Kerala State Electricity Board & Ors*.[1] The above considerations lead us to the legality of the demand dated 13.02.2007 and to whether it conforms to the period of limitation stipulated under Section 56(2) of the Act, 2003. This Court has covered the said issue in *Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited and Another v. Rahamatullah Khan Alias Rahamjulla*[2]. All the relevant paragraphs are excerpted hereunder:

> *"6.9. The liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer, even though the liability to pay may arise on the consumption of electricity.*
>
> *XXX*
>
> *7. The next issue is as to whether the period of limitation of two years provided by Section 56(2) of the Act, would be applicable to an additional or supplementary demand.*
>
> *7.4. Sub-section (1) of Section 56 confers a statutory right to the licensee company to disconnect the supply of electricity, if the consumer neglects to pay the electricity dues. This statutory right is subject to the period of limitation of two years provided by sub-section (2) of Section 56 of the Act.*
>
> *7.5. The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period. If the licensee company were to be allowed to disconnect electricity supply after the expiry of the limitation period of two years after the sum became "first due", it would defeat the object of Section 56(2).*
>
> *8. Section 56(2), however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand."*

[1] 2023 INSC 560.
[2] (2020) 4 SCC 650.

11. The above view disentitles the Appellant from raising the demand under Section 56(2) of the Act, 2003. For the above reasons and discussion, the Appeal fails and is dismissed.

12. Pending Application(s), if any, shall be disposed of accordingly.

……………………………J.
[S.V.N. BHATTI]

……………………………J.
[N. V. ANJARIA]

New Delhi;
September 10, 2026.