

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

**Suo Motu Petition No.1 of 2006
(In Appeal No.105 to 112 of 2005, etc. Batch)**

**Present:- Hon'ble Mr. Justice E. Padmanabhan
Hon'ble Mr. H. L. Bajaj, Technical Member**

1. Haryana Electricity Regulatory Commission.
2. Dakshin Haryana Bijli Vitran Nigam Ltd. (DHBVNL)

For HERC : Mr. Rajesh Kumar Monga, Law Officer, HERC
For Discom : Mr. Neeraj Kumar Jain, Advocate
Mr. S. C. Dureja, Under Secretary, DHBVNL

Dated 29th March 2006

O R D E R

During the hearing of batch of appeals, it was brought to the notice of this Appellate Tribunal that neither forum for redressal of grievances of consumers nor Ombudsman has been constituted in the State of Haryana in terms of Section 42(5) & (6) of The Electricity Act 2003. As it is a failure to perform the statutory functions in accordance with the provisions of The Electricity Act 2003, a notice was issued under Section 121 of The Electricity Act 2003 to the Haryana Electricity Regulatory Commission and the distribution licensees in the said State as to why directions should not be issued directing Discoms and Commission to constitute consumer redressal forum and Ombudsman.

2. Admittedly, the Commission has framed the Haryana Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers) and (Electricity Ombudsman) Regulations 2004 as early as 12th March 2004.

3. After receipt of notice, the Regulatory Commission appeared through Mr. Rajesh Kumar Monga, Law Officer of the Regulatory Commission and Mr. Neeraj Kumar Jain, Advocate appeared for the distribution licensees in the State of Haryana.

4. With respect to the Ombudsman, the post has been lying vacant. Pursuant to the directions issued by this Appellate Tribunal, Mr. Balbir Singh, Director (Technical) was designated to act as Electricity Ombudsman by order dated 7.3.2006 of the Haryana Electricity Regulatory Commission. On the basis of the said order, it was represented that the Haryana Electricity Regulatory Commission has complied with the directions.

5. In this respect, while appreciating the prompt action taken by the Commission, we would appreciate further if a regular Ombudsman is appointed to discharge the functions of Electricity Ombudsman. Depending upon the ultimate orders in CWP No.17367 of 2005 on the file of Hon'ble Punjab & Haryana High Court, it is needless to add that Haryana Electricity Regulatory Commission shall take appropriate action to fill up the office of Ombudsman office without delay.

6. On behalf of the DHBVNL and UHBVNL, the two distribution licensees in the State of Haryana, an undertaking was initially given stating that the consumer redressal forum will be constituted within six months from 23.2.2006, the date on which the affidavit was filed. However, this Appellate Tribunal pointed out that a period of six months is too long and in terms of the statutory provisions, forums should have been constituted within six months from the appointed date or the date of grant of license, whichever is earlier. On that, the learned counsel appearing for the discom sought extension of time to get instructions.

7. An affidavit was filed on 14.3.2006 on behalf of the two Discoms stating that they have constituted ad hoc forums by orders 13.3.2006 in the said two Discoms. On a perusal of compliance affidavit filed, it is noticed that it is only a constitution of ad hoc forums which is not a strict compliance of the statutory provisions of The Electricity Act 2003.

8. When this was pointed out, the learned counsel took time to get instructions. An affidavit has been filed representing that the two Discoms will constitute regular forums within three months from 14.3.2006. For the time being, the ad hoc forums are constituted, it is stated, have started functioning. It was also represented that necessary and wide publicity has been given so that the consumers will approach the forums for redressal of their grievances.

9. As already pointed out, the Discoms should have constituted consumer redressal forum within six months from the notified date viz 10.06.2003 or from the date of grant of license. The omission in this respect is obvious and no explanation is at all forthcoming from

the Discoms. It is a lapse on the part of the Discoms and it reflects on them. Now, on receipt of notice issued under Section 121, Discoms have constituted ad hoc redressal forum. This will not be sufficient nor it is a strict compliance of the provisions of The Electricity Act 2003.

10. Since it is obligatory to constitute redressal forum, it is needless to emphasize that the said two Discoms ought to have constituted the redressal forum at least within six months from the date of issue of license in their favour.

11. Taking into consideration of the representation made by Mr. Neeraj Kumar Jain, Advocate appearing for the Discoms and the contents of the undertaking affidavit filed on behalf of the Discoms, we direct the two Discoms, namely, DHBVNL and UHBVNL to constitute regular forums for redressal of consumer grievances within three months from 14.3.2006. Two Discoms shall submit compliance report after constituting regular forums. We are confident and sure that the two Discoms will stand by their undertakings and they will constitute regular consumer redressal forum for their respective area of license.

12. Accordingly, the Discoms are granted three months and any failure in this respect shall be brought to the notice of this Appellate Tribunal by the Haryana Electricity Regulatory Commission.

13. The suo motu petition ordered accordingly with the above directions.

Dated this 29th day of March 2006

(Mr. H. L. Bajaj)
Technical Member

(Mr. Justice E Padmanabhan)
Judicial Member