

**COURT-I**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(APPELLATE JURISDICTION)**

**IA NO. 503 OF 2016 IN APPEAL NO. 206 OF 2016 &  
IA NO. 445 OF 2016**

**Dated: 9<sup>th</sup> September, 2016**

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson  
Hon'ble Mr. I.J. Kapoor, Technical Member**

**In the matter of :**

**M/s Noida Power Company Ltd.**

**....Appellant(s)**

**Vs.**

**Uttar Pradesh Electricity Regulatory Commission & Ors.**

**.... Respondent(s)**

Counsel for the Appellant(s) : Mr. M.G. Ramachandran  
Mr. Vishal Gupta

Counsel for the Respondent(s) : Mr. C.K. Rai  
Mr. Paramhans for R.1  
  
Mr. Sunil Kumar Rai for R.2  
  
Mr. Vivek Narayan Sharma  
Mr. Sidharth Mahajan for R.5

**ORDER**

On 17.08.2016 the present appeal was listed for admission before us. We admitted the appeal and passed the following order directing that status quo should be maintained by the parties:

***“Admit. Issue notice on the appeal as well as on the I.A. No. 445 of 2016 (Appl. for stay). Mr. C.K. Rai takes notice on behalf of Respondent No.1; Mr. Amit Kapur takes notice on***

***behalf of Respondent No. 2 and Mr. Rahul Srivastava takes notice on behalf of Respondent No.3 and they seek a week's time to file reply to the I.A. Notice be issued to the other Respondents returnable on 30.08.2016. Dasti, in addition, is permitted.***

***List the I.A. for hearing on 30.08.2016. In the meantime, learned counsel for the respondents may file reply to the I.A. on or before 24.08.2016 after serving copy on the other side.***

***Without prejudice to the rights and contentions of all the respondents, we direct that till 30.08.2016 status quo should be maintained. We also record the statement made by Mr. Amit Kapur on the basis of the instructions received by Mr. Praveen Kumar, Executive Engineer of Respondent No.2 that 33 KV bay for KOT feeder (PVVNL) has been charged on 16.08.2016 around 6.00 p.m. from 220 KV sub-station R.C. Green."***

On that day, Application for impleadment of Pashchimanchal Vidyut Vitran Nigam Limited was granted and Pashchimanchal Vidyut Vitran Nigam Limited was impleaded as Respondent No.5. The appeal was then listed before us on 30.08.2016. On that day the newly impleaded party was represented through its counsel. The following order was passed on that day:

***"Learned counsel for Respondent Nos. 2 & 5 seek two weeks time to file reply to this application. They may file the same on or before 14.09.2016 after serving copy on the other side. Thereafter, rejoinder may be filed on or before 22.09.2016 after serving copy on the other side.***

***List this application for hearing on 28.09.2016."***

Since inadvertently the order directing maintenance of status quo was not transcribed on 30.08.2016, on mentioning the matter by counsel for the appellant on 31.08.2016, the following order was passed:

***“By Order dated 30.08.2016 the instant application was fixed for hearing on 28.09.2016. The interim direction passed by us on 17.08.2016 directing the parties to maintain status quo till 30.08.2016 was extended to 28.09.2016. It is pointed out by learned counsel for the appellant that the said direction was inadvertently not transcribed. Hence, we direct that the said interim direction for maintenance of status quo shall continue to operate till 28.09.2016.”***

Learned counsel for the appellant states that the Order, dated 31.08.2016, passed by us had been communicated telephonically to the counsel for Respondent Nos. 2 and 5. This is not disputed by counsel for Respondent Nos.2 and 5. The present I.A. is filed complaining that despite the order directing the parties to maintain status quo passed by us on 17.08.2016, 30.08.2016 read with 31.08.2016, Respondent Nos. 2 and 5 have committed breach of the said order and have undertaken construction on the concerned site. The appellant has prayed that the said construction be directed to be removed and proceedings be initiated under Section 120 (3) and any other provisions of the Electricity Act, 2003 against Respondent Nos.2 and 5. To the application several photographs have been annexed to indicate that there is indeed breach of our order mentioned hereinabove.

We have heard Mr. M.G. Ramachandran, learned counsel for the appellant; Mr. Sunil Kumar Rai, learned counsel for Respondent No.2 and Mr. Vivek Narayan Sharma, learned counsel for Respondent No.5.

Learned counsel for the appellant took us to the contents of the application and also showed us the photographs and contended that there is breach of our order. Counsel for Respondent no.2 submitted that there is no breach of this Tribunal's order inasmuch as no connectivity has been granted. Counsel for Respondent No.2 also submitted that no breach of this Tribunal's order is committed by Respondent No.2 because it has not charged any bay.

When a court passes an order of status quo, it means that no steps should be taken to disturb the condition/position of the concerned site till the next date of hearing. If any construction is carried out on the concerned site after we passed the order that may amount to breach of our order directing status quo. The fact that connectivity is not granted or bay is not charged will not condone the contempt. We, therefore, direct the Uttar Pradesh Electricity Regulatory Commission (**State Commission**) to depute its officers to inspect the concerned site and submit a report to us as to whether there is any breach of our order directing the parties to maintain status quo. The report be submitted to us within a period of two weeks from today i.e., on or before 23.09.2016. We direct learned counsel for the appellant to submit a copy of the present application along with the photographs to the State Commission. Learned counsel for Respondent Nos. 2 and 5 may also file their response to this application and submit a copy thereof to the State Commission. These copies are directed to be submitted to the State Commission only for information. The State Commission is not expected to give a hearing to the parties. The State Commission shall undertake the entire

exercise independently and in accordance with law and submit a report to us as directed. Appropriate orders will be passed on the next date of hearing. We also direct the learned counsel for the appellant to file an affidavit of the photographer, who had taken the photographs.

List this application along with the Appeal on **28.09.2016.** Counsel for the appellant is directed to communicate this order forthwith to the State Commission. Registry is also directed to send a copy of this order to the State Commission.

**(I.J. Kapoor)**  
**Technical Member**

**(Justice Ranjana P. Desai)**  
**Chairperson**

Ts/vg