

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

IA No. 251 of 2017
IN
DFR No. 916 of 2017

Dated: 21st August, 2017

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

In the matter of:

Mr. Rama Shankar Awasthi **Appellant(s)**
Vs.
RKM Powergen Private Power Limited & Ors. **Respondent(s)**

Counsel for the Appellant(s) : Mr. M. G. Ramachandran
Ms. Poorva Saigal
Mr. Shubham Arya

Counsel for the Respondent(s) : Mr. Buddy Ranganadhan
Mr. Kamal Budhiraja
Mr. Aman Gupta for R-1

Mr. Rajiv Srivastava
Ms. Garima Srivastava
Ms. Gargi Srivastava for R-2

Mr. C. K. Rai
Mr. Umesh Prasad for R-3

ORDER

1. The Appellant is a consumer in the State of Uttar Pradesh. The Appellant has filed the present appeal against the order dated 11/02/2016 passed by Uttar Pradesh Electricity Regulatory Commission (“**the State Commission**”). In the instant application the Appellant has prayed that the payment of court fees may be waived.

2. In the application the Appellant has *inter alia* stated that he is actively working to protect and promote the public interest. Since 2005 he has been participating in the matters relating to consumer issues in the electricity sector. The Appellant is a member of Advisory Committee of the State Commission. It is further stated that in terms of Rule 55 of the Appellate Tribunal for Electricity (Procedure, Form, Fee and Record of Proceedings) Rules 2007 (“**the said Rules**”) this Tribunal has a power to waive the court fees for advancing the cause of justice or for any other reasons it considers appropriate. The Appellant has stated that the Appellant is not an indigent person but Rule 55 of the said Rules does not restrict waiver of court fees to cases where the Appellant is an

indigent person. Waiver of court fees can be granted to advance the cause of justice.

3. Mr. Ramachandran, learned counsel for the Appellant has reiterated the above submissions. Counsel has also filed a note of submissions. It is pointed out that the Appellant has prosecuted the following proceedings in this Tribunal:

Appeal No.	Title	Status
Appeal No. 173 of 2016	<u>Mr. Rama Shanker Awasthi -v- Lanco Anpara Power Limited & Ors.</u>	Appeal allowed vide order dated 30.11.2016
Appeal No. 188 of 2015	<u>Torrent Power Limited -v- Uttar Pradesh Electricity Regulatory Commission and Ors</u> (R4: Rama Shankar Awasthi)	Appeal dismissed vide order dated 28.07.2016 (Impugned order passed by Uttar Pradesh Electricity Regulatory Commission arose out of the Petition filed by Rama Shankar Awasthi)
Review Petition No. 18 of	<u>Torrent Power Limited -v- Uttar Pradesh Electricity Regulatory Commission</u>	Review dismissed vide order dated 18.10.2016

2016 in Appeal No. 188 of 2015	<u>and Ors (R4: Rama Shankar Awasthi)</u>	
Appeal No. 239 of 2013 and Batch	<u>Shri Rama Shankar Awasthi and Ors -v- Uttar Pradesh Electricity Regulatory Commission and Ors</u>	Appeal partly allowed vide order dated 28.11.2013
Appeal No. 242 of 2012	<u>Shri Rama Shankar Awasthi and Ors. -v- Uttar Pradesh Electricity Regulatory Commission and Ors</u>	Appeal disposed off with directions to the State Commission to carry out the true up of accounts upto FY 2009-10 on priority and adjust the surplus/deficit in the ARR in the transmission tariff for FY 2013-14.
Appeal No. 121 of 2010	<u>Shri Rama Shankar Awasthi and Ors -v- Uttar Pradesh Electricity Regulatory Commission and Ors</u>	Appeal Partly allowed vide order dated 21.10.2011

4. Relying on Sections 61 and 94 of the Electricity Act 2003 (“**the said Act**”), Regulation 17 of the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulation 2004 and Rule 55 of said Rules it is submitted that participation of

consumers in cases relating to electricity sector has to be encouraged in the interest of consumers. It is submitted that imposition of court fees will affect the laudable object of allowing consumer participation. It is further submitted that if the Appellant is required to pay court fees he may not be in a position to continue to espouse the cause of consumers at large. Hence, court fees may be waived.

5. The Appellant had filed Application No.76 of 2016 in DFR No.159 of 2016 praying that court fees may be waived. By order dated 01/06/2016 this Tribunal rejected the said application. While rejecting the said application this Tribunal took note of the fact that the Appellant is holding important designations in various companies. Following is the table quoted by this Tribunal:

“2. Respondent No. 1, Lanco Anpara Power Limited, has filed the reply opposing the prayer made by the Appellant. In reply, it is stated that the Appellant is a person of considerable means and is holding important designations in various companies. The table given by Respondent No. 1 in its reply is as under:-

<i>S. No</i>	<i>Name of the Company/LLP</i>	<i>Current Designation</i>	<i>Date of appointment at current designation</i>	<i>Date of cessation.</i>
1.	<i>Tribuvan Industries Ltd.</i>	<i>Director</i>	<i>06/06/1995</i>	<i>--</i>
2.	<i>Alaska Overseas Ltd.</i>	<i>Director</i>	<i>01/11/1995</i>	<i>15/09/2011</i>
3.	<i>Samarth Projects Private Ltd.</i>	<i>Director</i>	<i>10/11/2005</i>	<i>--</i>
4.	<i>Adventa Financial Services Ltd.</i>	<i>Director</i>	<i>17/02/2008</i>	<i>04/05/2009</i>
5.	<i>Fairdeal Commotrade Private Ltd.</i>	<i>Director</i>	<i>02/04/2009</i>	<i>--</i>
6.	<i>Energy Mantra India Private Ltd.</i>	<i>Director</i>	<i>04/04/2011</i>	<i>--</i>
7.	<i>Narshing Tradecom Private Ltd.</i>	<i>Director</i>	<i>05/12/2012</i>	<i>--</i>
8.	<i>Narsingh Bhildcon Private Ltd.</i>	<i>Director</i>	<i>11/01/2013</i>	<i>--</i>
9.	<i>Dwarika Real Infra LLP</i>	<i>Partner</i>	<i>18/09/2015</i>	<i>--</i>

Taking note of the above this Tribunal noted that the Appellant has sufficient means and he is not an indigent person.

6. It is true that in this application the Appellant has honestly admitted that he is not an indigent person. Undoubtedly as stated by Mr. Ramachandran indigence may not be the only consideration while dealing the application for waiver of court fees. Sometimes, in

terms of Rule 55(3) of the said Rules in suitable cases, to advance the cause of justice court fees may have to be waived. But discretionary power of waiver of court fees has to be exercised with care. Not in all cases can this power be exercised on the ground of furthering cause of justice. In the facts of this case we are not inclined to waive the court fees. The burden of court fees is also not excessive. Hence, the application is dismissed.

7. Pronounced in the open court on this **21st day of August,2017.**

I.J. Kapoor
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]