

COMPETITION APPELLATE TRIBUNAL

IA 46/2006

RTPE 34/2006

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

Shri S.B.Tripathi ...Applicant

Vs.

M/s Delhi Development Authority ...Respondent

Appearances : Complainant in person

None for the respondent

Oral Order

11th November 2009

The complainant who appears in person wants an adjournment stating that he will clarify whether this petition is in respect of alleged unfair trade practices or restrictive trade practices and to decide whether Delhi Jal Board is to be impleaded as a party. Call this matter on 28th January 2010.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

RA 03/2006

In

RTPE 01/19965

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

Om Prakash

....Applicant

Vs.

G.D.A.

...Respondent

Appearances : None for the parties.

Oral Order

11th November 2009

None appears for the petitioner. The respondent is also not represented. This is an application for review of the order dated 30th September 2005. In para 8 of the order the Monopolies and Restrictive Trade Practices Commission (in short the "Commission") observed as follows:-

"In our view, therefore, given the circumstances of this case and the evidence before us, we come to the conclusion that there is no commission of unfair trade practices by the respondent authority in this particular case as alleged by the applicant/complainant. There is no adequate evidence led before us to prove any restrictive trade practices on the part of the respondent authority in any case. He would, therefore, not be entitled to any compensation, as claimed by him. He would not also be

entitled to any interest on the amount deposited by him. We are, however, inclined to allow him the benefit of refund of the entire money without any deduction, considering the fact that the respondent authority would have the advantage of selling this flat to someone else at the current market price.”

A Review Application was filed stating that there were certain inaccuracies in the order. By order dated 20th July 2007, the Commission inter alia noted as follows:-

“In view of this, while taking note of the fact that the letter dated 28th August 1995 was admitted to have been received by the Respondent Authority, we find that this will not make any difference in the nature of the order earlier pronounced and as such the Review Application cannot be allowed. In the circumstances, the applicant’s application is disposed of accordingly.”

Above being the position, the Review Application was disposed of.

Thereafter, a grievance was made that the respondent, Ghaziabad Development Authority, had not complied with the Commission’s order dated 30th September 2005. Show Cause Notice was issued on 23rd March 2009. In order dt. 14th July 2009, it was noted that the complainant admitted to have received the refund of the deposit made by him in terms of the Commission’s order dated 30th September 2005. Further, it was noted that the respondent had not made the payment within the time frame stipulated in the said order and payments were made after six months. The respondents were directed to furnish the reply giving the reasons for delay. None represents the respondent when the matter is called. As no reasons

have been indicated for the delay in making the payment, we direct that cost of Rs. 10,000/- shall be paid by the respondent to the complainant for not complying with the Commission's order within stipulated time and in making the payment after six months. The cost shall be paid within 3 months. The proceedings are closed.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

MA 30/2008
RTPE 54/2006

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Shri S.B.Tripathi

...Applicant

Vs.

ICICI Bank

...Respondent

Appearances : Complainant in person

None for the respondent

Oral Order

11th November 2009

When the matter was taken up after having been passed over once, there was no appearance on behalf of the respondent and the undertaking to file an affidavit in terms of Section 36D(2) (the correct provision is "37(2)") of the Monopolies and Restrictive Trade Practices Act, 1969 (in short the "Act") has not been complied with. Notice of Enquiry was issued by order dated 24th July 2009, taking note of the fact that the undertaking to file the affidavit was not complied with, and four weeks' time was granted to file reply to the Notice of Enquiry and the complainant was also granted two weeks' time thereafter to file rejoinder, if any reply is filed. The matter was to be listed on 28.10.2009.

It was noted in the order that the respondent wishes to file an undertaking in terms of Section 36D(2) (the correct provision is “37(2)”), in terms of earlier order same was to be done two weeks before the next date of listing i.e. 28.10.2009. As the undertaking has not been filed and the response has also not been filed, as a last chance, four weeks’ time is granted to comply with the directions as contained in the orders dated 31st March 2009 and 24th July 2009. A copy of the order be sent to the respondent as well as to the counsel for the respondent by RPAD.

The matter shall be listed on 28th January 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

RTPE 48/1986

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

DG(I&R)

...Applicant

Vs.

**Delhi Hindustan Mercantile
Association**

...Respondent

Appearances : ADG for the DG

Dr. V.K.Aggarwal, Advocate for the respondent

Oral Order

11th November 2009

List the matter on 19th November 2009.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

CA 112/2005

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

Co. S.R. Saini

...Applicant

Vs.

**Army Welfare Housing
Organization**

...Respondent

Appearances : None for the parties.

Oral Order

11th November 2009

The Contempt proceedings were adjourned sine die as the matter was pending before the Hon'ble Supreme Court.

By orders dated 10th September 2008, 7th January 2009 and 8th April 2009, the Monopolies and Restrictive Trade Practices Commission, (in short the "Commission") noted that the matter was pending before the Hon'ble Supreme Court. Therefore, the matter was adjourned sine die granting liberty to the parties to mention after the Hon'ble Supreme Court's decision.

The Army Welfare Housing Organization who was the respondent in the original proceedings (CA No. 112/2005) had questioned correctness of the order dated 23rd February 2007 passed by the Commission before the Hon'ble Supreme Court. By

judgement dated 31st August 2009 in (Civil) Appeal No. 5986 of 2009 arising out of S.L.P. Civil No. 21190/2008, the Hon'ble Supreme Court allowed the Appeal filed by the Army Welfare Housing Corporation holding that the flat which has been allotted to the original complainant, (before the Commission) Col. S.R.Saini was in consonance with the Housing Scheme. There was no departure in this case regarding the amount charged for the flat. Accordingly, the order passed by the Commission was held unsustainable and was set aside.

Above being the position, nothing survives in the Contempt Proceedings which is accordingly dismissed.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

RTPE 01/2005

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

DG(I&R)

...Applicant

Vs.

**Indian Drug Manufacturers'
Association**

...Respondent

Appearances : Shri V.K.Mehta, Advocate for the DG

**Shri Prashant Mishra, Advocate for R-1 & 2
None for R- 3, 4, 5 & 6**

Oral Order

11th November 2009

List the matter on 17th November 2009.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

RTPE 12/2001

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

DG(I&R)

...Applicant

Vs.

Awadh Rubber Ltd.

...Respondent

Appearances : ADG for DG

None for the respondent

Oral Order

11th November 2009

List the matter on 27th November 2009.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

RTPE 94/1997

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

Mohd. Jaidi

...Applicant

Vs.

BSES Yamuna Power Ltd.

...Respondent

**Appearances : Ms. Anjana Prabhakar, Advocate for the
complainant**

None for the respondent

Oral Order

11th November 2009

Heard the learned counsel for the complainant.

The dispute in question which is primarily sought to be decided between the parties relates to the alleged excessive billing by the respondent BSES Yamuna Power Limited in respect of the electricity consumed by the complainant.

Learned counsel for the complainant stated that in addition to the allegation of excessive billing, there were also other allegations relating to installation of defective meter(s) which resulted in excessive billing.

A similar question was before the Hon'ble Supreme Court in U.P.State Electricity Board Vs. Chunilal in Civil Appeal No. 1894/1997 disposed of on 24.2.2003.

The Hon'ble Supreme Court referred to the provisions contained in Section 26(6) of the Indian Electricity Act 1910 (in short

the “Act”) and observed that the said Act specifically provides for determination of disputes of the present nature. They are to be decided by the Electrical Inspector.

The Hon’ble Supreme Court further observed that when a statutory remedy is clearly provided, the Monopolies and Restrictive Trade Practices Commission (in short the “Commission”) should not have assumed the jurisdiction under the Monopolies and Restrictive Trade Practices Act, 1969 (in short the “Monopolies Act”) to decide the dispute between the parties.

Following the decision of the Hon’ble Supreme Court, we hold that the present dispute is not to be adjudicated by this Forum. Within a period of three weeks, let an appropriate motion be made before the designated Authority under the Act so far as Delhi is concerned. The said Authority will decide the dispute within a period of four months from the date of the complainant’s filing the claim. The matter shall be decided by the concerned Authority after giving opportunity to the parties and by a reasoned order. Proceedings stand closed.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

RTPE 105/1997

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

DG(I&R)

...Applicant

Vs.

Saurashtra Chemicals & Ors.

...Respondent

Appearances : Shri V.K.Mehta, Advocate for DG

Shri Sumit Pushkar, Advocate for R-1

None for R-2

Shri Tejas Karia, Advocate for R-3

Oral Order

11th November 2009

List the matter on 27th January 2010.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

RTPE 25/2006

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

DG(I&R) ...Applicant

Vs.

Philips Electronics (I) Ltd. ...Respondent

Appearances : Shri V.K.Mehta, Advocate for DG

**Ms. Meenakshi Ogra with Ms. Arundhati Das,
Advocate for the respondent**

Oral Order

11th November 2009

List the matter on 28th January 2010.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

UTPE 119/2000

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Ms. Pravin Tripathi
Member**

In the matter of :

M/s ABNA & Others

...Applicants

Vs.

**Uttar Pradesh State
Industrial Development
Corporation**

...Respondent

Appearances : Shri Anurup Banerjee, Complainant in person

Oral Order

11th November 2009

The matter was not on Board today. A special mention has been made by the Complainant in person who requested the Bench to hear the matter on the ground that the cause of action involves restrictive trade practices/monopolies trade practices.

List the matter on 17.11.2009.

**(Dr. Justice Arijit Pasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

