

In the matter of :

HPSEB : Petitioner

Vs

M/s Rupana Paper Mills (P) Ltd. : Respondents/Complainant

Present for: HPSEB Petitioner: Sh.Bimal Gupta, Advocate.

M/s Rupana Paper Mills (P) Ltd.: Sh.P.P.Chauhan, Advocate.

ORDER

The HPSEB has moved the petition for review of the order dated 17.6.2006, passed by this Commission in case No. 04/2006 filed by M/s Rupana Paper Mills Pvt., Nalagarh, Distt. Solan, against the HPSEB, the CE(Commercial) HPSEB and the Addl. Superintending Engineer, Electrical Division, Nalagarh, whereby Board was directed to refund the amount paid by complainant company above rupees 4,50,000/- immediately, on the undertaking to be given by the complainant company that it will pay the difference of the amount of justifiable cost which would be worked out by the respondent Board on the basis of cost data published for the relevant years by the Rural Electrification Corporation /Power Finance Corporation, as the case may be. The said order dated 17.06.2006, has earlier been sought to be reviewed vide review petition NO. 166 of 2006 moved by the Board, was dismissed, as withdrawn on 26.09.2006. The Commission's order dated 26.09.2006, reads as under :-

“Heard. Mr. Bimal Gupta, Advocate seeks to withdraw the case. The case is dismissed as withdrawn.”

2. The request of the petitioner is that the order directing the refund of entire amount be taken into reconsideration, specially keeping in view the admitted fact that the petitioner/Board is entitled to recover the infrastructure development charges in terms of Regulations, 2005. This aspect has already been taken into consideration by the Commission. The petitioner has not brought out any specific new facts on record or any new material evidence justifying the modification of the impugned order dated 17.06.2006.

3. The power of review is very limited in scope. A review proceeding cannot be equated with the original hearing of the case. A review is by no means an appeal or revision in disguise, whereby an erroneous decision is reheard and corrected. The provisions relating to review constitute an exception to the general rules that once the judgment is signed and pronounced by the court it has no jurisdiction to allow it. An application for review of judgment/order may be made on the following grounds:-

- (i) discovery of new and important matter or evidence;
- (ii) mistake or error apparent on record, or
- (iii) any of the sufficient reasons.

4. The Commission is competent to review its own decision/orders subject to the parameters as envisaged under section 114 of the C.P.C extended by the provisions of section 94 of the Electricity Act, 2003. All the more review can be resorted to rectify accidental clerical errors apparent on the face of the record. Section 114 of the CPC gives a substantive report of review in certain cases and order 47 provides the procedure therefor. Thus the scope of the review is very limited. Under Regulation 63 of the HPERC (Conduct of Business) Regulations, 2005, any person aggrieved by a direction, decision or order of the Commission, for which-

- (a) no appeal has been preferred; or
- (b) from which no appeal is allowed,

may, upon the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons desires to obtain a review of the direction, decision or order made against him may apply for a review of such direction, decision or order, as the case may be, to the Commission.

5. The present petitioner has failed to satisfy the aforesaid legal requirements and there is no justification in interfering with the impugned order. Moreover, the Commission is constrained to point out that the petition which has been supported by an affidavit, contains wrong assertions and statement of facts. Firstly the order dated 26.09.2006 are clear to the extent that review petition was dismissed as withdrawn, and it is palpably wrong that the petitioner has the liberty to file it again. Secondly the case No. 268 of 2005 M/s Parwanoo Industries Association V/s HPSEB, as asserted in para-7 of the petition, was never pending with the Commission either at the time of the filing of earlier review petition No.166/2006 or the filing of the present review petition No. 221/06, the case No. 268/05 stood disposed off on 17.06.2006. In case the Officer filing the affidavit in support of the review petition would have been vigilant to go through the contents of the orders sought to be reviewed, such misstatement of facts could have been avoided.

6. In view of the position set out above, the review petition is dismissed.

Announced in the open court.

The case file be consigned to the record room.

(Yogesh Khanna)
Chairman

Dated: 17.01.2007