

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Non-Compliance of Commission's directions in the matter of Energy loss report of furnace feeders in the State.

And

**In the matter of:**

Petition under provisions of the Regulation 20 read with Regulation 74 of UERC (Conduct of Business) Regulations, 2004 to reconsider and recall the ex-parte order dated 07.05.2013 and Non-compliance of Commission's directions in the matter of Energy loss report of furnace feeders in the State.

And

Shri A.K. Johri, the then Managing Director (MD),  
Uttarakhand Power Corporation Ltd., Dehradun.

... Respondent

**Coram**

**Shri J.M. Lal                      Chairman**

**Shri K.P. Singh                 Member**

**Date of Order: 21<sup>st</sup> November, 2013**

The Commission had issued an Order dated 07.05.2013 in the matter of non-compliance by UPCL in submitting Feeder-wise energy loss report of each feeder supplying power to furnaces. Further, Shri A.K. Johri, the then MD, UPCL filed a petition vide reference No. 1189/UPCL/RM /N-16 dated 21.05.2013 under provisions

of the Regulations 20 read with Regulation 74 of Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 to reconsider and recall the ex-parte order dated 7 May 2013 passed by the Commission in the matter of non-compliance of Commission's direction in the matter of Energy Loss Report of Furnace Feeders in the State. The provisions of Regulation 20 and Regulation 74 of UERC (Conduct of Business) Regulations, 2004 are reproduced below:

***"20. Procedure to be followed where any party does not appear***

- (1) Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any of the party or his authorized agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the Petition for default when the petitioner or the person who moves the Commission for hearing, is in default or proceed ex-parte against the party in default and hear and decide the Petition.*
- (2) Where a Petition is dismissed in default or decided ex-parte, the person aggrieved may file an application within 30 days from the date of such dismissal or being proceeded ex-parte, as the case may be, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non-appearance when the Petition was called for hearing."*

***"74. Inherent power of the Commission***

- (1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.*
- (2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Central Act or State Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient for dealing with such a matter or class of matters.*
- (3) Nothing in these Regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the Central Act or State Act, for which no Regulations have been framed, and the Commission may deal with such matters or exercise such powers and functions in a manner it thinks fit."*

2. Before taking a view in the matter of aforesaid petition dated 21.05.2013 of Sh. A.K. Johri, the then MD, UPCL, the Commission would discuss the background of the matter, which led to issuance of Order dated 07.05.2013 in the following sub-paras:

- a) UPCL failed to submit the report/information as directed by the Commission and a notice was issued on 12.04.2013 under Section 142 of the Electricity Act, 2003, directing MD, UPCL to show cause and explain as to why appropriate action should not be taken against him for non-compliance of the Commission's direction. The then MD, Shri A.K. Johri was also required to appear personally before the Commission on 07.05.2013 at 12.00 Hrs.
  - b) However, Sh. A.K. Johri, the then MD, UPCL failed to submit the report required by the Commission by the stipulated dates and also did not appear before the Commission personally during the hearing, the Commission passed an Order dated 07.05.2013 proceeded *ex-parte* in the matter holding Sh. A.K. Johri, the then MD, UPCL of having contravened the directions of the Commission and considering it to be a fit case for imposition of penalty under section 142, the Commission decided to impose a penalty of ₹10,000/- on Shri A.K. Johri, the then MD, UPCL.
  - c) Subsequent to the above Order, the then MD, UPCL Shri A.K. Johri had submitted an application vide reference No.1093 dated 08.05.2013 requesting the Commission that his non-appearance before the Commission on the date of hearing was un-intentional and hence, be excused and no penal action be taken against him.
3. In the matter of Petition dated 21.05.2013, the Commission decided to hold hearing of Sh. A.K. Johri, the then MD, UPCL. Accordingly, hearing was held on 07.11.2013 at 11:30 AM.
  4. During the hearing, Ex-MD, UPCL, Shri A.K. Johri submitted before the Commission that he could not personally appear before the Commission during the aforesaid hearing as he had to attend an urgent meeting with Principal Secretary (Energy), GoU on the same day and, therefore, he had authorised Chief Engineer (Commercial), UPCL and an Advocate to appear on his behalf and represent him before the Commission. Further, Ex-MD, UPCL, Shri A.K. Johri also submitted that on 08.05.2013, he had submitted an apology letter elaborating the reasons for his non-appearance before the Commission.

5. The Commission enquired during the hearing that whether the meeting with Principal Secretary (Energy), GoU was pre-planned to which Shri A.K. Johri, Ex. MD, UPCL submitted that the meeting with Principal Secretary(Energy), GoU was pre-planned. Taking strong exception on the aforesaid submission made by Sh. A.K. Johri, the Commission informed him that he should have communicated to the Government in writing about Commission's hearing scheduled in the matter. Further, the Commission also enquired during the hearing that when Sh. A.K. Johri was asked to personally appear during the hearing why no prior approval was taken by him for appearance of Advocate on his behalf before the Commission on the earlier scheduled hearing in the matter i.e. on 07.05.2013 to which Shri A.K. Johri, Ex. MD, UPCL submitted that his non-appearance during the earlier hearing was unintentional and pleaded before the Commission to admit his Petition for recall of the Commission's Order dated 07.05.2013.
6. The Petitioner, Shri A.K. Johri further pleaded before the Commission that although this proceeding is for deciding the maintainability of the Petition, however, since on account of the following reasons and submissions made by him in the matter, he further pleaded before the Commission to dispose off the matter:
  - (1) That the energy loss report for induction furnace feeders have been submitted by him.
  - (2) That he has submitted the apology letter elaborating the circumstances for non-appearance/non-compliance .
  - (3) That he has now relinquished the charge of MD, UPCL.

Based on the submissions of the Petitioner, Shri A.K. Johri that the desired information has already been submitted before the Commission by him and further keeping in view his request that he has relinquished the office of MD, UPCL and on these grounds he has also requested the Commission that through this proceeding which is on maintainability of the Petition, the Commission may also dispose off the matter admitting the same. Considering the fact that information has been submitted by Shri A.K. Johri and that he has also relinquished the office of MD, UPCL and also keeping in view the apology tendered by him, the Commission has decided to admit

the petition filed by Shri A.K. Johri, Ex. MD, UPCL under provisions of the Regulation 20 read with Regulation 74 of UERC (Conduct of Business) Regulations, 2004 to reconsider and recall the *ex-parte* order dated 07.05.2013 and Non-compliance of Commission's directions in the matter of Energy Loss Report of furnace feeders in the State and has also decided to waive off the personal penalty of ₹10,000.00 imposed on Shri A.K. Johri vide Commission's Order dated 07.05.2013.

The matter is disposed off, accordingly.

**(K.P. Singh)**  
Member

**(Jag Mohan Lal)**  
Chairman