

**SUPREME COURT OF INDIA**

Orissa Electricity Regulatory Commission

Vs.

L.I. Parija

C.A.No.519-524 of 2006

(Arijit Pasayat and S.H. Kapadia JJ.)

16.01.2006

**JUDGMENT**

**ARIJIT PASAYAT, J.**

Heard learned counsel for the parties.

Leave granted.

The appeals were essentially directed against the interim orders passed by the Orissa High Court directing, in offence, restraining the Orissa Electricity Regulatory Commission (in short 'the Commission') - appellant herein from taking steps in the matter of fixation of tariff for the periods 2002-03 and 2003-04. During the course of hearing, learned counsel for the appellant placed before us an order dated 02.09.2003 in Misc. Case Nos. 1380 and 1805 of 2003 by which the earlier orders were modified and the Commission was permitted to decide on the question of fixation of tariff for the aforesaid two periods. The writ petitioners before the High Court, who are respondent Nos. 2 to 13 in these appeals have not appeared inspite of service of notice. From the order dated 02.09.2003, it is clear that the High Court virtually recalled the order of restraint on the exercise of power of the Commission. But at the same time, the High Court has kept the matters pending for the purpose of monitoring the action of the Commission. We find these orders to be rather strange. The interim orders passed by the High Court restraining the Commission from exercising its functions are indefensible. After the High Court had permitted the Commission to take necessary decision, the Commission has, in fact, taken decision and has fixed the tariff for the two periods. It is also not disputed that levy is being made on the basis of tariff so fixed. It is not in dispute that correctness of the tariff fixed can be questioned before the prescribed forum, as provided in the Orissa Electricity Reform, Act, 1994. That being so, there was no necessity for the High Court to keep the writ petitions pending. As the Commission has already taken decisions, the tariffs have been fixed and levys are being made, nothing further needs to be done in these appeals except directing the High Court to treat the Writ Petition as having become infructuous. The appeals are accordingly disposed of. In view of this order, the notice of contempt issued by the High Court and the contempt proceedings stand quashed.