

# **HUKUM SINGH v. DIVISIONAL ENGINEER, M.P. POORVA KSHETRAVIDYUT VITRAN CO. LTD. & ANR.**

HUKUM SINGH

...Appellant

DIVISIONAL ENGINEER, M.P. POORVA KSHETRAVIDYUT VITRAN CO. LTD. & ANR.

...Respondent

Case No: REVISION PETITION NO. 1282 OF 2019

Date of Judgement: 03 October 2023

Judges:

KARUNA NAND BAJPAYEE  
PRESIDING MEMBER

For Appellant: MR. RITESH KHARE, MS. MADHULIKA SINGH, ADVOCATES

For Respondent: None

**Facts:**

*This is a revision petition (no. 1282 of 2019) filed by Hukum Singh against an order dated 15/11/2018 passed in Appeal No. 908/2013 by the Madhya Pradesh State Commission arising out of the District Commission's order in Complaint No. 74 of 2011. The respondents are the Divisional Engineer and Junior Engineer of the MP Poorva Kshetra Vidyut Vitaran Co. Ltd., Tikamgarh.*

**Arguments:**

*The petitioner's counsel argued that the appeal should be restored as the petitioner has fair prospects if opportunity is provided for hearing on merits. The respondents did not appear despite due notice.*

**Court's Opinions:**

*The National Commission set aside the state commission's dismissal order dated 15/11/2018 which had dismissed the appeal for non-appearance. The commission restored the appeal to its original number*

*by observing that in the interests of justice, reasonable opportunity should be provided for hearing the appeal on merits. The parties were directed to appear before the state commission on 10.11.2023 for hearing. The state commission was requested to adjudicate the appeal on merits after providing adequate opportunity to both parties. The commission refrained from observing anything on merits to avoid prejudice.*

**Sections:**

*The revision petition has been filed under Section 21(b) of the Consumer Protection Act, 1986. The original complaint was filed under provisions of the Consumer Protection Act before the concerned District and State Commissions.*

**Referred Laws:**

*No specific laws have been referred to. The order refers to the procedural provisions under the Consumer Protection Act 1986. In summary, the National Commission set aside the state commission's dismissal order and restored the appeal for hearing on merits in view of the interest of justice. All parties were directed to appear before the state commission on the date mentioned.*

**Case Laws Referred:**

*No case laws were referred in the order.*

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**Court**

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**Full Text of Judgment:**

1. This revision petition has been filed under Section 21 (b) of the Act 1986 in challenge to the Order dated 15.11.2018 in Appeal No. 908 of 2013 of the State Commission Madhya Pradesh arising out of Order dated 27.04.2013 of the District Commission in Complaint no.74 of 2011.

2. Heard the learned counsel for the petitioner and perused the record including inter alia the Order dated 27.04.2013 of the District Commission, Order dated 15.11.2018 of the State Commission and the memo. of revision.

3. Learned counsel for the petitioner is present. However, none appears for the respondents even though they are duly represented by counsel. The proceedings dated 06.09.2023 also shows that none had appeared for respondents on that date.

4. The present petition has been filed against the impugned Order dated 15.11.2018 whereby the appeal was dismissed for want of prosecution as none appeared for appellant on that date. For better appreciation the impugned Order dated 15.11.2018 is being narrated herein below: 15.11.2018 None for the appellant. Shri Ajay Dubey, learned counsel for respondents. Dismissed for want of prosecution.

5. Learned counsel for the petitioner has tried to elaborate upon the merits of the case as well as upon the circumstances which prevented the petitioner and his counsel from appearing in the State Commission. It has been contended that if opportunity be provided to pursue the appeal on merits and of being heard there are fair prospects of this appeal being allowed by the State Commission or else the petitioner shall be left remediless and his cause shall suffer irreparably.

6. It transpires that on 15.11.2018 neither the petitioner nor his counsel appeared before the State Commission which resulted in the dismissal of the appeal for want of prosecution.

7. This Commission at this stage does not propose to delve into or touch upon the merits of the case but considering the nature of the dispute and the overall facts and circumstances in their totality and keeping in perspective the explanation proffered for non-appearance, it is felt just and conscionable that reasonable opportunity be further provided to the petitioner for adjudication of his appeal on merits in the State Commission, lest he be left remediless. It may be observed that this bench is not making any observations regarding the merits of the case lest the same may go to colour the vision of the State Commission or to create any prejudice in favour or against any party.

8. As such, in the interest of justice, the Order dated 15.11.2018 of the State Commission is set aside and the appeal is restored to its original number before the State Commission. The petitioner is sternly advised to conduct his case in the right earnest with diligence.

9. The parties shall appear before the State Commission on 10.11.2023. The State Commission is requested to adjudicate the appeal on merit

after providing adequate opportunity to both the parties to pursue the matter as per law. It may also be observed that in case on future dates the petitioner fails to appear himself or through his legal representative, the State Commission will proceed further in its discretion and wisdom as it may deem fit in accordance with law.

10. However, if for whatever reason, the respondents do not appear before the State Commission on the date of hearing, the State Commission shall issue notice for requiring their presence in order to proceed in accordance with law in the matter, as directed by this Commission. The State Commission in such a situation may also require the petitioner to take adequate steps in order to facilitate service on the respondents.

11. The Registry is requested to send a copy each of this Order to all parties in this petition and to their learned counsel as well to the State Commission within three days. The stenographer is requested to upload this Order on the website of this Commission immediately.