

**Court No. - 17**

**Case :-** WRIT - C No. - 8801 of 2023

**Petitioner :-** Madhyanchal Vidyut Vitran Nigam Ltd.  
Thru.Managing Director And Another

**Respondent :-** M/S Atal Infratech Pvt. Ltd. Thru. Mohd. Azam Khan And Another

**Counsel for Petitioner :-** Amarjeet Singh Rakhra

**Counsel for Respondent :-** Mohd. Rafi Khan, Sanjay Singh

**Hon'ble Alok Mathur, J.**

1. Heard Sri Amar Jeet Singh Rakhra, learned counsel for the petitioners as well as Mohd, Rafi Khan, learned counsel for the respondent no. 1.

2. By means of present writ petition the petitioners have challenged the order dated 25.05.2023, passed by the Consumer Grievance Redressal Forum, Lucknow (*hereinafter referred to as "the CGRF"*) passed in Complaint Case No. 86 of 2022 - Atal Infratech Pvt. Ltd. Vs. Executive Engineer, whereby the CGRF has directed the petitioners to release 5KVA electricity connection in favour of complainant after completing all formalities.

3. It has been submitted by learned counsel for the petitioners that the commercial electricity connection was given at the disputed premises situated at Shop No. 3-62/C-67, Ekta Market, Vikas Nagar, Lucknow. It seems that said shop was under tenancy of one Nishith Kumar Rai, who has vacated the said shop without paying the dues regarding electricity consumed during his tenancy. It is for the said reason that the petitioners had permanently disconnected the electricity connection for the said shop as there was outstanding amount of Rs.1,77,155/-. Subsequently, an application was filed before the CGRF, Lucknow allegedly by Nitish Kumar Rai but the same was signed by Mohd. Azam Khan. In the said application it was stated that demand raised by the Electricity Department with regard to the said shop was illegal as electricity was not consumed by the applicant therein and that the applicant is the occupier of the said shop. Accordingly, following prayer was made :-

*"(i) Wherefore it is most respectfully prayed that this Hon'ble forum may kindly be pleased to set aside the impugned amount and Late Payment Surcharge in bill dated 29.11.2019 of Rs.1,77,155/- and exempt the entire Fixed Demand Charge and other charges in the bill after disconnection and in COVID-19*

*lockdown period till reconnection of Supply of Electricity.*

*(ii) It is most respectfully prayed this Hon'ble Forum direct the opp.party, concerned Executive Engineer to reassess the entire bill on three month average consumption and excess amount shall be refunded to the applicant or it will be adjusted in future bills with 18% interest.*

*(iii) Any other relief which this Hon'ble Forum may deem fit and proper in the circumstances of the case.*

*(iv) Allow this petition with cost."*

4. Subsequently, an application for amendment was made seeking amendment in the name of the applicant from Nitish Kumar Rai to M/s Atal Infratech Pvt. Ltd. Learned counsel for the petitioners while assailing the said order has submitted that once undisputedly there was permanent disconnection then fresh electricity connection in the name of an individual could not have been granted by the CGRF, Lucknow. He submits that grant of any electricity connection is governed by the Uttar Pradesh Electricity Supply Code, 2005, which was duly amended by notification dated 10.08.2018, thereby Clause 4.9 was amended and now after amendment it has been provided that *"All new connections domestic / non-domestic Multistoried Buildings / Multiplex / Marriage Halls / Cooperative Group Housing Societies / Colonies shall be released only on multiple point for supply of power to individual owners/occupants from licensee."*

5. It is further submitted by learned counsel for the petitioners that after coming into effect of amendment of 2018, in case a building is multi storey building then provision has been made for multi point connection and fresh electricity connections would be released only on multi point connection for a multi storey building and there is specific bay on releasing single point connection in favour of any individual.

6. It is next submitted by counsel for the petitioners that this aspect of the matter was duly noticed by the CGRF in the impugned order in para 8 but still proceeded to pass an order in favour of applicant, contrary to the provisions as contained in amended Electricity Supply Code, 2005. The CGRF is mandated to pass orders as per the statutory provisions. It is next submitted that the respondent no. 1 was neither consumer of Electricity Connection No. 1167417590, issued in the name of Nitish Kumar Rai and name of either the respondent or alleged M/s Atal Infratech Pvt. Ltd. was never substituted and they never became consumer of the petitioners, hence the relief

granted by the CGRF, in the facts of the case, could not have been granted. It is lastly submitted that no prayer for fresh electricity connection has been made and without any prayer having been made to that effect, the CGRF could not have passed the impugned order.

7. In view of the submissions made above, the matter requires consideration.

8. Learned counsel for the respondent prays for and is granted three weeks time to file counter affidavit. Two weeks thereafter is granted to the petitioners to file rejoinder affidavit.

9. List this case on 23.11.2023.

10. Till the next date of listing, operation and effect of impugned order dated 25.05.2023, shall remained stayed.

**Order Date :- 12.10.2023**

A. Verma

(Alok Mathur, J.)