

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPC No.2308 of 2015

Jindal Steel & Power Limited **Versus** The Electricity Ombudsman and others

22/12/2015	Shri Jayant Bhushan, Senior counsel with Shri Ashish Shrivastava, counsel, Shri Rajat Zakiwala, counsel, Shri Sandeep Bhuraria and Shri Animesh Verma, counsel for the petitioner. Shri K. R. Nair, counsel for the respondent Nos.2 & 3 Ms. Sareena Khan, counsel for the respondent No.1. Heard. It is argued on behalf of the petitioner that the Electricity Ombudsman, Chhattisgarh has passed the impugned order by wrongly interpreting the provisions of Section 56 (2) of the Electricity Act, 2003 (for short 'the Act, 2003) by holding that the amount fell due within a period of 2 years from the demand would only be recoverable. Shri Bhushan, learned Senior counsel for the petitioner would submit that the demand was raised after 19th June, 2014 when the State Government raised demand from the petitioner for payment of energy development cess. He would submit that since the petitioner is entitled to recover that cess from the consumers, to whom the petitioner supplies electrical energy, period of 2 years under Section 56 (2) of the Act, 2003 would commence from the date of issuance of notice by the State Government.	

Shri Nair, learned counsel appearing for the respondent Nos.2 & 3 on caveat, would submit that the period of 2 years would commence from the date when the amount fell due and the date of issuance of notice by the State Government has no relevance for computing the period of limitation.

The petition appears to be arguable, inasmuch as the issue as to on what date the period of 2 years as mentioned in Section 56 (2) of the Act, 2003 would commence in the given fact situation needs adjudication.

Issue notice to the respondents.

Shri Nair, would appear and accept notice for the respondent Nos.2 & 3 and Ms. Sareena Khan would appear and accept notice for the respondent No.1, therefore, process fee need not be paid.

Learned counsel for the respondents undertake to file return within a period of 3 weeks.

Extra copies of the writ petition be supplied to the learned counsel appearing for the respondents.

List it on 28.01.2016.

Considering the entire facts situation of the case, it is directed that the effect and operation of the impugned order shall remain stayed till the next date of hearing.

Certified Copy as per rules.

Sd/-
Judge

Prashant Kumar Mishra