

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A. NO.6 IN CIVIL APPEAL NO.5952 OF 2002

U.P. POWER CORPORATION LTD. & ANR.

Appellant (s)

VERSUS

ASP SEALING PRODUCTS LTD.

Respondent(s)

(For Directions)

Date: 11/11/2005 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Appellant(s)

Mr. Pradeep Misra,Adv.

For Respondent(s)/

Ms. Neeru Vaid,Adv.

Applicant(s)

UPON hearing counsel the Court made the following

O R D E R

The interlocutory application seeks direction against the non-

applicant-Uttar Pradesh Power Corporation Limited, i.e., the appellant in the civil appeal, for immediate grant of sanction load of 100 H.P. Despite order dated 5th August, 2005, reply to the application has not been filed. We decline to grant any further time.

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From the oral submission made by the learned counsel for the Corporation, it seems that the only reason for withholding the load, though applied on 19th March, 2005, is an amount said to be due to the Corporation from the applicant. It cannot be disputed that in respect of the same amount, the applicant has succeeded before the High Court and this Court, as far back as on 13th September, 2002, directed that the amount payable to the respondent-applicant in terms of the impugned judgement of the High Court shall be paid on furnishing a bank guarantee for restitution to the satisfaction of the Executive Engineer, Electricity Distribution of the Corporation. It is nobody's case that the bank guarantee has not been furnished and the amount obtained without it. Under these circumstances, we see no ground for not granting the sanction load, as prayed for. It is most unfortunate that though the application was filed with the appellant on 19th March, 2005, neither the load was sanctioned nor any reply has been given. The erring officer should be asked to explain to his superior officers the reason for this laxity. Be that as it may, we allow this application, as prayed, and direct payment of Rupees five thousand by the non-applicant-Corporation to the applicant by way of costs.

[ T.I. Rajput ]

Court Master

[ V.P. Tyagi ]

Court Master