

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11(1638)/DERC/2018-19/6335

Review Petition No. 57/2019

In the matter of: Review Petition against the Order dated 01.05.2019 in Diary No. 6468/2018 - Shri Satish Joshi vs. BYPL

**In the matter of:
Shri Satish Joshi**

..... **Complainant**

Versus

**BSES Yamuna Power Ltd.
Through its: CEO**

.....**Respondent**

CORAM: Hon'ble Mr. Justice S S Chauhan, Chairperson

Appearance:

1. Petitioner in person,
2. Shri Manish Shrivastava, Advocate for the Respondent;

ORDER

(Date of Hearing: 03.12.2019)

(Date of Order: 06.12.2019)

1. The instant Review Petition has been filed by Sh. Satish Joshi against the Order dated 01.05.2019 of this Commission, in his Petition under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. (BYPL) on the ground that the matter has been settled between the parties before the Special Court of Electricity and no leeway has been granted to the Petitioner to agitate the same issue before any other forum. This Commission had made following observation:

"5. In the instant Petition, the Petitioner has failed to demonstrate that in the order of Special court he has been given liberty to approach this Commission or any other court of law.

6. In view of the aforesaid, the Petition cannot be entertained by this Commission and accordingly dismissed."

2. The Petitioner had approached the Special Court of Electricity seeking modification of the order to the extent that he may be granted liberty to approach any other forum in respect of the same event. The application of the Petitioner was dismissed with cost and no leeway was granted to the Petitioner to approach any other forum including this Commission. Nonetheless the Petitioner has filed Review Petition against the aforesaid Order dated 01.05.2019.
3. The grounds on which review can be sought are enumerated in Order 47, Rule 1 CPC, which are as under:
 - i. Discovery of new and important matter or evidence, or
 - ii. Mistake or error apparent on the face of the record, or
 - iii. Any other sufficient reason.
4. The Commission is of the view that in the instant Review Petition, no new facts of law has been produced neither there is any mistake or error apparent on the face of the records. Scope of an application for review is much more restricted than that of an appeal.
5. The Supreme Court in **Lily Thomas vs. Union of India, AIR 2000 SC 1650** held that the power of review can only be exercised for correction of a mistake and not to substitute a view and that the power of review could only be exercised within the limits of the statute dealing with the exercise of such power. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained.
6. In **Parsion Devi and Ors. Vs. Sumitri Devi and Ors, [(1997) 8 SCC 715]** the Supreme Court held as under:

“Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, if

must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise."

7. The contents of the instant Review Petition have been examined and it is observed that no fresh evidence/ error apparent on the face of the record have been made by the Petitioner, which can be considered as a reason for review. The Petitioner has also failed to give any other sufficient reason requiring review of the Order by the Commission. Therefore, the Review Petition falls short of the ingredients required for a review.
8. In view of the observations in the preceding paragraphs, the Review Petition is not maintainable and is accordingly dismissed.

**Sd/-
(Justice S S Chauhan)
Chairperson**