Introduction to Law on Electricity
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Lecture 25
Rights of Consumer

Welcome to all the learners. In the last class, we have studied about the provisions related to the interest of consumers under the Electricity Act. We have also studied that what are the institutions which are being framed, which are being provided under the Electricity Act, to protect the consumers. We also looked at those provisions where there has been a mandate to ensure the participation of public in decision making process.

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Now, in today's session, we will look at that how the law is being further transformed to give, to confer specific rights on consumers because, as I stretched in the last session, that this Act is very transformational because it deals with public service, delivery of public service and opens up the market so that private player should be involved in the delivery of such services.

But at the same time, it is desirable that profiteering alone should not become a driving agenda for the marketplace. And thus, categorically, the law provided for necessary arrangements to advance the interest of the consumer. In that regard, in the year 2020, the government has come up with the notification, come up with rules to talk about the rights of consumers.

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The law is being framed under Section 176 of the Act, which confers necessary power to the appropriate authority to frame the rules. Now, when you look at the objective of this rule, you would find the objective of the rule says it is about ensuring the quality and delivery of consumer services. In order to guarantee that quality, what is needed and expected is that, let us have a very clear understanding on what are the rights of consumer and in that process, the idea is to lay down a bare minimal, that what it says to minimum standards of quality.

What is this to bare minimum standards of quality? This is about what is something beyond which, if the licensee can manage, can always provide, but anything below that is not permissive. You generally find this kind of bare minimal approach with those sets of rights which relate with socio-economic entitlements of individuals.

In the realization of the socio-economic entitlements, generally, we have been observing that a practice of agreeing to provide a bare minimum, agreed to provide that core is accepted, is getting a sort of acceptance worldwide. So, you can very well relate the same proposition even with the right to access electricity because that is what we have discussed in the first few sessions.

That is why the right to access electricity also satisfies the criteria of being one of the rights to lead a meaningful life. But then, if you talk about the practical implementation, if you consider that how it will be implemented at the ground level, you would agree with me that it is by laying down that bare minimum so that anything below that should not be acceptable as the case of fulfilment of the guaranteed rights.

And therefore, the rules suggest that there shall be a new connection or modification of the existing connection to be done in a very transparent manner. It should be done in a time bound process, and then it should also be made simple so that unnecessarily the consumer need not be harassed for getting the connection. That is why in order to minimize that harassment or in order to eliminate that harassment, the rule relies on the potential of technology, and it says that an online application is to be filled out.

And then once it is filled, it says that when it comes to metro cities, within 7 days, connection must be provided. When it comes to other cities in municipal areas, 15 days and in rural areas, it says about a month time. Why this different timeline? One can very well give the justification for the same, that it is about the distribution system prevalent in these kinds of geographical locations, and it is easier and quicker to get the connection in the metros and the cities in municipal areas. In rural areas, perhaps, the licensee requires more time to lay down the infrastructure to make the necessary arrangement. That is why this timeline differs.

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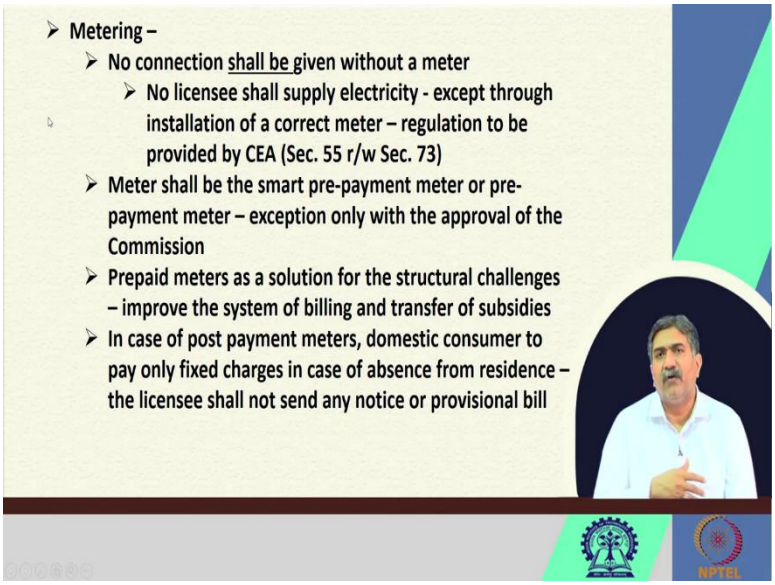

The rule also talks about metering, and what it says is that no connection shall be given without a meter. Now, apparently, this appears to be a very obvious proposition, why a consumer shall be allowed to consume electricity without having a meter at his premise? But then we know very well that this used to be a practice, particularly in village areas, semi-urban areas or even in urban areas in dwellings of different kinds, where people used to get electricity without applying through a proper process.

And that was not only causing financial loss to the distribution licensee but also it was contributing to the overall efficiency of the distribution system. So, the rule of 2020 makes it

very clear that if there is no meter, there is no connection, and that is what it says. No licensee shall supply electricity except through installation of a correct meter. In that regard, it is the electricity authority which has been advised and suggested to formulate a regulation that what would be a scientifically approved meter, the technical specifications. This is all the responsibility given to the electricity authority to come up with the regulation in that regard.

On metering, we find that the rule of 2020 makes a very progressive approach. It adopts a very progressive approach in how it mandates the installation of prepayment or a smart meter. Now, this becomes a very phenomenal one because of the poor revenue collection by the licensee from a set of consumers.

So, if you have a prepayment meter installed, then obviously, it is about efficiency in collecting charges from the consumer. So, the rule says it shall be the case of prepayment, or it shall be the case of a smart meter. But then, if there is any exception because we know very well that in our residences, it is the post-paid meter, which is connected, then there has to be an exception. These are the cases of exceptions, and for that, approval is needed from the commission.

So, the installation of prepaid meters to me appears to be a structural change. Why structural change? Because it would drastically improve the billing system also, and if meticulously it is planned, then the whole issue of extending subsidy could be planned. If it is meticulously planned, then the transfer of subsidy and crediting of the subsidy amount be directly in the account of beneficiaries.

That is also the proposal in the pipeline. So, prepayment meter has this kind of advantage. One may look at it in a very positive way that this would help in extending the necessary support to the targeted group, on the one hand, and on the other hand, it would also facilitate in bringing efficiency in the distribution segment, which as of now is a matter of concern.

If there is a post-payment meter system is there and if the domestic consumer is not there in his residence, then what it says that only fixed charges are to be paid and licensee shall not send any notice or provisional bill; what is to be sent is just the fixed charges which are there.

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Smart meter is another revolutionary change which has been introduced through this rule because smart meter would help in evaluating the consumption pattern of the consumer, and through that, we can have better demand side management. So, the movement of people from one location to another location during vacation can help the distribution licensee to plan the procurement of electricity accordingly.

And it can also help the consumer to plan on a different set of activities. Same could also be the case with the bigger consumer. So, the consumer pattern can very well be defined. What shall be the guidelines? Again, it is for the electricity authority to come up with, and we already have regulations in this regard.

So, a smart meter with no denial will help in making the necessary planning at the consumer end, and it will also facilitate the distribution system to ensure value added services, value added services in a way that provides a quality supply of electricity when there is peak demand. Therefore, this is a welcome step, and the Government of India has also already launched a program, Smart Meter National Program, which aims to install the smart meter by replacing post-paid meters; this drive is steered by a government company Energy Efficiency Services Limited.

And already, there has been reasonable success in this drive. When I inform you about the benefit, there are also matters of concern on the issue of the smart meter because a smart meter would help the miscreants in tracking the movement of the consumer. So, if a consumer is going for tourism in other location and if there is no consumption happening at

his place of residence, it would be easier for miscreants to make out that the residence is unattended.

Other concern is the concern of surveillance that through this process, activities are being tracked of individuals. So, consumer privacy becomes an important issue with regard to the implementation of a smart meter. Now, shall we stop? Shall we abandon the drive of installation of a smart meter? Or shall we look for a regime which shall balance the interest of the industry on the one hand and the consumer on the other hand? It is the latter which shall be preferred, and that is why it is needed to enact data privacy law at the earliest.

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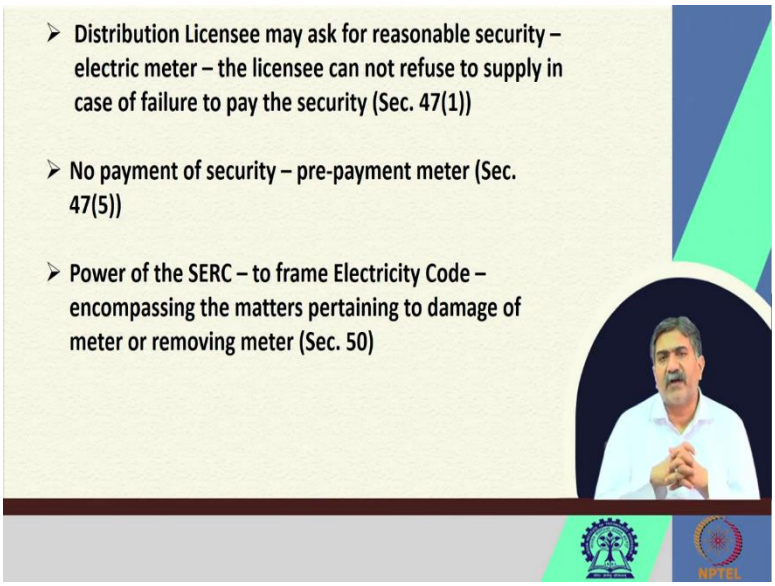

Further, it also says when you talk about the right and when you talk about the responsibility of the distribution licensee that because the electricity meter has to be provided by the licensee or if the consumer intends to buy it from the market, then it has to be in accordance with the specification decided by the authority.

And then, in that case, the charges for that meter would not be asked from the consumer. But if the consumer is not going and buying the electric meter on his own, then it is the licensee who has the responsibility to install it, and the licensee does it after asking for reasonable security. But then it says the licensee cannot refuse to supply in case of failure to pay the security.

So, you can very well relate that how the right of consumer is being protected when you draw a sort of balancing between the financial interest of the distribution licensee in terms of

keeping that security amount and the interest of the consumer to get the supply. When it comes to prepayment meter, obviously, no payment of security.

This is what is given under Section 47(5). Now section 47 subsection 5 (section 47(5)) also helps us in understanding that prepayment meter appears to be a thrust area under the Electricity Act 2003, which has been attempted to get implemented through 2020 rules. Now what shall be the specification of electric meter when it shall be considered to be a kind of non-operational one? Section 50 empowers the regulatory commission to frame the code in this regard.

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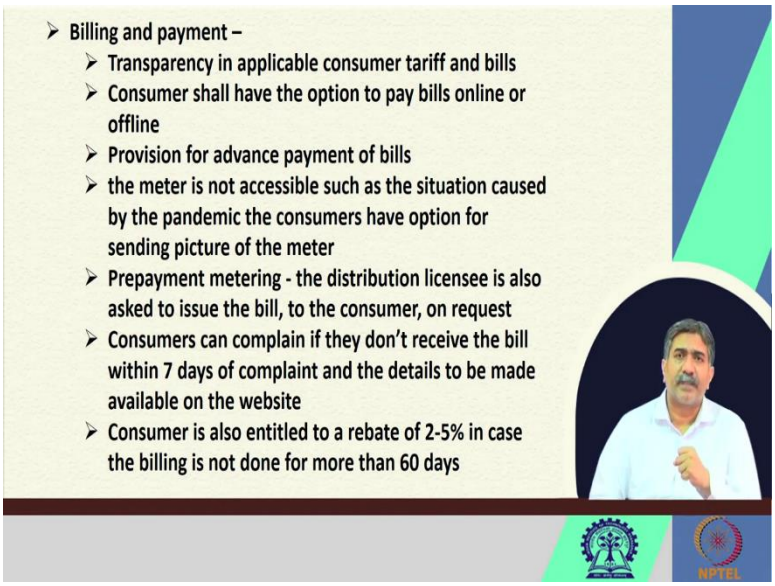

Now, billing and payment is another important thing which the 2020 rule deals with, where it says that there shall be transparency in applying the tariff and also in billing the consumer. Further, it says that consumer shall have the option to pay online. That option of paying online would not only help the licensee to manage the man hour in an efficient manner, but also it would save a lot of time for the consumer. Additionally, it is also being provided that if someone desires to make advanced payment, that is also allowed.

If the electric meter is not accessible to individuals in an extraordinary situation like a pandemic and all, then what the consumer can do is that consumer can very well take the photograph of the meter indicating the reading and pass it on to the distribution licensee.

In prepaid metering, responsibility lies with the distribution licensee to issue a bill and give it to the consumer when the consumer is asking for the same. If the consumer raises a

complaint on non-issuance of the bill, then the licensee has a responsibility to make the details available on the website.

Now, when you look at all these measures, these measures appear to be small steps. But then these measures, in a way, add to strengthening the power market because it will help in building the trust and confidence in the consumer. That is why we look at it that if licensee is not preparing the bill as giving it to the consumer, then in that case, consumer will be entitled to get certain rebates. These provisions will make the consumer more responsive towards the use of electricity.

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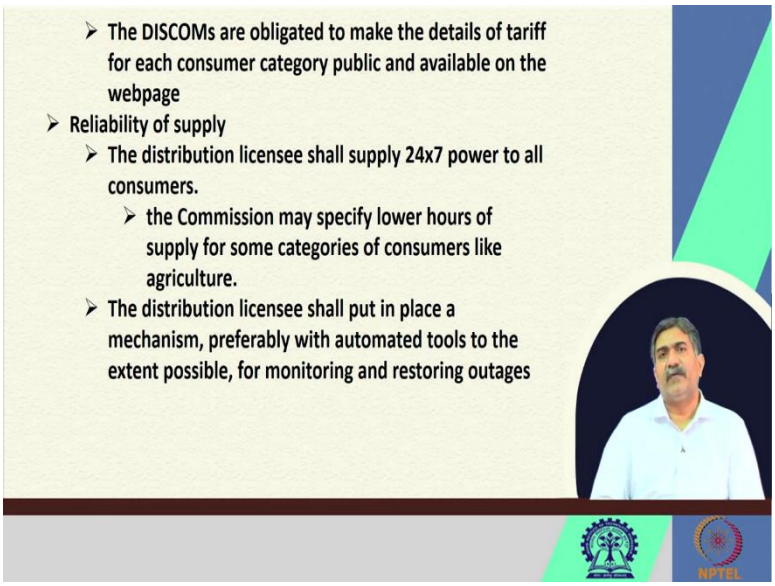

And licensee would be more accountable. Responsibility of the distribution licensee to clearly spell out that what is the tariff for which category of consumers so that there should not be any opaqueness in dealing with this, and then the rule also says that licensee shall supply 24 into 7 power to all. It further says looking into the constraint that lower hours of supply for some categories of consumers is possible, for example, agriculturalists.

Further, in order to make the licensee accountable, in order to ensure the supply of reliable electricity, it is suggested that licensee must put a system in place which shall do the monitoring and restoring of outages in an automated manner.

Generally, when you look at it, it operates on this premise that there is a phone call which is made to the concerned department, and then the concerned department reaches back to you and says that okay, manpower has gone to the place. Now, with all these processes, it has

been suggested that technology can help the consumer in demanding better services and facilitating the licensee to deliver better services.

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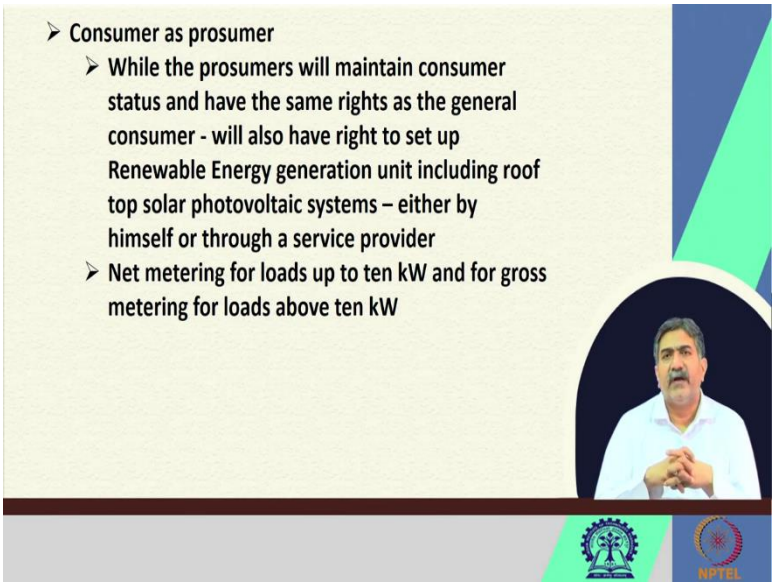

2020 rule also acknowledges the status of consumer who is also a producer, and that is what the terminology which has been given as prosumer. So, the consumer who is a producer who is generating electricity is given a sort of legal status recognition under the 2020 rule. Now, what it says is that even if a consumer becomes a producer, the consumer possesses all the rights which are available to the consumer.

And then that consumer gets necessary right to set up the generating facility through renewables, including the rooftop and that he is allowed to take up not only on his own, but he can also pull in service provider for the same. And in that with regard to metering, a yardstick was laid down, where the load is up to 10 kilowatt, then let the net metering decide the billing part, and if it is above 10 kilowatt, then let there be a gross metering.

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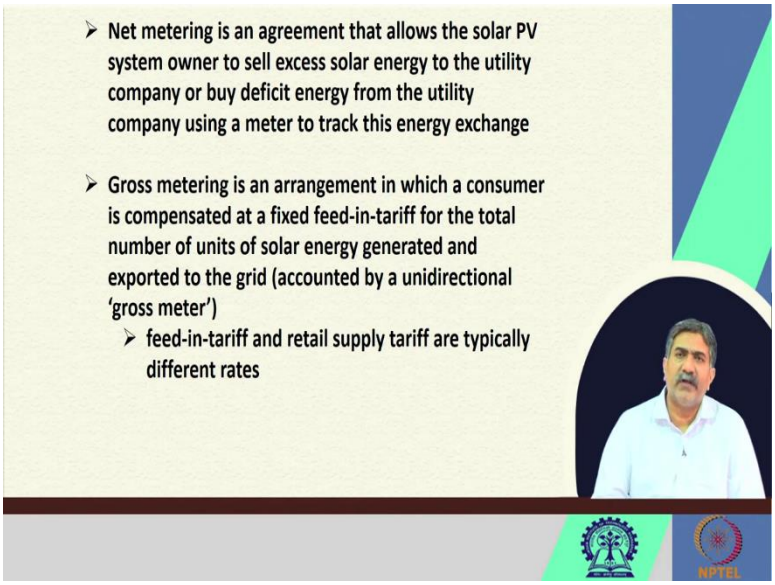

Now, net metering, gross metering, what it is and how it operates and whether it is beneficial for the renewables or not is something let us look at; net metering is about allowing the producer of renewable to supply the electricity to the licensee and accordingly, get the adjustment in the billing.

Gross metering is about consumer producing electricity and giving it to the licensee, but then the compensation that the consumer is getting is at a fixed feed-in-tariff. And generally, you would find that feed-in-tariff is on the lower side than what is there for retail supply. So, gross metering does not create a very supportive ecosystem for the producer and look at it; it says net metering for loads up to 10 kilowatt, and it says for more than that, it is gross metering. That is what it says.

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Now, for rooftop when it says so, it is not very difficult to visualize that, in a way, it creates a sort of disincentive for the large housing societies, for the industrial houses and commercial establishments to go for bigger installation of renewables and to produce more than 10 kilowatt of electricity because in such a situation it will be the gross metering which will be applicable. And gross metering means that you supply electricity, but then what you get as compensation is differential pricing which generally is lower than the retail supply.

So, you buy at a costlier rate, but then your own generated electricity, you are selling it at a lesser rate. You are buying on a higher rate, and you are selling it on a lesser rate. This is what the scheme is. Licensee is getting benefited in this process. Now, you may argue that if the licensee is getting benefited in this process, it is good because licensees are struggling on the financial front, and this will help in improving the financial health of the licensees.

This could be one argument to support this. But then the other argument, as I said that it would discourage commercial and industrial consumers to set up rooftops, when the production is more than 10 kilowatt.

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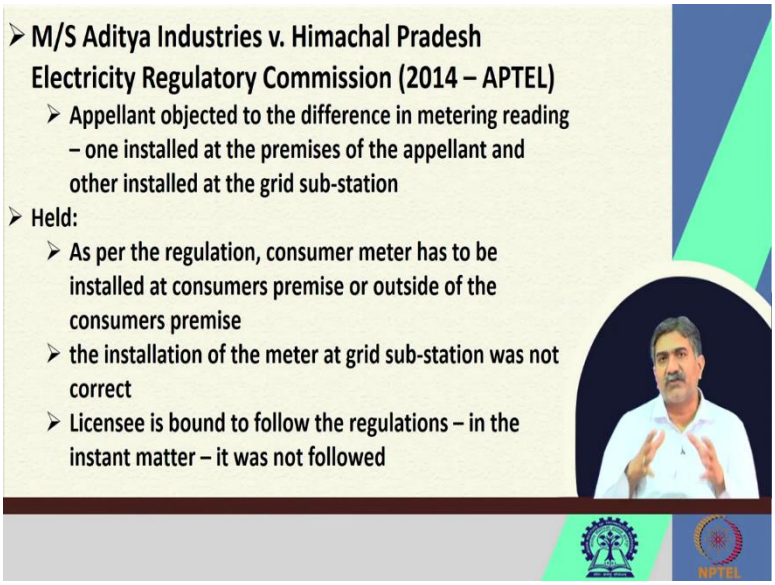

Now, let us look at two judicial pronouncements. One is on metering. M/S Aditya Industries versus Himachal Pradesh Electricity Regulatory Commission, which is a judgment of tribunal in the year 2014, where appellant objected to the difference of meter reading. One meter was installed, which was at the premise of the appellant (not the residence, premise, the industrial location) and the other meter, which was installed at the grid substation. Because of the different prices, the appellant asked for a relook, appellant asked for revisiting of the bill. Now, as per the regulation, it is being suggested that consumer meter has to be installed at the consumer's premise or outside the consumer's premise.

Regulation categorically says that installation of a meter at the grid substation was not correct. It is not allowed. And therefore, when licensee has installed it and then charging a bill on the basis of reading which is showing in the meter installed at the grid sub-station, the appellant tribunal said that this is not as per regulation because the regulation says that you have to install a meter at the premise of the consumer.

In this case, generally, what has happened, the licensee brought this argument that it has been done for fair reading of the meter, and there was a sort of display meter installed at the premise of the consumer. The tribunal did not buy this argument, and the tribunal said that the regulation is very clear that it has to be at the premise and, therefore, it was wrong on the part of the licensee to install it at the grid substation.

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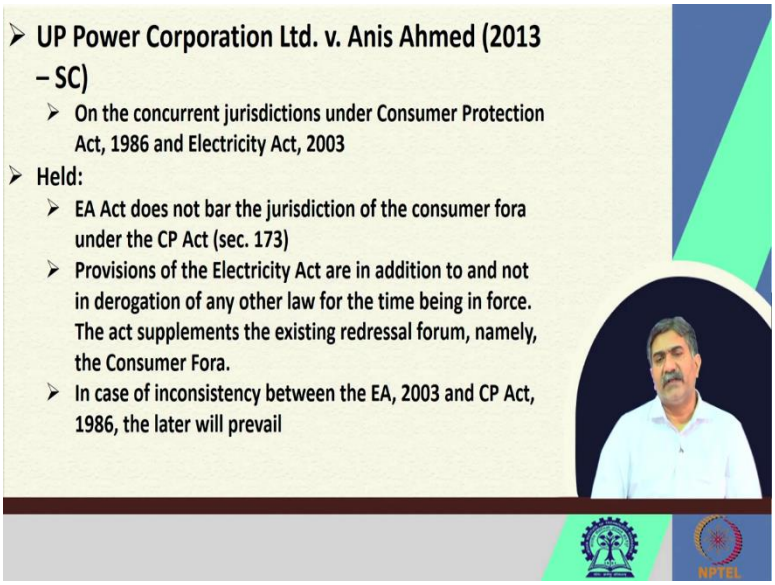

This is another case which simply highlights the concurrent jurisdiction of the consumer forum and the Electricity Act because the electricity consumer is also a consumer under Consumer Protection Act. Now 1986, I have written here because this case deals with the 1986 Act. Though we know very well that now in 2019, we have a modified version of Consumer Protection Act in existence.

This case is prominent because it categorically says that the reading of Section 173 makes it very clear, and that is what we have also studied in the last session. The rights of the consumer remain unaffected under any other law, and that is what section 173 also says, that Electricity Act does not take away the jurisdiction conferred on the other forum, particularly the consumer forum. Electricity Act is in supplement of that, and it is supplementing the redressal forum provided to the consumer.

So, if the cause of action relates with the law laid down under the Consumer Protection Act, the consumer has a choice to seek redressal from the consumer forum. So, if it is about deficiency of service, then consumer can very well decide to go to the consumer forum or go to the redressal forum, which is there under the Electricity Act.

But then, if the issue pertains to something which relates only to Electricity Act, for example, it is about unauthorized use of electricity, then in such a situation Electricity Act alone will have prevalence there, alone will have operation there. The court says that there is an inconsistency between Electricity Act and Consumer Protection Act. It is the Consumer Protection Act which shall prevail.

So, you can very well look at this, and you can very well make an observation that how the court, in this case, comes up with a legal interpretation favouring the interest of the consumer. It categorically gives a very purposeful understanding and purposeful interpretation to Section 173 of the Act. So, this is on the rights of consumer. Thank you very much.

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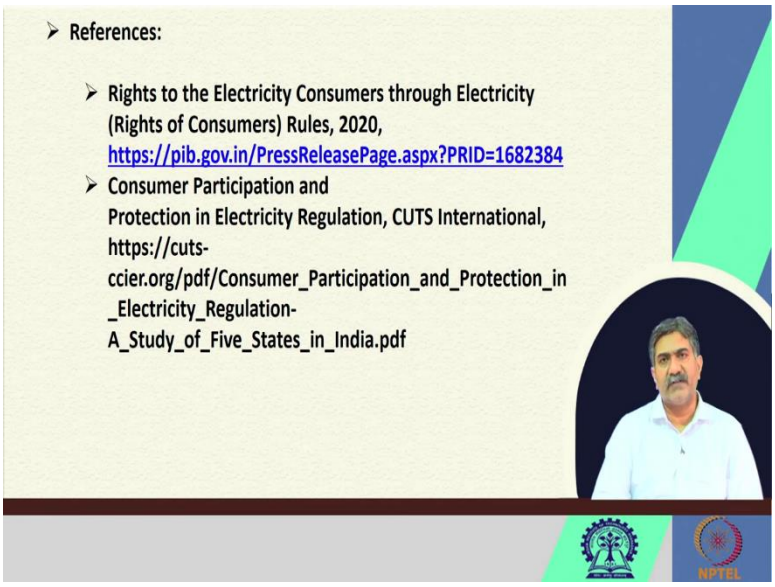

These are the references to go through.