

BEFORE THE AUTHORITY OF ELECTRICITY OMBUDSMAN, JHARKHAND
2nd floor, Sainik Market, Main Road, Ranchi – 834001

Case No. EOJ/02/2020

M/S Stan Commodities Pvt. Ltd. v/s JBVNL & Ors.

Extract Copy of Order

(35) 25.4.2024 The record is placed before me. Both the parties are in attendance through their learned counsel. Today is the date fixed for hearing on the point of necessity of depositing at least 50% of the ordered amount, as ordered by the learned VUSNF Chaibasa at Jamshedpur.

This is an appeal of the year 2020 and the record was at the stage of final argument. During the course of argument, on 25.1.2024 it was detected by this Authority that in this case, the mandatory provision of depositing fifty percent of ordered amount, as required under the Second Proviso of Clause-15 of The Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020 has not been complied by the appellant. The appeal was admitted on 5.3.2020 by the then Electricity Ombudsman Mr. Prem Prakash Pandey without getting the mandatory provision of These Regulations, 2020 complied with by the appellant. The order dated 5.3.2020 is silent about the mandatory provision of These Regulation, 2020.

The Second Proviso of Clause-15 of These Regulations, 2020 mandates that - “The Electricity Ombudsman **shall entertain no appeal** by any consumer, who is required to pay any amount in terms of an order of the Forum, unless the consumer has deposited in the prescribed manner, at least fifty percent of the amount or furnish such security in respect thereof as ordered by Ombudsman”. (emphasis supplied by highlighting)

The appellant, vide order sheet dated 22.2.2024 was directed to elucidate as to why it should not be required to deposit at least fifty percent of the billed amount, in terms of the order of the learned VUSNF- Chaibasa at Jamshedpur.

Mr.D.K.Pathak, the learned counsel for the appellant has appeared before this Authority for hearing. He has submitted that the consumer had preferred a complaint before the learned VUSNF- Ranchi for quashing Supplementary Bills for Rs.88,65,221 for the period from April' 2006 to September,2006 (six months). Mr.Pathak has further submitted that the learned VUSNF has waived three months bill meaning thereby the ordered amount downs to half of the billed amount i.e rounded about 84 Lakh i.e. 42 Lakh. If the ordered amount comes down to 42 Lakh Rupees, the appellant is ready to furnish security fifty percent of the ordered i.e. an amount of Rs.21 Lakh. Mr. Pathak, the learned counsel for the appellant has submitted that it is a tough task to get cash amount returned from the licensee JBVNL and hence the appellant is ready to furnish security.

Mr. Mohan Kumar Dubey, the learned Standing Counsel for the respondents has vehemently submitted that the ordered amount is not only an amount of Rupees 84 Lakh but is an amount of Rupees 7 Crore 66 Lakh.

I have gone through the reliefs sought for by the consumer before the learned VUSNF- Chaibasa at Jamshedpur. The relief no. (b), as sought for is for quashing the demand notice dated 08.10.2018 whereby the respondents have arbitrarily raised a demand of Rs. 2,19,14,031 as arrear plus DPS of Rs. 5,47,25,937 total amounting to Rs. 7,66,39,968. **(Rs. 7 Crore 66 Lakh 39 Thousand)**. The relief no. (c), as sought for is for quashing the Supplementary Bill dated 06.02.2007 for Rs. 83,65,221 **(Rs. 83 Lakh 65 Thousand)** for the period from April 2006 to September 2006.

The operative portion of order of the learned VUSNF Chaibasa at Jamshedpur reads as follows : -

- i) The respondents shall in view of the order dated 16.07.2019 passed by ESE, ESC Jamshedpur and the discussions made hereinbefore in Para No. 7 of this judgement, revise the supplementary bill dated 06.02.2007 raised for the period from April 2006 to September 2006 by charging the energy charges for three months instead of six months.
- ii) The respondents shall charge the DPS on the entire due amount except the waiver allowed by aforesaid revision of the supplementary bill dated 06.02.2007.

Mr. Pathak, the learned counsel on behalf of appellant, has submitted that there is a catena of decisions of our own Hon'ble High Court as well as of Hon'ble Apex Court that where there is an order for revision of electricity bill, the Delay Payment Surcharge (DPS) shall not be applicable. He has vehemently submitted that the learned VUSNF has committed an error in law and has wrongly passed an order to charge the DPS. It is submitted that the DPS Bill amount, in terms of the order of the learned VUSNF Chaibasa at Jamshedpur, may not be considered as the legally ordered amount.

Now a question arises as to whether a legal question on merit of the case shall override the mandatory provision of depositing fifty percent of ordered amount, as required under the Second Proviso of Clause-15 of The Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020. Considering the contradictory ORAL SUBMISSIONS of both the parties, readiness of appellant to furnish security and legal provisions raised by the appellant, I feel expedient to direct the appellant M/S Stan Commodities Pvt. Ltd to make a WRITTEN APPLICATION with specific prayer before this Authority by serving a copy to the respondents. Needless to say that the respondents shall be at liberty to make para wise reply to the petition, if they so desire.

A detailed order shall be passed by this Authority on the written application of appellant by considering the provisions of Law and Regulations after hearing both the parties. Put up the record on **16.5.2024** for taking proper steps by the appellant before this Authority.

(GOPAL KUMAR ROY)
Electricity Ombudsman