

Territorial Jurisdiction: State of Jharkhand

**AUTHORITY OF THE ELECTRICITY OMBUDSMAN: JHARKHAND**

Present: Gopal Kumar Roy  
Electricity Ombudsman  
2<sup>nd</sup> Floor, Rajendra Jawan Bhawan  
Main Road, Ranchi- 834001.

Dated- Ranchi, the 9th day of January, 2025

**Appeal No. EOJ / 02 of 2020**

(Arising out of judgment passed in Case No.-02 of 2019 by the VUSNF,Chaibasa)

M/S Stan Commodities Pvt. Ltd.  
having its works at Plot No. 788, 5<sup>th</sup> Phase, Adityapur,  
Gamharia, through it's one of the Directors, Sarad Poddar,  
S/O Pawan Kumar Poddar, Resident of House No. 2,  
Road No.C.H. Area, North West, Sonari, Jamshedpur,  
P.O.& P.S.- Sonari, District- East Singhbhum -----Appellant

**Versus.**

1.Jharkhand Urja Vikas Nigam Ltd.  
Engineering Bhawan, HEC Township,  
P.O. & P.S. Dhurwa, District – Ranchi.

2.The Managing Director,  
Jharkhand Bijli Vitran Nigam Ltd.,  
Engineering Bhawan, HEC Township,  
P.O. & P.S. Dhurwa, District- Ranchi.

3.The G.M - cum - Chief Engineer,  
Singhbhum Electric Supply Area, Bistupur,  
Jamshedpur, Jharkhand Bijli Vitran Nigam Ltd.  
P.O. & P.S. - Bistupur, District - East Singhbhum.

4.The Electrical Superintending Engineer,  
Electric Supply Circle, Jamshedpur,  
Jharkhand Bijli Vitran Nigam Ltd.,  
P.O.,P.S.: Adityapur, District – Seraikella- Kharsawan.

-----Respondents

Counsel/Representative

On behalf of Appellant: Mr. D. K. Pathak, Advocate  
Ms. Sweta Rani, Advocate  
Mr. Shashi Kant Mishra, Advocate  
On behalf of Respondent: Mr. Mohan Kr. Dubey, Standing Counsel  
Mr. Utpal Kant, A.C. to Standing Counsel

## ORDER

1. The appellant M/S Stan Commodities Pvt. Ltd. has preferred this appeal under Clause 14 of the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulation, 2011 being aggrieved with the Order of the learned VUSNF Chaibasa at Jamshedpur.

### **2. Relief sought for by the consumer before the learned VUSNF :**

(a). For commanding upon the respondents to forthwith enhance the load of the petitioner from 1200 KVA to 2600 KVA after accepting the payable dues for which the petitioner is ready and willing to pay but the respondents are lingering the same on account of wrongful energy charge.

(b). 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/-.

(c). For quashing the supplementary bill dated 06.02.2007 for Rs. 83,65,221/- for the period from April 2006 to September, 2006.

(d). For quashing upon the respondents to issue a revised energy bill and not to charge any DPS upon the revised bill.

(e). For quashing of the order dated 16.07.19 passed by the E.S.E., Electric Supply Circle, Jamshedpur whereby the said authority in contravention of clause 11.3.1 of the Supply Code Regulation has ordered bill for 3 months on account of slow meter without any test report of 3<sup>rd</sup> party agency and has not removed the DPS after revising the bill. It is pertinent to mention here that in view of the aforesaid order of the E.S.E., the petitioner filed a petition dated 27.07.19 for amendment in the prayer portion of the original petition and accordingly this prayer was added in the petition.

### **3. Operative portion of the impugned judgement of Learned VUSNF, Chaibasa**

i) The respondents shall, in view if the order dated 16/07/2019 passed by ESE, ESC Jamshedpur and the discussions made hereinbefore in **Para No. 7 of this judgments**, 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.

iii). The respondents, in an expeditious and timely manner, shall enhance the load of the petitioner company from 1200 KVA to 2600 KVA after accepting the payable dues

from the petitioner company as per the relevant provision of JSERC ( Electricity Supply Code) Regulations, 2015.

Accordingly, the complaint petition of the petitioner is hereby partly allowed.

**3.1** Relevant portion of para 7 of the impugned judgement, as referred above, regarding the issue of supplementary bill.

**Para - 7.2** Now, it is further submitted that the said supplementary bill was raised on account of slow meter but the said meter was not sent for testing to the third party facility as per clause 13.4.2 and 13.4.3 of the JSERC Supply Code Regulation, 2005. We have gone through the meter replacement report as well as the meter testing report. Perusal of these reports reveals that replacement of meter was done in presence of the representative of the petitioner. Further before sending the said meter to MRT lab for testing of its accuracy, the meter was duly sealed and also signed by the representative of the petitioner. Testing of the said meter was also done in presence of the representative of the petitioner and he has put his signature on the testing report. So, it is clear that the representative of the petitioner has witnessed the replacement, sealing and testing of the said meter. Surprisingly, the petitioner did not raise any objection regarding testing of the meter in the MRT lab as well as on the said test report. Further, neither any request was made to send the meter for testing to (a) third party facility nor required fee for such testing was deposited by the petitioner as per relevant regulation. Singing on the aforesaid papers relating to the sealing of meter and also on the test report by the representative of the petitioner shows that the petitioner had agreed for the said test. Now, the petitioner has raised (an) objection in this regard after an inordinate delay of about more than 12 years which is wholly untenable.

**Para - 7.6** The petitioner has challenged the aforesaid order of ESE on the ground that the ESE has granted only part relief and has not revised the bill as prayed for by the petitioner. It is submitted that since the said supplementary bill has been raised on the basis of a test report of MRT Lab of JBVNL and the meter was not sent for testing to the third party as per clause 13.4.2 of the Supply Code Regulation hence the entire bill of six months should be quashed. This point has already been discussed by this forum in para no. 7.2 of this judgement and has arrived at a conclusion that this objection of the petitioner is not tenable. After aforesaid discussion of all the factual as well as legal aspects of the matter this forum is of considered opinion that the complaint regarding supplementary bill is time barred in view of the provision contained under clause 10 (1) (i) & (ii) of the JSERC Regulation, 2011. However, the respondent no. 4 in the capacity of the official of the distribution licensee has granted part relief regarding the aforesaid supplementary bill vide its order dated 16.07.2019. This forum has no reason to interfere with the said relief granted by the distribution licensee / respondents as the grievance with regard to aforesaid supplementary bill was redressed by the respondents by exercising its discretion in a rightful manner. It is worth to mention here that the earlier letter no. 3328 dated 08.10.2018 of the ESE demanding, inter alia, supplementary bill worth Rs.83,65,221 stands modified to the extent allowed by the aforesaid order dated 16.07.2019. Accordingly, this issue is hereby disposed of.

#### **4. Relief sought for in appeal**

The appellant has sought following reliefs before this Authority in appeal :

The Consumer appellant M/S Stan Commodities Pvt. Ltd. has sought relief to set aside the order dated 21.12.2019 passed by the Ld. VUSNF, Chaibasa at Jamshedpur in case no. 02/2019. The consumer has preferred this appeal being aggrieved with the order of the learned VUSNF, Chaibasa. As per the case of Consumer, the Ld. Court

below ignoring the specific provisions of Supply Code Regulation has justified the charging of short charged bill on account of meter being declared slow by the respondents without sending the same for testing before third party agency and while going against the law held and settled by the Hon'ble High Court as well as this Hon'ble Court in several matters, have justified the charging of delay payment surcharge even after revision of the disputed bill by the respondents.

### **5. Overlooked by the then Electricity Ombudsman on Second Proviso of Clause-14 of These Regulations, 2011**

For the first time, at the stage of final argument, it was detected that in this case the mandatory provision of depositing 50% of the ordered amount as required under second proviso of Clause-14 of the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2011 (hereinabove referred as These Regulations, 2011) has not been complied with.

### **6. Direction to appellant by the Ombudsman**

The appellant M/S Stan Commodities Pvt. Ltd was **DIRECTED** by the Authority of the Electricity Ombudsman, after hearing both the parties in detail, vide order dated 30.9.2024, directing therein :

1. To deposit an amount of Rs. 4,04,00,000 (Rupees Four Crore and Four Lakh) only in the office of the JHARKHAND BIJLI VITRAN NIGAM LIMITED **and**
2. To furnish a Bank Guarantee as security deposit, for a period of Six Months, on behalf of M/S Stan Commodities Pvt. Ltd. to cover a payment of Rs. 11,00,000,00 (Rupees Eleven Crore) only to the JHARKHAND BIJLI VITRAN NIGAM LIMITED. The Respondents shall not claim the Bank

Guarantee in any circumstances without obtaining written prior permission from the Authority of the Electricity Ombudsman, Jharkhand.

3. The above directions shall be complied with, within a period of thirty days from the day of passing of this order.

## **7. Effect of non-compliance**

The appellant M/S Stan Commodities Pvt Ltd. has been alarmed in the said order dated 30.9.2024 that **non compliance of the directions of the Electricity Ombudsman by the appellant M/S Stan Commodities Pvt Ltd, shall tantamount to appellant's unwillingness to proceed with this appeal and the proceeding of this appeal shall be dropped** due to noncompliance of the mandatory provision of Second Proviso of Clause- 14 of the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulation 2011.(emphasis supplied by bolding)

## **8. Service of copy of Order dated 30.9.2024 upon the Appellant**

The office was directed to serve a copy of order dated 30.9.2024 to the parties. It is informed by the office that a copy of order was sent to one of the Directors of the appellant M/S Stan Commodities Pvt Ltd, namely Shri Sarad Poddar through Speed Post on 1.10.2024 having consignment number EJ143846379IN. The India Post Tracking confirms that the package was delivered upon the appellant on 4.10.2024 at 5.37 p.m.

## **9. Indifferent Attitude of Appellant & Further Adjournment of Appeal for No Cause**

The appellant was directed to comply with the above directions within a period of thirty days from the day of passing of the order. But on the date i.e. on 7.11.2024 / 11.11.2024, the appellant had preferred to remain absent before this Authority for

the reasons best known to him. The respondents had informed that the appellant had not complied with the directions till the date. However an adjournment was given suo motu for compliance and the date was fixed for 28.11.2024.

On 28.11.2024, the learned counsel for the appellant had informed that the appellant was intended to impugn the Order dated 30.9.2024 passed by this Authority, before the Hon'ble Jharkhand High Court. The appellant was directed to furnish details of Writ Petition after its filing. The next date was fixed for 12.12.2024.

On 12.12.2024 the appellant remained absent. No step was taken on its behalf. The appellant was directed to take proper steps before this Authority. The appellant was alarmed that in case of failure to take proper steps, necessary order shall be passed. A last opportunity was given to the appellant. The next date was fixed for 9.1.2025.

Today i.e. on 9.1.2025 the Appellant is absent. No step has been taken on behalf of the appellant. The learned A.C. to Standing Counsel Mr Utpal Kant has confirmed that the directions given to the appellant M/S Stan Commodities Pvt. Ltd. by this Authority vide order dated 30.9.2024 has not been complied by the appellant till the date.

To my dogma, it is ineffectual to keep the record pending and adjourn the matter till filing of writ petition and disposal of the writ petition. Definitely it shall cause unnecessary harassment to the parties to appear before this Authority for no cause.

The appeal having **Appeal No. EOJ / 02 of 2020** is being dropped today. The appellant may get the appeal **RESTORED**, by filing a petition on affidavit along with a certified copy of order, after obtaining favourable Orders from The Hon'ble Superior Court / Authority, by serving a copy of petition & annexure to the learned Standing Counsel for the Respondents.



10. Considering the facts & circumstances as discussed above and in light of the order passed on 30.9.2024, the present appeal be and the same is hereby

**DROPPED**

due to noncompliance of the mandatory provision of Second Proviso of Clause- 14 of the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulation 2011.

However the appellant M/S Stan Commodities Pvt. Ltd shall be at liberty to get the appeal restored by furnishing compliance report of the directions made vide order dated 30.9.2024 and satisfying this Authority for justifiable reasons for delay in compliance.

There shall be no order of costs. The parties shall bear their own cost. Let a copy of this order be provided to all the parties.

Dictated & Corrected by me,

Order passed by me,

( G. K. ROY )

( GOPAL KUMAR ROY )

Electricity Ombudsman : Jharkhand