

Territorial Jurisdiction: State of Jharkhand

AUTHORITY OF THE ELECTRICITY OMBUDSMAN: JHARKHAND

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

Dated- Ranchi, the 19th day of June, 2025

Appeal No. EOJ/06 of 2024

(Arising out of judgment passed in Case No.02 of 2024 by the learned VUSNF, Ranchi)

Jaleshwar Mahto, S/o Late Lala Mahto, resident of Village - Pirtol, P.O.- Sugnu, P.S. -
Khelgaon Town, District Ranchi, Jharkhand ----- Intervenor Appellant

Versus.

1. Jharkhand Bijli Vitran Nigam Limited, through its Managing Director Office of Engineering Building, H.E.C. Township, P.O. Dhurwa, P.S. Dhurwa, District Ranchi, Jharkhand – 834004.
2. General Manager -cum- Chief Engineer, Electric Supply Area, Kusai Colony, Doranda, Ranchi, Jharkhand - 834002.
3. Electrical Superintending Engineer, Electric Supply Area, Kusai Colony, Doranda, Ranchi, Jharkhand – 834002

4. Electric Executive engineer, Electric Supply division, Ranchi (East), Kusai Colony, Doranda, Ranchi, Jharkhand – 834002.

5. Assistant Electrical Engineer, Electric supply Sub – Division, Tatisilwai, Ranchi.

-----Respondents.

6. Nayan Devi, W/O Sri Shiv Dayal Chaturvedi aged about 65 years, R/O - Beed Banglow, P.O. & P.S. - Tatisilwai, District - Ranchi.

-----Petitioner / Complainant /Respondent

Counsel/Representative

On behalf of Appellant : Mr. Alok Anand, Advocate
Mr. Ramesh Kumar Singh, Advocate
Mr. Shivam Pratap Singh, Advocate

On behalf of Respondent No. 1 to 5 : Mr. Mohan Kumar Dubey, Standing Counsel

On behalf of Respondent No. 6 : Mr. Prabhat Singh, Advocate

ORDER

1. Nayan Devi, the respondent number 6 of instant appeal and the petitioner of case no. 02/2024 disposed of by the learned Vidyut Upbhokta Shikayat Niwaran Forum (VUSNF), Ranchi has raised a question about the maintainability of this appeal. It is the case of the respondent no. 6 that the instant appeal is not maintainable and is liable to be dismissed *in-limine*.

The respondent no. 6 Nayan Devi filed a counter affidavit on 16.1.2025 before the Authority of Electricity Ombudsman. Mr. Prabhat Singh, the learned counsel for

respondent number 6, has requested this Authority to decide the question of maintainability of appeal as a preliminary issue before proceeding with the appeal.

2. Preliminary Issue : A preliminary issue is a legal question that can be decided before the main trial, potentially resolving the case without entering into the complexities of the facts. Now a question arises as to whether the question raised is fit to be decided as a preliminary issue?

3. Question of Maintainability raised by the Respondent No. 6 Nayan Devi (By way of Counter Affidavit dated 16.1.2025)

The respondent no. 6 Nayan Devi is the complainant / petitioner in Case No – 02 / 2024 before the learned VUSNF, Ranchi. The appellant had intervened in that very case, in which the impugned judgement was pronounced by the learned VUSNF, Ranchi on 12.6.2024. The counter affidavit of the defendant no. 6 Nayan Devi is based upon the following facts & law points. Instant appeal is not maintainable in view of provision made under section 20 (3) of Jharkhand State Electricity Regulatory Commission, Ranchi (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman & Consumer Advocacy) Regulations, 2020. It would be appropriate to *quote section 20 (3) Regulation, 2020* for its correct appreciation:-

20. Procedure for filling a representation

(1) -----

(2) -----

(3) No complaint to the Electricity Ombudsman shall lie unless:-

(a) The Complainant had before making representation to the Electricity Ombudsman made a written representation to the forum of the Distribution Licensee named in the complaint and either the forum had rejected the complaint

or the complainant had not received any reply within a period of three months from date of filling of the grievance or the Complainant is not satisfied with the orders of the forum or the order of the Forum has not been complied with.

The Appellant has not filed any written representation to forum of Jharkhand Bijli Vitran Nigam Limited and therefore in absence of any such written representation, instant appeal before this Hon'ble Court is not maintainable and is liable to be dismissed in limine. It would also be relevant to mention here that from the aforesaid provision it transpires that only a complainant, who has filed case before Forum and is not satisfied with the order of the Forum, can file a representation before this Hon'ble Court. That apart consumer number before the forum was that of the Respondent No. 6 and here in present appeal different consumer number has mentioned, there cannot be two different consumer numbers before forum and this Hon'ble Court. That in view of aforesaid provision, it is most respectfully submitted that the present memo of Appeal is not maintainable and therefore deserves to be dismissed.

4. Reply of Appellant Jaleshwar Mahto (On affidavit filed on 8.5.2025)

It is the consistent case of the Appellant right from inception that the Respondent No. 6, Nayan Devi after making material concealment of facts and committing fraud in collusion with the lower rung Electricity officials took an electricity connection by making an online application bearing number NC314218303, which has been erroneously referred to as the Consumer number on the top of the impugned order by the learned forum which is erroneous and also an issue to be decided while hearing the appeal in view of the fact that it has been recorded by the forum itself as per arguments and pleadings of the Respondent JBVNL and the Intervenor that there is only one existing electrical connection running since 2014 which is in the name of the Appellant vide

consumer number TT9247 and therefore the reference to NC314218303 as consumer number on the impugned order is erroneous and it has to be decided as one of the main issue as to whether it is an application number or a consumer number and it cannot become subject matter of a preliminary objection.

That the Appellant further craves to state that his appeal is completely maintainable in view of Clause 20 of the JSERC (Guidelines For Establishment of Forum For Redressal of Grievances of the Consumers, Electricity Ombudsman And Consumer Advocacy) Regulations, 2029 as his being a consumer with Consumer Number TT9247 has not been denied by even the Respondent JBVNL and it has not only been recorded but the sanctity of the submissions made by the Appellant before the Learned Forum has been upheld by it. Further the Appellant before preferring the Memo of Appeal had already put forth his grievance as to the fraud committed by the Respondent No. 6 in collusion with the lower rung electricity officials by way of his Cross Complaint / Intervenor Application but was not granted the reliefs sought and therefore he has preferred the instant Memo of Appeal.

The Appellant craves to quote Para 16 of the impugned order “ *So in order to bring all facts relating to the dispute under consideration VUSNF Ranchi allowed Intervenor Petition dated 20.3.2024 in interest of justice*”. In view whereof, the Appellant was duly identified and recognized as a proper and necessary party to the lis and therefore he has each and every right to avail the remedy of Appeal as provided in the statute. It is altogether a different thing that in order to avoid any technical glitch being raised in future, the Appellant also preferred an independent complaint in Form 1 on 13.4.2024 for kind consideration of the learned Vidyut Upbhokta Shikayat Nivaran Forum which after consideration of the entire affairs instead of giving two independent case number allowed the Intervenor application dated 20.3.2024 in interest of justice vide Para 16 / Page 4 of the Order / Judgement dated 12.6.2024. Needless to say that there is a specific provision in Order VIII Rule 6A and 6B of CPC of making a Counter – claim by the defendant which has the same effect as a Cross Suit so as to enable the Court to pronounce a final judgement in the same suit both on the Original Claim and on the Counter - Claim. And

therefore the erroneous reference to Application Number of the Respondent No. 6 as Consumer Number by the Learned Forum on account of her approaching at the first instance without impleading the Appellant does not take away the right of the Appellant to prefer an Appeal if he is prejudiced by the order passed by the Learned Forum.

It is the trite law well established by various judicial pronouncements that – Even a person who is not a party to a suit can file an Appeal with the leave of Court – AIR 1970 SC 1354, AIR 1985 Cal 96, AIR 2013 SC (Supp) 873 whereas the fact remains that the Appellant herein was the most necessary and proper party in this case but was deliberately not impleaded by the Respondent No. 6 at the first instance, which was ultimately taken care of by the Learned Forum in the interest of justice and therefore in the circumstances, the Appellant being aggrieved by the order dated 12.6.2024 passed in case no. 02 of 2024, his appeal is completely and legally maintainable under Clause 15 of the JSERC (Guidelines For Establishments of Forum For Redressal Of Grievances of the Consumers And Electricity Ombudsman) Regulations, 2021.

Response to the Counter Affidavit filed by the Respondent No. 6 the Appellant further craves to state that the fraud committed by the Respondent No. 6, Nayan Devi has equivocally not only pleaded and argued by the Respondent JBVNL and the Appellant but it has been well-established by the findings of the learned forum itself in view whereof, the Appellant is tempted to quote few lines from the judgement rendered by the Hon'ble Supreme Court of India in (1994) 1 SCC 1 to the effect that, *one who comes to the court must come with clean hands. We have no hesitation to say that a person whose case is based on falsehood has no right to approach the court and he can be summarily thrown out at any stage of the litigation. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage.* In the instant case, the fraud committed by the Respondent No. 6 having been well established before the learned forum, the present attempts to designate an application number as a consumer number in addition to filing false affidavits before the

learned forum below, the preliminary objections of the Respondent No. 6 is fit to be rejected at the very threshold and even at this preliminary stage of the proceeding.

5. About the present Appeal : Jaleshwar Mahto, the Intervenor in case no. 02/2024 of the learned Vidyut Upbhokta Shikayat Niwaran Forum, Ranchi has preferred this appeal to impugn the judgement dated 12.6.2024 passed by the learned VUSNF, Ranchi. The memo of appeal has been filed under Clause-15 of the J.S.E.R.C. (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer and Electricity Ombudsman and Consumer Advocacy) Regulations, 2020.

6. Relief sought for in appeal :

To call for the records of the Vidyut Upbhokta Shikayat Niwaran forum, Ranchi in Case No. 02/2024 and upon a perusal thereof, set aside the Impugned Judgment / Order dated 12.06.2024 to the extent that it has directed the Respondents including the Appellant to wait for reconnection till disposal of the pending Partition Suit and its finding without any physical verification that the premise comprising of Plots 543, 562, 563, 565, 566 and 567 are not residential plots rather is barren land which is an error apparent on the face of the record and de hors the material available on record.

7. Operative portion of the impugned order/judgement :

As the petitioner Nayan Devi has tried to take electrical connection fraudulently i.e. with connivance with the outsourcing agency and giving false statements about outstanding dues while applying for the connection. Hence the Court decided to dismiss this case. At the same time the **respondent** is directed to wait for connection / reconnection to either of the parties after clearing the partition suit over the disputed land by competent authority. (emphasis supplied by bolding)

8. Case of the Intervenor / Appellant Jaleshwar Mahto.

The facts adumbrated in brief is that Jaleshwar Mahto came in possession of the R.S plot nos. 543, 562, 563, 565, 566 and 567 of Khata no. 92 situated at village Mahilong, P.S Tatisilwai, District Ranchi in pursuance of a written agreement for sale dated 31.3.1999 executed and entered by all the successors in interest of the Khatiyani Raiyat for a valuable consideration. The successors in interest of the Khatiyani Raiyat delivered possession of the aforementioned lands to the intervenor in part performance of the said agreement. The intervenor after coming in actual cultivating peaceful possession constructed two rooms over a small portion of the said land and is cultivating the land jointly with the successors in interest of the Khatiyani Raiyat. When on account of some personal and operational difficulties, the sale deed was not being executed by the successors in interest of the Khatiyani Raiyat, the intervenor preferred Title Suit no. 91 of 2010 in the court of the Sub judge 1, Ranchi for specific performance of the said agreement dated 31.3.1999, which was ultimately allowed vide judgement and decree dated 20.4.2010; in compliance where of, a registered deed of sale dated 14.5.2010 was jointly executed by all the land owners in favor of the intervenor making his right, title interest ownership and possession absolute over the subject land and two roomed premises. It was in the above factual scenario that the Appellant made an application to the Jharkhand State electricity Board for grant of electrical connection, which application was duly considered by the Authorities in terms with the statute. And it was only after making the necessary verifications as well as conducting the inspection and perusing the documents as stated above is that the Intervener was granted electric connection on 16.6.2014 with allotment of a particular consumer number bearing TT 9247. However when the entire nation was reeling under the impact of deadly covid 19 pandemic and necessary directions were being passed by the Hon'ble Supreme Court of India in Miscellaneous Application No. 21 of 2022 read with Suo Motu Writ Petition (C) No. 3 of 2020 for not taking any coercive actions against the citizen; and both the central and state governments were undertaking wholesome efforts to cope up with the crises, the Respondent JBVNL Authorities without issuing any notice to the Appellant in terms with The Jharkhand State Electricity Regulatory Commission (Electricity Supply Code)

Regulations 2015 disconnected his electric supply to the above stated two roomed premises on account of non clearance of the outstanding dues on 5.3.2020. It is altogether a different thing that with the gradual improvement of his financial situation and after the covid 19 pandemic was over, the Appellant made the payment of outstanding dues amounting to Rupees 40,620 to JBVNL on 12.10.2023. However in the interregnum in collusion with lower rung electricity officials, the Complainant after making a material concealment of facts made an online application bearing No.NC314218303 for grant of electrical connection to the Assistant electrical engineer, who along with the Junior electrical engineer without making any spot inspection, verification whether there are outstanding dues against the premises for which the requisition of supply has been made or perusing any documents granted electrical connection in her name for extraneous considerations. As soon as the Appellant came to Know that an illegal connection has been granted to the said complainant / Respondent No. 6 Nayan Devi on his premises in connection with which the O.S No. 1297 / 2019 (Arising out of Original Partition Suit no. 412 of 2011) is being pursued between the land owners, intervenor and the said Nayan Devi, he by his application dated 9.10.2023 lodged his vehement protest against the illegal actions of the erring Assistant Electrical Engineer and the Junior Electrical Engineer, who discovered the uproar and the fact of their illegal actions, terminated the electrical connection granted to the said Complainant / Respondent No.6 Nayan Devi vide Letter No. 1441 dated 10.10.2023. The circumstances as enunciated above, Complainant / Respondent no. 6 Nayan Devi without impleading the Appellant as Party Respondent preferred the above stated Case No. 02 / 2024 for quashing / setting aside of the said orders as contained in the Letter No. 1441 dated 10.10.2023 and for restoration of electrical connection in addition to other ancillary reliefs. It would not be out of place to mention that she also filed a supplementary affidavit making some additional fraudulent claims. The Respondent JBVNL filed a counter Affidavit in the case and brought out the systematic fraud committed by Complainant / Respondent No.6 Nayan Devi in trying to fraudulently take the electrical connection in connivance with the outsourcing agency and giving false statement about outstanding dues while applying for

the connection on a two roomed premises constructed by the Appellant and on which he was having a prior electrical connection vide Consumer No. TT9247 right since 16.06.2014. It was in the circumstances that on coming to know about the fraudulent complaint preferred by the Petitioner / Complainant / Respondent No. 6 Nayan devi is that the Appellant filed an exhaustive Intervenor Application for his impleadment as Respondent / Cross Complainant in the case and further prayed that his intervention application may also be treated as an independent complaint and his grievance against JBVNL and others be redressed and appropriate directions be passed for restoring his disconnected electric connection. It is altogether a different thing that to discharge the formality of a Cross Complaint he also preferred an independent Complaint in Form – 1 in the above stated Case No. 02 /2024 after placing reliance on the documents and pleading made in the detailed intervenor application filed on 3.4.2024 with a grievance that in spite of a connection existing in his name vide Consumer No.TT9247, his electrical connection was disconnected and fresh connection was given to an imposter and land mafia on his premises on a mere application number. It is further relevant to submit that the Appellant also filed a counter affidavit to the claims of the Complainant / Respondent No.6 Nayan Devi and the Respondent JBVNL on 15.4.2024. A bare perusal of the above stated Counter Affidavit dated 15.4.2024, it would transpire that it was the prime contention of the Appellant that the entire complaint made by the Complainant / Respondent No. 6 Nayan Devi is false, misleading & characterized by fraudulent concealment of facts and since she has not approached this Hon'ble Court with clean hands, the above stated **Case No. 2 of 2024** was fit to be dismissed at the very threshold. While adopting the entire pleadings made in the Intervenor Application along with its annexures, it was also contended that the entire factual matrix as has been illumined in the Intervention application / Cross Complaint was deliberately concealed by the Complainant / Respondent No. 6, while she was applying for electricity connection in the premises of the Appellant wherein the erring Assistant Electrical Engineer and the Junior Electrical engineer without making any spot inspection, verification whether there are outstanding dues against the premises for which the requisition of supply has been made

or perusing any documents granted electrical connection in her name for extraneous considerations and tried to create an evidence of possession for the complainant contrary to umpteen affidavits, enquiry reports and findings of judicial and quasi judicial authorities who equivocally stated that the two roomed premises has been constructed by the Appellant on which he is exercising his peaceful cultivating possession since 31.3.1999 as would also appear from the previous depositions of witnesses and most recent Rent Agreement dated 28.3.2024 executed by the Appellant in favour of the vender of the Complainant and that it was only after proper verification, inspection and perusal of documents is that the electric connection bearing Consumer No. TT 9247 was granted since 16.6.2014 by none other but the Jharkhand State Electricity Board / JBVNL. The fact as it remains no consumer no. was ever issued to the Complainant. The Appellant in order to buttress his submissions relied on the constant pronouncements of the Hon'ble courts to the effect that a litigant who approaches the court, is bound to produce all the documents involved in the litigation and if he withholds a vital document in order to gain advantage on the other side than he would be guilty of playing fraud on the court as well as on the parties to the litigation. And to that effect the Appellant put in verbatim the Judicial opinion rendered by the Hon'ble Supreme Court in the case of D.P Chengalvaraya Naidu Vs Jagannath as reported in 1994 (1) SCC 1 “ One who comes to the Court, must come with clean hands. We are constrained to say that more often than not the process of the court is being abused. Property grabbers, tax evaders, bank loan dodgers and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation. The further submission of the Appellant that the said Complainant / Respondent No. 6 Nayan Devi in collusion with the lower rung officials of the Electricity department managed to get the electric connection on the premises of the Appellant by committing fraud being ably aided by the officials after trampling upon his rights in contravention of Clause 12.3, 12.13, 12.14, 13.5, 13.6, 6.13, 6.10 etc of the JSERC Supply Code read with Section 43 and 56 of the Electricity

Act as also acknowledged and admitted by the Respondent JBVNL in Para 8, 10 to 23 (i) to (iii), 24,29,31,36 of its Counter Affidavit to the effect that the Complainant Nayan Devi has obtained the electric connection by material suppression of facts not only about the pendency of Original Suit No. 1297/2019 (Arising out of Title Partition Suit No. 412 / 2011) but by committing fraud which vitiates everything. Hence, the reasons for termination of the electrical connection of the complainant pursuant to the facts brought forth and divulged by the Appellant is completely legal as concealment about pre existing Bhu Vivaad, pre existing connection with dues on the premises are one of the many instances of fraudulent concealments made by the Complainant Nayan Devi. It was also contended by the Appellant that absolutely false and fraudulent documents has been created to show that the Complainant was running an STD booth by using batteries or that he had dug well as would also appear from the deposition of witnesses namely Rajendra Mahto and Vijay Mahto on behalf of Khatiani Land owners in O.S No. 1297 / 2019 (Arising out of Title Partition Suit No. 412 / 2011) who have categorically stated that the well was constructed by Jaleshwar Mahto and a road side hotel was being run by him from the subject premises. The Appellant also stated that the Complainant, her husband and her goons are devout fraud and Land mafias and had time and again tried to interfere with the peaceful possession of a member of backward caste Appellant in the past also for which regular criminal proceedings and intimations to the police authorities and courts have been taken by him. So far as the Claims of the Respondent No.6 / Complainant Nayan Devi was concerned, it was stated that she claimed to have purchased the same 3.56 Acres of the R.S plot nos. 543, 562,563, 565, 566 and 6567 of Khata no. 92 situated at village Mahilong, P.S Tatisilwai, District Ranchi by way of sale deeds dated 6.6.2001 and 16.7.2002 purported to have been executed by one of the four land owners namely Amrit Mahto and that too by taking undue advantage of his medical insanity in collusion with her husband namely Shiv Dayal Chaturvedi. The said fact would be all the more evident from the Written Statement filed by the Vendor of the Complainant namely Amrit Mahto in O.S No. 1297 / 2019 (Arising out of Original Partition Suit no. 412 of 2011) as also by all the land owners in their counter affidavit

filed in C.M.P No. 151 / 2020 before the Hon'ble Jharkhand High Court wherein it was specifically and categorically stated that while the said Amrit Mahto was suffering from mental illness and mental disorder and had lost all capacity of properly understanding the things, was under medical treatment of Dr. Ashok K. Prasad, Neuro Psychiatrist and specialist of Mental diseases during the year 2000 to 2003 and was also admitted in Rinpas, Kanke, Ranchi, taking undue advantage of his insanity, one Smt. Nayan Devi wife of Sri Sheo Dayal Chaturvedi and her husband put pressure upon him and got executed some sale deeds from him on 6.6.2001 and 16.7.2002. Another aspect of the matter as highlighted by the Appellant was that all the Khatiyani Land owners are by caste Kurmi being members of backward class community and the sale purported to have been made by Amrit mahto to Respondent No. 6 / Complainant Nayan Devi stood hit by Section 46 of the Chhota Nagpur Tenancy Act whereby a member of backward class community can sell his Raiyati land to another member of backward class community who is permanent resident of the district in which the land is situated with the permission of the Deputy Commissioner concerned. The Complainant is / was not a member of the backward class community. No permission of the Deputy Commissioner, Ranchi was obtained prior to execution and registration of the deeds of sale in favor of Complainant and as such the deeds of sale on the basis of which she is claiming to have purchased a portion of the Suit lands were void and perse illegal being in contravention of the mandatory provision of Section 46 of the CNT Act. The said contention stood upheld even by the Hon'ble High Court by way of order dated 16.9.2019 passed in WPC No. 3486 of 2015. That still another aspect of the matter brought forth by the Appellant was that in the then pending Miscellaneous Case no. 01 / 2021 – 22 before the Court of the Additional Collector, Ranchi an enquiry was got conducted by the Court of the Additional Collector, Ranchi after proper site verification and based on the enquiry report of Deputy Inspector, Revenue as forwarded by the Circle Inspector and referred to in Letter no. 1189 (ii) dated 29.9.2021, where in apart from the situational status of Khatiyani raiyat namely Nandu Mahto son of Hulas Mahto, Kaum Kurmi as illumined; the entire contentions of the Appellant as stated above was found to be true and based on

records and documents including the statements of the villagers, the subject land has been stated to be in continuous possession of the Appellant right since 31.3.1999 till date wherein the landowners and the witnesses who deposed on their behalf had categorically stated that they have never seen or met Nayan Devi. From the Written statement filed by Amrit Mahto in Partition Suit no. 412 / 2011 and furnished to the authorities below, it also transpired that in between the period 2000 till the year 2004, while he was suffering from mental illness and mental disorder and had lost all capacity of properly understanding the things, was under medical treatment of Dr. Ashok K. Prasad, Neuro Psychiatrist and specialist of Mental diseases during the year 2000 to 2003 and was also admitted in Rinpas, Kanke, Ranchi, taking undue advantage of his insanity, one Smt.Nayan Devi wife of Sri Sheo Dayal Chaturvedi and her husband put pressure upon him and got executed some sale deeds from him. From perusal of the documents relating to Partition Suit no. 412 / 2011 furnished in course of enquiry, it also transpired that the plaint therein was amended pursuant to the order dated 16. 5. 2015 passed by the Learned Sub Judge VIII, Ranchi in terms that the Plaintiffs and the Defendant nos. 1. & 2 therein were / are by caste Kurmi being members of backward class community and the sale purported to have been made by Amrit Mahto to complainant Nayan Devi stands hit by Section 46 of the Chotanagpur Tenancy Act whereby a member of backward class community who is permanent resident of the district in which the land is situated with the permission of the Deputy Commissioner concerned. The Complainant Nayan Devi was not a member of backward class community. No permission of the Deputy Commissioner, Ranchi was obtained prior to execution and registration of the deeds of sale in favour of Complainant and as such the deeds of sale on the basis of which the Complainant is claiming to have purchased portions of the Suit lands are also in contravention of the mandatory provision of Section 46 of CNT Act. It further transpired in course of enquiry that the above order dated 16.5.2015 passed in Partition Suit no. 412 of 2011 was challenged by the Complainant, Smt. Nayan Devi before the Hon'ble High Court by way of WPC No. 3486 of 2015 which was dismissed on 16.9.2019 by the Hon'ble High Court. It also transpired that when in February 2020, the Complainant tried

to dispossess the Intervenor with the help of anti social elements, an order of status quo identifying the possession of the Intervenor was passed by the SDO, Sadar, Ranchi wherein even the police authorities of the Intervenor on the subject land and even the Complainant herself in her show cause filed in Miscellaneous Case no. 434 / 2020 admitted that the First Party Jaleshwar Mahto is the absolute owner with respect to the aforementioned land and is in peaceful possession over the subject land. The Counter Affidavit of the Respondent JBVNL, it was contended by the Appellant that there was / is a pre existing electrical connection with consumer no. TT9247 in the name of the Appellant on the premises in question right since 16.06.2014 which was illegally terminated / disconnected on 05.03.2020 contrary to the statutory provisions as contained in Clause 12.3, 12.13, 12.14, 13.5, 13.6, 6.13 & 6.10 etc of the JSERC Supply Code read with Section 43 and 56 of the Electricity Act the Respondent JBVNL was under a bounden duty to give immediate reconnection of electricity to the Appellant who is a verified consumer of the licensee JBVNL on the premises in question. The documents / annexures annexed with the Intervener application filed on 03.04.2024 went on to establish the exclusive actual physical possession of the Appellant on the premises in question and the same having been verified, accepted, acknowledged and admitted since 16.06.2014 by the Respondent JBVNL as was also evident from the Order dated 13.01.2024 passed by the Learned Court of the Additional Collector, Ranchi in Misc. Case no. 01 / 2021-22, it cannot question the possession of the Appellant as owner / occupier on the premises in question in terms with Clause 5.11 of the Supply Code read with Section 43 of the electricity Act, 2003. The entire gamut of materials as stated above came up for consideration before the Vidyut Upbhokta Shikayat Niwaran Forum in Case No. 02 / 2024, whereby it vide its Judgement / Order dated 12.6.2024 even while dismissing the case of Petitioner / Complainant / Respondent No. 6, in trying to fraudulently take the electrical connection in connivance with the outsourcing agency and giving false statement about outstanding dues while applying for the connection on a two roomed premises constructed by the Appellant and on which he was having a prior electrical connection vide Consumer No. TT9247 right since 16.06.2014, yet, has

directed the Respondents including the Appellant to wait for reconnection till disposal of the pending Partition Suit. The said illegal directions was passed by the Vidyut Upbhokta Shikayat Niwaran Forum in utter violation of the statutory provisions as contained in the Electricity Act, 2003 and JSERC I Electricity Supply Code) Regulations, 2015 and that too when the entire out standings as against the electrical charges amounting to Rs.40,620/- was paid by the Appellant for reconnection / restoration of the electrical supply. The Forum while not directing for restoration / reconnection of the electrical supply on the premises of the Appellant on account of the fraudulent parallel claims of the Complainant / Respondent No. 6 engineered by the Assistant electrical Engineer and the Junior Electrical engineer who tried to create documents and evidences for the Complainant Nayan Devi for ulterior motives has played truant with the evidence in support of possession of the Appellant in the pending O.S No. 1297 / 2019 (Arising out of Original Partition Suit No.412 / 2011) and thereby has itself become a party to the pending suit. The Impugned Judgement / Order dated 12.6.2024 is not set-aside, the Appellant shall suffer irreparable loss and injury which cannot be compensated in monetary terms.

9. Grounds of Appeal :

The Learned Vidyut Upbhokta Shikayat Niwaran Forum has erred while directing the Respondents including the Appellant to wait for reconnection till disposal of the pending Partition Suit in spite of itself acknowledging that the Complainant / Respondent No. 6, tried to fraudulently take the electrical connection in connivance with the outsourcing agency and gave false statement about outstanding dues while applying for the connection on the two roomed premises (mentioned as barren land by committing an error apparent on the face of record de hors the materials on record) constructed by the Appellant and on which he was having a prior electrical connection vide Consumer No. TT9247 right since 16.06.2014. The Learned Vidyut Upbhokta Shikayat Niwaran Forum has passed the illegal directions in utter violation of the statutory provisions as contained

in the Electricity Act, 2003 and JSERC (Electricity Supply Code) Regulations, 2015 and that too when the entire out standings as against the electrical charges amounting to Rs. 40,620/- was paid by the Appellant for reconnection / restoration of the electrical supply. The Learned Vidyut Upbhokta Shikayat Niwaran Forum while not directing for restoration / reconnection of the electrical supply on the premises of the Appellant on account of the fraudulent parallel claims of the Complainant / Respondent No. 6 engineered by the Assistant Electrical Engineer and the Junior Electrical Engineer who tried to create documents and evidences for the Complainant Nayan Devi for ulterior motives has played truant with the evidence in support of possession of the Appellant in the pending O.S No. 1297/ 2019 (Arising out of Original Partition Suit No. 412 / 2011) and thereby has itself become a party to the pending suit. The Learned Vidyut Upbhokta Shikayat Niwaran Forum failed to perceive that there was / is a pre-existing electrical connection with consumer no. TT9247 in the name of the Appellant on the premises in question right since 16.06.2014 which was illegally terminated / disconnected on 05.03.2020 contrary to the statutory provisions as contained in Clause 12.3, 12.13, 12.14, 13.5, 13.6, 6.13 & 6.10 etc of the JSERC Supply Code read with Section 43 and 56 of the Electricity Act the Respondent JBVNL was under a bounden duty to give immediate reconnection of electricity to the Appellant who is a verified consumer of the licensee JBVNL on the premises in question. The Learned Vidyut Upbhokta Shikayat Niwaran Forum failed to perceive that the documents / annexures annexed with the Intervener application filed on 03.04.2024 went on the establish the exclusive actual physical possession of the Appellant on the premises in question and the same having been verified, accepted, acknowledged and admitted since 16.06.2014 by the Respondent JBVNL as was also evident from the Order dated 13.01.2024 passed by the Learned Court of the Additional Collector, Ranchi in Misc. Case No. 01 / 2021, the Respondent JBVNL was precluded from questioning the possession of the Appellant as owner / occupier on the premises in question in terms with Clause 5.1.1 of the Supply Code read with Section 43 of the Electricity Act, 2003. The Learned Vidyut Upbhokta Shikayat Niwaran Forum failed to perceive that its finding without any physical verification to the

effect that the premise comprising of Plots 543, 562, 563, 565, 566 and 567 are not residential plots rather is barren land was an error apparent on the face of the record and de hors the material available on record and an all together third case was made by the Forum which was not case of any contesting parties.

10. Stand of the Respondent No. 1 to 5 on the question of the Maintainability of Appeal :

The Jharkhand Bijli Vitran Nigam Limited and its Officers, the Respondent No. 1 to 5, remain immune to the question of maintainability of instant appeal.

The respondent number 1 to 5 have filed their joint counter affidavit on 20.3.2025 on merit of the appeal.

FINDINGS

11. The Respondent No. 6 Nayan Devi, has preferred not to give reply to the averments made in the Memo of Appeal. She has raised the issue on the maintainability of appeal based upon the Jharkhand State Electricity Regulatory Commission, Ranchi (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, electricity Ombudsman & Consumer Advocacy) Regulations, 2020.

Before passing on order of admission of this Appeal, this Authority of Electricity Ombudsman had directed the appellant Jaleshwar Mahto to furnish a copy of his “Intervention Petition”, which he had filed before the learned VUSNF, Ranchi. On 25.10.2024, the appellant Jaleshwar Mahto had filed following documents:-

1. Intervention application dated 03-04-2024 along with relevant annexures.
2. Complaint dated 13.04.2024 filed by the Intervenor / Appellant before the Vidyut Upbhokta Shikayat Niwaran forum Ranchi.

3. The counter affidavit filed by the Intervener in case no. 02/2024 with annexures.

On going through the impugned judgement and the documents filed by Jaleshwar Mahto, it is apparent that, the name of Jaleshwar Mahto is available in the cause title of the Judgement dated 12.6.2024 passed in Case No.- 02/2024, by the learned V.U.S.N.F. Ranchi as Intervener. He was a party to the case before the learned Forum. Jaleshwar Mahto had sought certain relief before the learned Forum and the learned VUSNF, Ranchi has rejected his prayer in the impugned judgement. There is nothing on record to show that Jaleshwar Mahto's impleadment as party to the case, had ever been challenged by the petitioner Nayan Devi. Whether Jaleshwar Mahto is/was a necessary party to the case is a question of fact, to be looked into.

In Cause Title of impugned judgement the CONSUMER No - NC314218303 has been mentioned. It is more or less an admitted fact that "NC314218303" is not a consumer number of any person rather an application number of Nayan Devi. Jaleshwar Mahto in his intervention petition has quoted his consumer number as TT9247. It is his case that there was an Electrical Connection over the premises having consumer number TT9247 and Nayan Devi has/had obtained a new electrical connection on the basis of forged documents. The learned VUSNF, Ranchi has held in impugned judgement that - "As the petitioner Nayan Devi has tried to take electrical connection fraudulently i.e. with connivance with the outsourcing agency and giving false statements about outstanding dues while applying for the connection. Hence the Court decided to dismiss this case." And there is nothing on record to establish that Nayan Devi has/had ever challenged this findings & order of the learned Forum.

The materials available on records suggest that there was an electrical connection over the premises having consumer number TT9247. Nayan Devi had not been provided a consumer number, rather got a connection over the premises on the basis of application number. The learned Forum has observed that Nayan Devi has tried to take electrical

connection fraudulently i.e. with connivance with the outsourcing agency and giving false statements about outstanding dues while applying for the connection. Several factors & facts are available in this case, which have to be looked into, at the time of deciding the appeal. Apparently this Appeal bears a mixed question of facts as well as law. The issue regarding maintainability of the appeal can not be and should not be decided outrightly without going through the facts of the case. The raised question of maintainability of the instant appeal, shall be taken up for decision, at the time of final adjudication of appeal.

It is a well settled principle of law that an appeal is a creature of the statute. The right of appeal is not a natural or inherent right and therefore an appeal for its maintainability must have the clear authority of law. Since the right of appeal is a statutory right, there is no reason as to why the legislature while granting the right cannot impose conditions for the exercise of such a right so long as conditions are not so onerous as to amount to unreasonable restrictions rendering the right almost illusory.

If an appeal is not maintainable, a party can raise a preliminary objection to challenge its maintainability. The Appellate Authority will then decide on the objection before proceeding with the merits of the appeal. In essence, the maintainability of an appeal is a threshold issue that must be resolved before the Appellate Authority can consider the substance of the appeal.

In the instant appeal, I find and hold that the question of the maintainability of appeal can not be decided without entering into the merit of the case thoroughly. Several facts & factors are involved with this issue. The issue touching the question of maintainability of appeal requires it to be decided along with other issues at the time of final adjudication of the appeal along with other crucial questions for determination.

Since Nayan Devi has not furnished a detailed counter affidavit, in reply to the averments made in the memo of appeal, an opportunity is being given to the respondent number 6 Nayan Devi to file a counter affidavit in reply to the memo of appeal.

12. In view of my findings and comments made above, it is therefore

ORDERED

that the issue of maintainability of the appeal in light of Clause 20 (3) of The Jharkhand State Electricity Regulatory Commission, Ranchi (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman & Consumer Advocacy) Regulations, 2020, is being kept

IN ABEYANCE

till the final hearing of appeal on merit of case. The instant issue shall be taken up and be decided at the time of the final adjudication of appeal.

There shall be no order of cost. The parties shall bear their own cost. Let a copy of this order be served to the parties to the appeal.

(Dictated & Corrected by me)

Pronounced by me

(G.K.ROY)

(GOPAL KUMAR ROY)

Electricity Ombudsman: Jharkhand.