

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 24th day of January, 2025

Appeal No. EOJ/09 of 2024

(Arising out of judgment passed in Case No. 03 of 2021 by the Learned VUSNF, Ranchi)

Arya Steels Pvt. Ltd. through its Director Sunil Gupta
Son of Shri S. L. Gupta, aged about 55 years,
residing at Vill – Rajaulatu, P.O. & P.S. Namkum, District–Ranchi ----- Appellant

Versus.

1. Jharkhand Bijli Vitran Nigam Limited,
Engineer's Bhawan, Dhurwa, Ranchi - 834004
2. Sri K.K.Verma
The Managing Director, JBVNL,
Engineer's Bhawan, Dhurwa, Ranchi –834004.
3. Sri P.K. Sriwasta (Srivastava)
The General Manager – cum – Chief Manager,

JBVNL, Kusai Colony, Doranda, Ranchi – 834002

4. Sri D.K.Singh

The Electrical Superintending Engineer,

Electric Supply Circle Ranchi.

JBVNL, Kusai Colony, Doranda, Ranchi – 834002

5. Sri Sadhan Laha,

The Electrical Executive Engineer (C & R),

Electric Supply Circle Ranchi,

JBVNL, Kusai Colony, Doranda, Ranchi – 834002

6. Sri Rajesh Mandal,

The Electrical Executive Engineer, ESD – East,

JBVNL, Kusai Colony, Doranda, Ranchi - 834002

-----Respondents

Counsel/Representative

On behalf of Appellant:

Mr. Vikesh Kumar, Advocate

Mr. Abhijit Kumar, Advocate

Mr. Jiwan Kumar Jalan, Chief Consultant & Arbitrator

On behalf of Respondents : None (Record is at the stage of admission)

ORDER

1. The appellant Arya Steels Pvt. Ltd. has filed this appeal to set aside the Judgement / Order of the Learned Vidyut Upbhokta Shikayat Niwaran Forum, Ranchi (hereinafter shall be referred on the VUSNF, Ranchi) whereby the prayer No. (a) of the consumer has been allowed and negated the prayer number (b), (c) and (d).

2. The consumer appellant had sought following reliefs before the learned VUSNF, Ranchi (as mentioned in Para - 2(a) of the impugned Judgement) :-

- I. The petitioner herein prays for issuance of appropriate directions upon the respondent for quashing of the bill dated 10.07.2020 issued for the month of June, 2020 against the petitioner company amounting to Rs. 5,41,103.00/- including penalty bill for Rs.4,55,600.00/- & letter no. 2187/ESE ESC, Ranchi dated 02.09.2020 issued by the respondent no. 4 on the ground of defective meter in total contravention to the specific provision contained in clause 9.5 & 10.3 of the Electric Supply Code (Regulations), 2015 promulgated by Jharkhand State electricity Regulatory Commission which deals with billing to be done by and distribution licensee in case of defective meter of any consumer.
- II. For quashing of the bill dated 11.08.2012 issued for the month of July 2012 issued by the respondent authorities of the then JSEB now JBVNL in favour of the petitioner company by unilaterally changing the billing category of the petitioner company from LTIS demand based tariff of THIS tariff and the same also contained short assessment component without giving any rhyme and reason in total contravention to clause 15.7 (iii) (a) of the Supply Code Regulations, 2005.
- III. For further direction upon the authorities of the respondent JBVNL to refund thereafter the entire excess electricity bill amounting to Rs. 23 lacs and odd with bank rate interest realized by them from the present petitioner company on account of illegal imposition of penalty and change of category against the specific regulations framed by Jharkhand State electricity Regulatory Commission in this regard.

3. **The operating portion of the impugned Judgement of Learned VUSNF, Ranchi :**

Based on the above facts and figures respondent, specially respondent no. 4 is hereby directed to revise the bill pertaining to the month of June 2020 for an amount of Rs.541103/- including penalty bill for Rs. 455600/- on the basis of reading found in the year 2018 (ie. From 4/18 to 11/19) and serve the revised bill within 15 days time from the receipt of this order.

The petitioner is also directed to pay the energy bill within 01 week time from the date of receipt of the revised bill from the respondent.

(B)The prayer of the petitioner in regards of bills pertaining to the month of July 2012 is hereby dismissed on the ground that it is barred by Principles of delay and latches.

(C) As the revision of bills have been resolved with the above direction, the prayer of the petitioner for third party inspection of the meter is also dismissed.

Accordingly with above direction this case is disposed of.

4. The impugned Judgement was passed by the learned VUSNF, Ranchi on **27.10.2023** and the Appeal was filed on **9.10.2024**. The office has reported that there is a delay of 318 days in filing appeal and the 50% of the ordered amount has not been deposited by the appellant.

5. Condonation Petition :

The appellant has filed a delay condonation petition. The petition reads inter alia -

That it is pertinent to mention here that impugned order dated 27.10.2023 was received by the appellant after 16/11/2023 through post as would be evident from the envelope. The certified copy of the entire order sheet was provided to the appellant in April 2024. After collection of certified copy of the orders sheet in April 2024 the appellant approached the concerned authority to settle the dispute which occupied some more time. Thereafter having achieved with no positive response from the Company JUVNL,

the appellant consulted his counsel on 14/8/2024 who advised him to collect certain more documents to prefer appeal. Accordingly, after collection of required documents as suggested by the council, the appellant again approached his council on 02.09.2024 and thereafter a memo of appeal could be prepared and got ready on 10.09.2024. There were no deliberate or intentional latches on the part of the appellant rather he remained all throughout vigilant to pursue the matter. A series of correspondences after receipt of the impugned order, would establish this that at the first instance the appellant tried his best to settle the matter out of the court but all such efforts went in vain and ultimately the appellant had to choose the appellate court.

6. Deposit of 50% of the Ordered amount the learned VUSNF, Ranchi :

On 17.1.2025, the appellant has deposited a Demand Draft of Rs. 80,000/- drawn in favour of the " Jharkhand Bijli Vitran Nigam Ltd." of IDBI – Bank Main Road, Ranchi dated 16.01.2025 having no – 020067. The appellant has filed a petition with the demand draft praying therein to restrain the JBVNL from disconnection of Electric Supply line of the consumer, if he pays current part of bill regularly. It is further prayed that the delay condone petition be allowed.

The appellant in its petition has stated that:- This to bring to the kind notice of this Ombudsman that in spite of our best efforts, the order passed by the Hon'ble VUSNF, Ranchi in the matter of Defective Meter, not shown by the Respondents. Meaning thereby Meter was not defective further showing meter was recorded slow is not correct, further, Monthly Energy Bills are showing Meter Status is O.K. Screenshots of WhatsApp are enclosed with this Appeal / Petition. The order dated 27.10.2023 passed by the Hon'ble VUSNF, Ranchi not complied by the JBVNL in true spirit and revision is still pending with them. Photocopy of the incomplete revision Chart, supplied by the Respondent, is enclosed with this Appeal / Petition. A huge Amount of Interest payable

on Security Money, is pending with the Respondents, since 2007 and now these amounts accumulated to Rs. 20,78,861=00 (approx), detailed calculation chart is enclosed herewith. Since May, 2012, highly inflated wrong energy bills prepared on grounds of THIS Tariff instead of LTIS / Demand Base Tariff and served to the Consumer for payment and realized a huge amount in excess, under the threats of disconnection of the electric supply line of their premises. Detailed Calculation Chart is under preparation and works held – up due to want Tariffs from 2018 onwards. However, we have approached to the Hon'ble Jharkhand State Electricity Regulatory Commission, Ranchi for supply of one copy of the Tariffs from 2018 and onwards. This is to bring to the kind notice of this Ombudsman that nothing is due with the JBVNL, through the petitioner is making payment of Current part of bill regularly further making series of objections since long back and making counter claims for refund of certain amounts. This Ombudsman has passed an order to deposit 50% of the disputed amount. In this connection, Petitioner would like to submit that amount of demand is disputed and not determined, however, just to honour the Order of the Ombudsman, Ranchi, Petitioner is depositing a Demand Draft of IDBI BANK, OMNIPAY, 020067 dated 16-01-2025 in favour of Jharkhand Bijli Vitran Nigam Limited, Ranchi for Rs.80,000=00 only. This is to bring to your kind notice that there is a need of revision and correction of wrong energy bills, as per terms of Tariff and Hon'ble Court's Order but in spite of our best efforts and supports revision and correction not done by the Officials of the JBVNL. Instead of this, the Officials of the JBVNL, Ranchi are pressing hard for payment of disputed amounts and regularly threatening to disconnect the electric supply line of the premises of the consumer in place of revision and correction of Monthly Energy Bills.

FINDINGS

7. In this appeal, before passing an order on admission, this Authority has to find out the answer of the two following question:

- I. Whether the provision of deposit of 50% of the ordered amount, as ordered by the learned VUSNF, Ranchi, is mandatory?
- II. Whether the Electricity Ombudsman, Jharkhand is authorized under These Regulation, 2020 to Condone the delay beyond 60 days?

8. Crucial Question - I : Whether the provision of deposit of 50% of the ordered amount, as ordered by the learned VUSNF, Ranchi, is mandatory?

The appellant in his petition dated 16.1.2025 at Para 6 has stated that though the Ombudsman has passed an order to deposit 50% of the disputed amount, the amount of demand is disputed and not determined. The appellant has furnished a demand draft of TOKEN AMOUNT of Rs. 80,000/- on the pretext that demand draft in being deposited to honour the order of this Authority. The appellant has taken a plea that a huge amount of interest payable on security money, which is pending with the respondents since 2007 and now the amount accumulated to Rs.20,78,861/-

The Clause - 15 of the Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances electricity Ombudsman and Consumer Advocacy) Regulations 2020 (hereinafter shall be referred as These Regulations, 2020 reads as follow :

15. Appeal / Representation

Any consumer aggrieved by an order made by the Forum(s) may prefer an appeal / representation against such order to the Electricity Ombudsman within a period of thirty days from the date of the receipt of the order, in such form and manner as may be laid down in these Regulations.

Provided further that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of thirty days if sufficient cause is shown for not filing the appeal within that period; but not exceeding a maximum period of 60 days from the date of receipt of the order.

Provided, further that the Electricity Ombudsman shall entertain no appeal by any consumer, who is required to pay any amount 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.

The second proviso of Clause - 15 of These Regulations, 2020 is relevant. It says that the Electricity Ombudsman is not authorized to entertain an appeal unless at least 50% of the ordered amount has been deposited by the consumer.

8.1 The record is at the stage of admission. At this juncture, I am not supposed to enter into the merit of the appeal and to find out as to whether the security money has accumulated to Rs.20 Lakh 78 Thousand (approx) or not. These Regulations 2020 does not empower the consumer appellant from depositing 50% of the ordered amount on the ground of his accumulated security money with interest. The appellant has himself admitted that he has not deposited 50% of the ordered amount of the learned VUSNF, Ranchi rather a token amount has been deposited. The operation portion of the order says that the Electricity Bill of Consumer generated in the month of June 2020 was for an amount of Rs.5 Lakh 41 Thousand (Approx). The learned Forum had directed Distribution Licensee to revise the bill, on the basis of reading found in the year 2018 (from April 2018 to November 2019) within 15 days of order (i.e. on 27.10.2023) and the consumer was directed to pay the bill within one week.

The Consumer appellant neither disclosed the revised bill amount nor has deposited 50% of the ordered bill amount.

8.2 I have gone through Clause 15 of the Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of the Consumer Grievances, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020 thoroughly. The Regulations do not provide any discretion to the Electricity Ombudsman

to proceed with appeal by accepting a fraction of the ordered amount. To my judicial approach, since the provision of pre-deposit is mandatory in nature for the Electricity Ombudsman under Regulation - 15 of the J.S.E.R.C. (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020, to my dogma I am not authorized to waive the pre-deposit condition and the Electricity Ombudsman has got no discretion to waive it.

In a case of **Kotak Mahindra Bank Private Limited vs. Ambuj A. Kasliwal and others** reported in **(2021) 3 SCC 549** Their Lordships of Hon'ble Apex Court have been pleased to held that- *“Section 21 of the Recovery of Debts and Bankruptcy Act, 1993 employs the phrase “appeal shall not be entertained” indicates that it injuncts the Appellate Tribunal from entertaining an appeal by a person from whom the amount of debt is due to the Bank, unless such person has deposited with the Appellate Tribunal, fifty percent of the amount of debt so due from him as determined by the Tribunal under Section 19 of the Act. The proviso to Section 21, however, grants the discretion to the Appellate Tribunal to reduce the amount to be deposited, for reasons to be recorded in writing, but such reduction shall not be less than twenty-five percent of the amount of such debt which is due. Hence the pendulum of discretion to waive pre-deposit is allowed to swing between fifty percent and twenty five percent of the debt due and not below twenty five percent, much less not towards total waiver”.* (emphasis supplied by underlining)

In another case of **Narayan Chandra Ghosh vs. UCO Bank and others** reported in **(2011) 4 SCC 548** Their Lordships of Hon'ble Apex Court have been pleased to held that- *“The requirement of pre-deposit under sub-section (1) of Section 18 of the SARFAESI ACT, 2002 is mandatory and there is no reason whatsoever for not giving full effect to the provisions contained in Section 18 of the Act. In that view of the matter, no court, much less the Appellate Tribunal, a creature of the Act itself, can refuse to give full effect to the provisions of the statute. We have no hesitation in holding that deposit under the second*

proviso to Section 18 (1) of the Act being a condition precedent for preferring an appeal under the said section, the Appellate Tribunal had erred in law in entertaining the appeal without directing the appellant to comply with the said mandatory requirement".
(emphasis supplied by underlining)

It becomes crystal clear that where pre-deposit is a mandatory condition for filing an appeal, the authority being a creature of the Act itself, cannot waive the mandatory condition of pre-deposit by taking adieu from the mandatory provisions.

The consumer appellant Arya Steels Pvt. Ltd. in spite of my repeated direction to deposit 50% of the ordered amount of the learned Forum, has preferred not to comply with the directions in toto rather deposit a fraction amount.

9. Crucial Question : II - Whether the Electricity Ombudsman, Jharkhand is authorized under These Regulation, 2020 to condone the delay beyond 60 days?

A question crops up in my mind as to whether the Electricity Ombudsman has been authorized under These Regulations, 2020 to condone delay for a non-restricted period and entertain an appeal? The present appeal has been preferred to impugn the Judgement / Order passed by the learned Vidyut Upbhokta Shikayat Nivaran Forum(VUSNF), Ranchi passed in Case No- 03/2021 on **27.10.2023**. The appeal has been filed before this Authority on **09.10.2024** i.e. after the lapse of three hundred forty eight days.

The First 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 prescribes that –

“ Any consumer aggrieved by an order made by the Forum(s) may prefer an appeal/representation against such order to the

Electricity Ombudsman **within a period of thirty days from the date of the receipt of the order**, in such form and manner as may be laid down in these Regulations.

Provided further that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of thirty days if sufficient cause is shown for not filing the appeal within that period; **but not exceeding a maximum period of 60 days** from the date of receipt of the order.

Provided, further 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 bolding)

It is very much clear that an Appeal / Representation before the Electricity Ombudsman may be preferred within a period of 30 days from the date of the receipt of order. These Regulations, 2020 provides a discretionary power to the Electricity Ombudsman to entertain an appeal after expiry of 30 days **but not exceeding a maximum period of Sixty days from the date of receipt of the order.**

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 have been formulated by the Jharkhand State Electricity Regulatory Commission, Ranchi in exercise of power conferred on it by Section 181 of the Electricity Act, 2003 read with Section 42 Sub-Sections (5) to (7) of the Act.

The restrictions imposed upon the Electricity Ombudsman are mandatory in nature and are binding upon the Electricity Ombudsman. Clause 15 of These Regulations, 2020 authorises the Electricity Ombudsman to condone delay for a maximum period of 30 days only. These Regulations, 2020 don't empower the Electricity Ombudsman to entertain an appeal after expiry of maximum sixty days from the date of receipt of order.

To my judicial approach, since the provision is mandatory in nature for the Electricity Ombudsman under Clause - 15 of the J.S.E.R.C. (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020, I am not authorized to condone delay beyond 60 days in total from the date of receipt of the order. The Electricity Ombudsman has got no discretion to allow the petition of appellant to condone delay exceeding a maximum period of 60 days.

10. Now a question may arise about the fate of the demand draft drawn in favour of the Jharkhand Bijli Vitran Nigam Limited of Rs. 80,000 (Eighty Thousand Only). The phrase - "unless the consumer has deposited in the prescribed manner" has been used in Clause 15 of These Regulations, 2020 regarding deposit of 50% of the ordered amount of the learned Forum.

The consumer appellant had not approached the distribution licensee for depositing a fraction of the said ordered amount of the learned Forum and preferred to deposit the demand draft before this Authority for the reasons best known to the appellant.

To my dogma, it is not required to discuss the "Prescribed Manner" for depositing an amount to the distribution licensee by any consumer to encumber the order. The distribution licensee is at liberty to receive the demand draft from this office and get it credited to account.

11. On the basis of my finding & comments made above, it is therefore

ORDERED

that the appeal be and same is

REJECTED

at the stage of admission itself. There shall be no order of cost. Let a copy of this order be supplied to the parties.

(Dictated & Corrected by me)

Pronounced by me

(G.K.ROY)

(GOPAL KUMAR ROY)

Electricity Ombudsman : Jharkhand