

BEFORE THE ELECTRICITY OMBUDSMAN, JHARKHAND
4th floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001

Case No. EOJ/04/2013

JSEB through its Chairman & others Appellant(s)

Versus

Shanti Siddha Swayam Sahayata Samuha Respondent(s)

Present:

Electricity Ombudsman : Sri Ramesh Chandra Prasad
Counsel for the Appellant : Sri Rahul Kumar
: Sri Prabhat Singh
Representatives of the Respondent : Sri. Ajay Kujur
: Sri Raju Kumar Nagdwar

The Appeal No. EOJ/04/13 was taken up by Electricity Ombudsman for passing orders. Upon perusing the above appeal and the connected records pertaining to the case and having stood over the consideration before Electricity Ombudsman till this day, the following order is hereby passed:

ORDER

(Passed on this 11th day of August, 2014)

1. Prayer of the Appellant:

The prayer in the above appeal is to issue appropriate directions quashing the Order dated 19.08.2013 passed by Hon'ble Vidhut Upbhokta Shikayat Niwaran Forum (hereafter referred to as VUSNF), Ranchi in Case No. 28 of 2012.

2. Facts of the Case

2.1 Shanti Siddha Swayam Sahayata Samuha consisting of 46 members had applied to concerned officer of Jharkhand State Electricity Board (hereafter referred to as JSEB) for providing new domestic electric connection to all of them and deposited requisite fee on 08/02/2012. An estimate for providing additional installation of 1x100 KVA Distribution Substation and HT & LT line extension at Gagi Toli under Electric Supply Subdivision, Dhurwa, Ranchi was framed. The estimate was sanctioned by the Electrical Executive Engineer, Electric Supply Division, Doranda in January, 2012 under Annual Development Programme (hereafter referred to as ADP) and subsequently requisition was made to the Central Store for release of materials by the concerned engineer. The Electrical Superintending Engineer had also ordered on 11/12/2012 to the concerned officer for release of the requisitioned materials.

2.2 Subsequently, the Electrical Superintending Engineer, Electric Supply Circle, Ranchi had stated in his letter dated 21/2/2013 that the electrification work of village Gagi Toli comes under the scope of M/s NESCL (a subsidiary of NTPC ,a PSU of Govt. of India) under scheme RGGVY/JH-14/06-07 under Ratu Block ,main village-Sembo with Census Code 02495100,which falls under Nagri Block after bifurcation .In the aforesaid letter the Electrical Superintending Engineer had revealed that by mistake, some materials were requisitioned from Central Stores for electrification of the same Toli under ADP.

2.3 Gagi Toli which falls under the jurisdiction of Sembo village identified as revenue village- 0042, Census Code 02495100 could not

be electrified due to some pretext or other. On being deprived of getting electric supply connection, the applicants approached VUSNF for Redressal of their grievances in respect of electricity connection.

2.4. The learned VUSNF, Ranchi passed an order in favour of Shanti Siddha Swayam Sahayata Samuha issuing direction to JSEB to complete the electrification work of Gagi Toli under main village Sembo latest by 10.10.2013, else a cost of Rs. 20/ per day per person has to be paid to all the applicants from 11.10.2013 onwards.

2.5 Being aggrieved by the order of VUSNF , JSEB preferred appeal before Electricity Ombudsman to set aside the order dated 19.08.2013 passed by learned VUSNF, Ranchi in case no. 28/2012.

2.6 M/s NESCL, the nodal agency authorized to carry out village electrification work of unelectrified/electrified villages in the district of Ranchi under Rajiv Gandhi Grameen Vidutikaran Yojna (hereafter referred to as RGGVY) had written letter to the Electrical Superintending Engineer, Electric Supply Circle, Ranchi that the aforementioned village Gagi Toli has been covered under RGGVY and the said work will be completed by December, 2013. However, the said work was not done within the said time line given by learned VUSNF in its order dated 19.08.13 in case no. 28/2012.

3. Contention of the Appellant:

3.1 The learned counsel of JSEB submitted that the Learned VUSNF, Ranchi has raised some facts beyond their jurisdiction pertaining to finalization of Tola's of main village Sembo, whimsically so far as census number is concerned, because the census number, block declaration is the work of the administration.

3.2 Further, he submitted that the electrification work of unelectrified/de-electrified villages of Ranchi district is to be carried by M/s NESCL (a subsidiary of M/s NTPC Electric Supply Company Ltd. a PSU of Govt. of India) under flagship programme of Government of India known as Rajiv Gandhi Grameen Vidyutikaran Yojna (RGGVY) under Plan 2013-14.

3.3 Reference was taken from the provisions of Section 43 of the Electricity Act, 2003 which is being quoted herein below:

“Duty to supply on request.-[Save as otherwise provided in this Act, every distribution licensee shall on an application by the owner or occupier of any premises, give supply of electricity to such premises within one month after receipt of the application requiring such supply: Provided that where such supply requires extension of distribution of mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.”

3.4 The learned Counsel further submitted that the agency which has been allotted work for electrification of village in question is not the JSEB and, therefore, the appellant cannot be fastened with the liability of compensating the respondent. Moreover, the respondents also not come under the purview of “consumers” as defined in Section 2(15) of the Electricity Act, 2003, which reads as below:

“consumers” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

3.5 The learned counsel submitted that the work in question has since been done and power supply connection to all the 46 respondents have been given in July, 2014 by NESCL, so now there is no cause of action and therefore, order dated 19.08.2013 passed by learned VUSNF Ranchi in case no. 28/2012 may be set aside.

3.6 The learned counsel made reference to Clause 6.2 of Electricity Supply Code wherein proposed Guaranteed Standards of Performance and Level of Compensation to Consumer for Default in Each Case has been given very categorically. The manner of compensation claims shall be dealt with in the following manner-

Automatic:

This mode of payment requires the licensee itself to calculate and pay the compensation amount to the affected consumer automatically, following non-compliance to a particular guaranteed standard. However, the consumer may approach the Licensee to claim compensation.

To be claimed:

This mode of payment requires the consumer to bring to the notice of the Licensee that the standard has been violated and accordingly claim the compensation amount from the Licensee. Customer shall be

issued a receipt of complaint and a unique complaint no. for reference. No claim shall be entertained if complaint is lodged after 15 days of the occurrence of violation of guaranteed standard.

3.7 The Learned counsel submitted that on the basis of laid down procedure, the respondents were required to act but they did not approach the Licensee (JSEB) for compensation. Therefore, on the basis of aforesaid submission, the direction of VUSNF to JSEB imposing cost of Rs. 20/ per day per person to be paid to all the applicants from 11.10.2013 onwards is fit to be set aside.

4. Contentions of the Respondent:

4.1 The Respondent i.e. Shanti Siddha Swayam Sahayata Samuha in the instant appeal through their active members namely Sri Raju Nagdwar and Sri Raju Kujur submitted that they are statutorily entitled as per the provisions of section 43 of the Electricity Act, 2003 which cast a legal duty of the Appellants to supply electricity on demand within thirty days from the date of application.

The Respondent submitted that on application of members of the respondents, the Appellants sanctioned the estimate and issued work order for the purpose of grant of electric connection. Subsequently, the Appellants just to distract the Learned VUSNF dragged the issue to rural electrification. The electrification of all other nearby villages were carried out but, the village Sambo which is the main village of the locality was deleted by the Appellants without any reason.

They further submitted that the Appellants took the stand that the electrification of village in question will take at least six months time and therefore, prayer for extension of time before the Jharkhand State Electricity Commission (hereafter referred to as JSERC) is

required as per the provisions of Section 43 of the Electricity Act, 2003. However, the Appellants have completely overlooked all the mandatory provisions and adamant to act at their whims. They reiterated that the Learned VUSNF has simply followed the statutory provisions as provided under section 43 of the Electricity Act, 2003 and taken cognizance on the careless and reckless stand/attitude of the Appellants and directed to complete the electrification of Gagi Toli under main village Sambo latest by 10.10.2013 failing which each of the 46 applicants for the new service connection shall be entitled to get Rs.20 per day from the respondent Board since 11.10.2013 onwards till they are provided with service connection as service penalty as provided in Clause 3 of Sec. 43 of the Act .The respondents are consumers as defined under clause 2 (e) (i) of the (Guidelines for establishment of forum for Redressal of grievances of the consumers and Electricity Ombudsman)Regulation,2005 issued by the JSERC.

In course of final hearing Sri Nagdwar and Sri Kujur categorically submitted that the electric connection to all 46 applicants have since been given therefore now, Respondents do not have any grievances what so ever against JSEB.

5. Hearing held by the Electricity Ombudsman:

In order to enable both the Appellant and the Respondent to put forth their views, final hearing was held at length by the Electricity Ombudsman on 31st July, 2014.

6. Issues involved:

1. Whether electrification work pertaining to giving power supply to all 46 applicants has been completed by JSEB within time line given by VUSNF?

2. Whether penalty imposed by VUSNF requires waiver/interference in the event of delayed completion of electrification work in village Gagi Toli under Nagri Block, Ranchi.

Issue No 1:

There is no dispute regarding submission of application for domestic connection by all 46 applicants of the Shanti Siddha Swayam Sahayata Samuha residing in village Gagi Toli under Nagri Block. Inordinate delay in giving electric connection by JSEB appears to be because of initially taking the instant work under ADP (Annual Development Programme) by the concerned officers of J.S.E.B. Admittedly, the applicants deposited security money with the concerned officer of JSEB at Ranchi on 08/ 02/ 2012 but the work could not be performed probably because of incorrect work head.

In fact, the entire exercise of framing estimate, issue of work order, requisition for issue of material from store etc. was done when RGGVY programme was already in place since April, 2005 in the State of Jharkhand. Electrification of all unelectrified/de-electrified villages /hamlets in the State was covered under the aforementioned programme.

The Annual Development Programme mainly deals with strengthening of power distribution network in the State. Hence, issuing of work order pertaining to new electric supply connection to 46 applicants of un-electrified Gagi Toli under ADP is not justified. This causes inordinate delay in implementation of the aforesaid work.

It is beyond doubt that the concerned officer who prepared the estimate of Gagi village was fully aware of the ongoing scheme RGGVY. Under what circumstances Junior Electrical Engineer

prepared the estimate and the concerned Executive Engineer accorded technical sanction and subsequently issued work order is a matter of probe. Therefore, considering the relevant work under ADP shows gross negligence on the part of officers of JSEB working during that period. In fact they should have forwarded the proposal to NESCL for taking up the work in question.

However, NESCL had informed vide their letter dated 10/09/2013 addressed to the Electrical Superintending Engineer, Electric Supply Circle, Ranchi that electrification of Gagi Toli under Sembo village, Census code 02495100 of Ratu Block presently in Nagri Block will be executed by December, 2013.

The crux of the entire exercise is that the concerned officials should not have taken the work of village Gagi Toli under Annual Development Programme which mainly deals with strengthening of power distribution network. Therefore, issuing of work order under ADP to give electric connection to un-electrified Gagi Toli is not justified. This causes inordinate delay in implementation of the work pertaining to giving electric supply to 46 applicants.

The physical status of the work now is that electric connection has been given to all 46 applicants of village Gagi Toli in July, 2014. Status report submitted by the Petitioner reveals the aforementioned fact.

The concerned officials of JSEB can not be said to be ignorant about the on going flagship programme RGGVY in the State of Jharkhand. Appropriate action is required from the JSEB against the erring officials for initiating the relevant work under wrong head "ADP".

Though, delay has taken place in implementation of the work but the Respondents are happy and satisfied after getting new electric supply connection and they have submitted before the Electricity Ombudsman that now they do not have any grievances against JSEB.

Therefore, the first issue is resolved.

Issue No.2

As far as manner of payment of compensation amount which has been ordered in the shape of penalty for delay in execution of electric connection work to 46 applicants by the learned VUSNF is concerned, reference herein is being taken from Schedule II of **Guaranteed Standard of Performance.**

The compensation claims shall be dealt with in the following manner:

a) Automatic:

This mode of payment requires the licensee itself to calculate and pay the compensation amount to the affected consumer automatically; following non-compliance to a particular guaranteed standard. However, the consumer may approach the licensee to claim compensation.

b) To be claimed:

This mode of payment requires the consumer to bring to the notice of the Licensee that the standard has been violated and accordingly claim the compensation amount from the Licensee. Customer shall be issued a receipt of complaint and a unique complaint no. for reference. No claim shall be entertained if complaint is lodged after 15 days of the occurrence of violation of guaranteed standards.

From perusal of material on record and submission made by both the parties, it reveals that no claim has been made by the Respondents before JSEB.

The Respondents through their representatives namely Sri Ajay Kujur and Sri Raju Kumar Nagdwar present in person before the Electricity Ombudsman have submitted that though there was delay in providing power supply to 46 applicants of village Gagi Toli by JSEB, still they are satisfied and do not have any grievances ,whatsoever, against the Appellant.

Therefore, this issue is also resolved.

Conclusion:

Based on the findings as above, the Petition/Appeal is hereby disposed of.

Let a copy of the order be served to both the parties.

Sd/-
Electricity Ombudsman