

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

Appeal No. EOJ/04/2010

Dated- 31st August, 2010

M/s S. N. L. Bearings Ltd.	Appellant(s)
	Versus	
JSEB through its Chairman & others	Respondent(s)

Present:

Shri Arun Kumar Datta	Electricity Ombudsman
Shri D.K. Pathak	Advocate for appellant
Shri Vijay Gupta	Advocate for appellant
Shri Rajesh Shankar	Counsel for respondent Board
Shri Abhay Prakash	Addl. Counsel for respondent Board

J U D G E M E N T

1. This is an appeal filed by the appellant/M/s S.N.L. Bearings Ltd. against the order/Judgement dated 06/05/2010 passed in case No. 02 of 2008 by the Learned Vidyut Upbhokta Shikayat Niwaran Forum (In short to be referred as VUSNF) of JSEB, Ranchi.
2. The brief fact of this case is that the appellant/ M/s S.N.L. Bearings Ltd. is an consumer of the respondents/JSEB bearing Consumer No.PM-1879 under the HTS mode of the current tariff published by the Jharkhand State Regulatory Commission (In short to be referred as JSERC) having contract demand of 667 KVA and the electrical connection of the appellant/ M/s S.N.L. Bearings Ltd. was energized on 04/01/1996 with a contract

demand of 900 KVA but by virtue of an agreement dated 07/08/2001 the contract demand of the appellant was reduced from 900 KVA to 667 KVA.

3. The further case of appellant/ M/s S.N.L. Bearings Ltd. is that the meter of appellant was burnt on 01/10/2007 due to high voltage which was reported by the appellant to the concerned authorities of the respondent/Board and thereafter the concerned Assistant Electrical Engineer, (Supply), Ratu Chatti visited the premises of the appellant and removed the meter. Thereafter the appellant's connection was again energized but after energization of the connection the insulation of the appellant's transformer was found poor therefore the Assistant Electrical Engineer, (Supply), Ratu Chatti made a written application for stoppage of supply because of break down of its transformer, and requested to stop the supply till the transformer gets repaired. On 01/10/2007 the electrical connection of the appellant was disconnected on the application of the appellant/consumer. The concerned Assistant Electrical Engineer (Supply), Ratu Chatti after disconnecting the electrical connection of the appellant had also made a disconnection report stating therein that the incoming supply has been stopped and also directed to the appellant not to joint the connection before prior information and proper order. Thereafter the appellant removed its transformer and sent it for repairing. After the transformer was repaired then on 23/11/2007, the appellant requested the concerned authority to visit its premises and inspect/charge the transformer and energise its electrical connection. Thereafter the concerned authority visited the premises of the appellant and after inspection the appellant's electrical connection was energized on 24/11/2007. Thus, according to the appellant the power supply of the appellant remained disconnected and stopped and therefore the appellant did not consume any power at all during the aforesaid period and as such there is no question of raising energy charges during the aforesaid period. But the respondent/Board can charge only the MMG Charges for the aforesaid period and the proportionate average energy charges for the period 24/11/2007 to 30/11/2007 which the appellant is ready to pay. But the respondent/JSEB have raised the energy charges for the month of October, 2007 and November, 2007 on average basis ignoring the fact that during the aforesaid relevant period there was no consumption of electricity by the appellant/consumer. The appellant after receiving the energy bill for the month of October, 2007 raised its objection vide representation dated

28/11/2007 before the Electrical Executive Engineer (C & R), Doranda, Ranchi, against the raising of energy charges for the month of October, 2007 and also requested not to charge the energy charges in the next month for the period 01/11/2007 to 23/11/2007 but no decision/order has been passed by the concerned authorities. Thereafter the appellant vide its representation dated 04/12/2007 approached before the General Manager-cum-Chief Engineer, Ranchi stating the entire aforesaid facts and also prayed for correction of energy bill for the month of October, 2007. The appellant had to pay 50% of disputed bill under protest to avoid the disconnection of its electrical connection. But in spite of several requests made by the appellant the concerned authority did not revise the energy bills of the appellant nor any order was passed on the representation of the appellant and on the other hand the respondent/Board had issued a demand notice under Section 56 of the Electricity Act on 13/12/2007 threatening the appellant for disconnection of electrical connection of the appellant in the event of non payment of energy dues. The appellant on the threat of disconnection made a part payment to the tune of Rs. 2,13,968/- vide Cheque dated 28/12/2007 against the bill for the month of 10/2007 which was received by the Assistant Electrical Engineer, (Supply), Ratu Chatti, Ranchi for which no receipt was given to the appellant for aforesaid payment. Thereafter the appellant filed a complaint before the learned VUSNF of JSEB, Ranchi on 10/01/2008 and the case of appellant was fixed on 24/01/2008 as the Learned VUSNF was not available. On 13/12/2007 the respondent/JSEB on the strength of disconnection notice visited the premises of the appellant for disconnecting the electric connection, therefore to avoid disconnection the appellant was compelled to pay 50% of the demand notice on 23/01/2008. The case of the appellant was heard by the learned VUSNF on 24/01/2008 but as the learned counsel of the appellant was not aware that on 23/01/2008 50% of the demand notice was paid by the appellant to the respondent/Board therefore this fact could not be brought to the notice of the learned VUSNF and as such the learned VUSNF on the same day directed that if the appellant pays Rs. 3,40,000/- against the impugned bill then no coercive step shall be taken against the appellant. On 31/01/2008 the appellant represented before the Electrical Superintending Engineer, Electric Supply Circle, Ranchi and intimated him about the order dated 24/01/2008 passed by the learned VUSNF of JSEB, Ranchi and requested for adjustment of excess paid amount in the bill

for the month of January, 2008 which was refused by the respondent/Board. The respondent/Board again issued a disconnection notice on 12/01/2008 which was received by the appellant on 15/02/2008 in spite of the order dated 24/01/2008 passed by the learned VUSNF of JSEB, Ranchi. As such the appellant challenged the disconnection notice dated 12/02/2008 before the learned VUSNF of JSEB, Ranchi and prayed for protection against the disconnection by filing an interlocutory application, which was heard on 28/02/2008 and the learned VUSNF had directed to the appellant that if he pays Rs. 2,00,000/- against the disconnection notice dated 12/02/2008, the electrical connection of the appellant shall not be disconnected and further directed that the balance amount of the notice along with D.P.S. thereon shall be kept in abeyance. On 28/02/2008 the respondents/JSEB visited the premises of the appellant at about 2.00 P.M. for disconnecting the electrical connection of the appellant on which the appellant informed the authorities of the respondents/Board about the order dated 28/02/2008 passed by the learned VUSNF of JSEB, Ranchi but the authorities of the respondents/Board had insisted for certified copy of the order of the learned VUSNF and ultimately authorities of the respondents/Board had disconnected the electrical connection of the appellant on 28/02/2008 at 2.40 P.M. Thereafter the appellant approached before the authority of respondents/Board with a copy of the order dated 28/02/2008 itself and requested for restoration of its electrical connection. The appellant requested all the authorities of the respondents/Board and the Electrical Superintending Engineer, Ranchi Circle at last agreed to sought an opinion from the learned Sr. Law Advisor, JSEB and the direction dated 04/03/2008 passed by the learned Sr. Law Advisor, JSEB, the respondents/Board deliberately sat tight over the matter for two more days and finally reconnected the electrical connection on 07/03/2008. Because of illegal disconnection for 8 days the appellant's production substantially reduced and as such the appellant has suffered the loss of Rs. 17.92 lakhs. Besides it the appellant had to bear the cost of H.S.D. to the tune of Rs. 3, 55,880/-. Besides it the appellant also suffered heavy loss because of cancellation of several works order as well as market reputation and goodwill. Therefore the appellant has prayed for compensation of Rs. 50 lakhs for the loss suffered by it due to illegal and arbitrary action of the respondents/Board.

4. On the basis of aforesaid facts the appellant has prayed for quashing the energy bills for the month of October and November, 2007 by which the respondents/Board have raised energy charges on average basis instead of Minimum Monthly Gurantee (M.M.G.) Charges for the aforesaid period during which there was no power supply to the appellant and the appellant has also prayed for awarding suitable compensation for the loss caused to the appellant because of deliberated illegal disconnection made by the respondents/Board while flouting the interim order passed by the learned VUSNF of JSEB, Ranchi.

5. The case of respondents/JSEB in brief is that the bills prepared for the month of October and November, 2007 is completely in accordance with law because in the event of meter being out of order i.e., either it is burnt/stopped or having ceased to function for any reasons during any month, the consumption for that month the bill is required to be assessed on average consumption of previous three months from the date of meter being out of order or the average consumption for the corresponding three months of the previous year's whichever is the higher. Such consumption will be treated as actual consumption for all practical purposes until the meter is replaced or rectified. Accordingly, the average charges for the month of October, 2007 and November, 2007 were calculated because the metering unit of the appellant was defective. The further case of respondents/JSEB is that the power has been regularly supplied from 11 KV outgoing feeder of Ratu P.S.S. to the appellant and therefore the case of appellant can not be accepted that the transformer of the appellant was burnt on 01/10/2007 and there was no supply till 23/11/2007 and therefore the bills for the said period can not be prepared on MMG basis and as such the bill of the appellant for October, 2007 and November, 2007 have been raised as per relevant tariff. According to the respondents/JSEB the Assistant Electrical Engineer is not competent for disconnection of line of any HT consumer, without notice from Electrical Superintending Engineer, Ranchi. When the transformer was defective then there is no meaning of further disconnection by the Assistant Electrical Engineer. After repairing of the transformer as stated by the appellant, the appellant was required to get the test report from the Electrical Inspector who is the only competent authority to allow re-energization of the transformer. According to the respondents the aforesaid necessary requirements were not completed by the appellant

and it purportedly commissioned its transformer without observing required norms and therefore the case of the appellant can not be accepted. The appellant without taking any clearance from the Electrical Inspector and in presence of any competent authorities of the respondents/Board the transformer of the appellant was energized and as such the story of defect in the transformer and its rectification cannot be accepted. The story of non-availability of power from 01/10/2007 to 23/11/2007 is not correct because if the transformer was defective even after its repair, the permission was to be sought from the Electrical Inspector, and it would have been commissioned in presence of Board's officials as such according to the respondents/JSEB the metering unit of the appellant was defective. Because the metering unit was defective as per the Assistant Electrical Engineer's report dated 05/10/2007 and the Electrical Superintending Engineer, Electric Supply Circle, Ranchi also informed the appellant to make payment in reference to the appellant's representations dated 28/11/2007 and 19/12/2007 vide Electrical Superintending Engineer, Electric Supply Circle, Ranchi bearing letter no. 2098 dated 29/12/2007. The Assistant Electrical Engineer is not empowered to inspect the payment of bills without permission of the competent authority of the Board and as such all the allegations made by the appellant/ consumer is baseless. Therefore, the bills have been prepared as per law and the appellant is liable to pay energy bills. On the aforesaid ground the respondents/JSEB has prayed for dismissal of appeal.

FINDINGS

6. Shri D.K. Pathak, the learned Counsel appearing on behalf of appellant/consumer M/s S.N.L. Bearings Ltd. has based his arguments mainly on memo of appeal and reply to the counter affidavit filed on behalf of respondents/JSEB and the supplementary affidavit dated 16/08/2010 filed on behalf of the appellant/consumer. He has further argued that there was no power supply in the premises of appellant/consumer from 01/10/2007 to 23/11/2007 as the meter of the appellant/consumer was burnt which is proved from the application dated 01/10/2007 by which the appellant has informed the Assistant Electrical Engineer (Supply) Ratu Chatti, Ranchi (annexure-I). On information the Assistant Electrical Engineer visited the premises of the appellant/consumer and removed the meter. Thereafter the connection of the appellant was again energized and

after energisation of the connection the insulation of the appellant's transformer was found poor therefore the appellant in presence of the Assistant Electrical Engineer (Supply) Ranchi made a written application for stoppage of supply because of break down of its transformer and requested to stop the supply till the transformer gets repaired. On application of the appellant/consumer (annexure-II) the electrical connection of the appellant was disconnected on 01/10/2007. By virtue of annexure –III the Assistant Electrical Engineer (Supply) Ranchi after disconnecting the appellant's electrical connection also made a disconnection report stating therein that the incoming supply has been stopped and the appellant was directed not to joint the connection before prior information and proper order. The appellant/consumer sent its transformer for repairing and after repairing, the appellant/consumer by virtue of annexure-IV requested the concerned authority to visit its premises and inspect/charge the transformer and thereby energise its electrical connection. On the next day the authority of JSEB/respondents after inspection, energized the system of the appellant's electrical connection on 24/11/2007. On the basis of aforesaid facts it has been contended by the learned counsel of the appellant/consumer that there was no power supply in between 01/10/2007 to 23/11/2007 and the appellant/consumer did not consume any power at all during the aforesaid period therefore there was no question of raising the energy charges during the aforesaid period. But the respondents/JSEB at best can charge M.M.G. Charges for the aforesaid period and the proportionate average energy charges from 24/11/2007 to 30/11/2007 which the appellant/consumer is ready to pay. The aforesaid fact proves that there was no power supply in the premises of the consumer/appellant which is also proved from annexure –I which is the meter reading report for the month of September, 2007 and in remarks column it was reported that C.T./P.T. combined metering unit and consumer transformer burnt on 01/10/2007 in annexure-I of supplementary affidavit on 16/08/2010. On the basis of aforesaid mentioned report dated 03/10/2007 energy bill dated 11/10/2007 for the month of September (annexure-II) of supplementary affidavit dated 16/08/2010 was prepared. Likewise, the meter reading report for the month of October, 2007 dated 03/11/2007 (annexure-III) and meter reading report for the month of November, 2007 dated 02/12/2007 (annexure –IV) was prepared and all the aforesaid annexures the Assistant Electrical Engineer, Ratu Chatti, has reported that the CT/P.T combined unit is

burnt and the consumer's transformer was also burnt and annexure-IV shows that consumer's transformer was under repairing upto 23/11/2007 and charged consumer's transformer on 24/11/2007. Thus, according to the learned counsel of appellant/consumer it is proved that there was no power supply in the premises of consumer/appellant and hence the energy bills raised on the basis of average metering is illegal and thus it is fit to be revised.

7. On the other hand it has been submitted by Shri Rajesh Shankar, the learned Counsel appearing on behalf of respondents/JSEB that the case of appellant/consumer about non-availability of power from 01/10/2007 to 23/11/2007 is not correct and the fact is that only the C.T./P.T. metering combined metering unit was burnt and therefore the bill of October, 2007 and November, 2007 were raised on average basis. It has been further submitted on behalf of respondents/JSEB that the concerned Assistant Electrical Engineer, Ratu Chatti is not competent for disconnection of line of any HT consumers without notice from the Electrical Superintending Engineer, Ranchi. If actually transformer of the appellant/consumer was burnt then the appellant was required to get the test report from the Electrical Inspector who is the only competent authority to allow the energization of transformer but these necessary requirements were not completed by the appellant and it purportedly commissioned its transformer without observing required norms and therefore the case of the appellant about burning of transformer can not be believed. The transformer was said to be energized by the appellant itself without taking any clearance from the Electrical Inspector and in presence of any competent authority of the Board therefore the burning of transformer and its repairing can not be accepted. The receipts and all documents filed on behalf of appellant/consumer appears to be collusive and it also appears to have been prepared to suit the case of appellant/consumer. All the aforesaid annexures about burning of transformer and also annexure-I, III & IV of supplementary affidavit dated 16/08/2010 are in between the Assistant Electrical Engineer, Ratu Chatti and the consumer/appellant which have been prepared to put the JSEB in wrongful loss. It has been further argued on behalf of respondents/JSEB that the Assistant Electrical Engineer is not a competent authority rather it is the Electrical Superintending Engineer of JSEB who is the competent authority in view of Clause 15 of

the agreement which have been executed in between both the parties and thus both the parties are bound with the agreement.

8. I also find force in the aforesaid contention of the learned lawyer of JSEB/respondents that in view of Clause 15 of the agreement executed in between both the parties, it is the Electrical Superintending Engineer who is the only competent authority for HTS consumers to make any communication with the JSEB and the Assistant Electrical Engineer is not the competent person in this regard. Besides it Section 63, 64 and 65 of the Indian Electricity Rule, 1956 which has been filed by the learned Counsel of respondents/JSEB clearly lays down that it is the Electrical Inspector whose approval in writing is required before commencing of supply of energy and in view of Section 63(i) and in view of Section 63 (ii) and (iii) of the Indian Electricity Rule, 1956, the Owner has to undertake many tests and record the results of such tests and forward them to the Inspector and unless and until such alterations or additions have been approved in writing by the Inspector. The Owner of any high or extra high voltage installation shall not connect to the supply his apparatus or electrical supply lines. All the aforesaid formalities which are required under the law by the consumer have not been complied by the consumer/appellant and therefore the case of burning of transformer of the appellant is not acceptable and as such the prayer of the consumer/appellant for quashing of energy bills for the months of October, 2007 and November, 2007 can not be allowed and therefore it is held that the respondents/JSEB has rightly raised the electrical bills of the consumer/appellant for the months of October, 2007 and November, 2007 on average basis because the meter of the appellant was only burnt.

9. The other prayer of the consumer/appellant is for awarding suitable compensation for the loss caused to the appellant because of deliberated illegal disconnection made by the respondents/JSEB while flouting the interim order passed by the learned VUSNF of JSEB, Ranchi. In this regard, it has been submitted by the learned lawyer of consumer/appellant that in spite of order dated 24/01/2008, the respondents/Board again issued disconnection notice on 12/01/2008 which was received by the appellant on 15/02/2008. Thereafter the appellant/consumer filed interlocutory application before the learned VUSNF, Ranchi which was heard on 28/02/2008 and the learned Forum had directed to pay Rs. 2,00,000/- against the disconnection notice dated 12/02/2008 and its

electrical connection shall not be disconnected and the balance amount of the notice alongwith D.P.S. thereon to be kept in abeyance. But at the same day the electrical connection of consumer/appellant was disconnected by the officers of the respondents/Board because of non production of a certified copy/order of the learned VUSNF of JSEB, Ranchi. In such circumstances, I find force in the contention of the learned lawyer of the respondents/JSEB that certified copy of the order of the learned VUSNF of JSEB, Ranchi could not be produced by the appellant/consumer and the officers of the respondents/Board had no knowledge of such an order therefore disconnection of line of the consumer/appellant is not illegal. The disconnection letter was issued on 12/01/2008 which was received by the consumer/appellant on 15/02/2008 and disconnection was made on 28/02/2008 within a period of 15 days from the date of issue of disconnection notice in view of Section 56 of the Electricity Act, 2003. Section 56 of the Electricity Act, 2003 lays down clear 15 days notice for disconnection of electrical connection of any consumers. The learned lawyer of appellant/consumer could not show any law by which the date of issue and receipt of the notice will be left out therefore the disconnection notice can not be said to be illegal. Therefore the consumer is not entitled to any compensation as have been prayed by the appellant/consumer.

10. Thus, from the aforesaid discussions and findings made above I am led to hold that the appellant/consumer is not entitled for revision of energy bills for the months of October, 2007 and November, 2007 nor the appellant/consumer is entitled for any compensation.

11. In the result there is no merit in this appeal filed by the appellant/consumer and there is no illegality in the order/Judgement dated 06/05/2010 passed in case No. 02/2008 by the learned VUSNF of JSEB, Ranchi and accordingly it is upheld and this appeal is dismissed.

Let a copy of this order be served on both the parties.

Sd/-
Electricity Ombudsman

