

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

Appeal No. EOJ/04/2015

Dated- 22nd September, 2015

Rajendra Prasad Agrawal

..... Appellant

Versus

Electrical Executive Engineer, JUVNL, Latehar & Ors. Respondent

Present:

Electricity Ombudsman	-	Shri Ramesh Chandra Prasad
Advocate for the Appellant	-	Shri Rajendra Sinha
Counsel for the Respondent	-	Shri Rahul Kumar
	-	Shri Prabhat Singh

ORDER

1. This is an order on the appeal filed by the Appellant for condonation of delay of 417 days in filing this appeal and its objection filed on behalf of the Respondent JUVNL. Both sides have been heard at length and it has come up today for order.

2. It has been submitted by Shri Rajendra Sinha, learned Advocate appearing on behalf of the appellant that the judgement dated 04/06/2014 passed by Learned VUSNF, Medininagar in case No. 04/2013 was not complied by the respondents within the stipulated time mentioned in the said order leaving no alternative but to file Miscellaneous Case bearing No.01/2015 before the

VUSNF, Medininagar which was heard by the learned Forum and finally order was passed on 16/01/2014. Aggrieved by the non compliance of the order passed by the learned Forum the instant appeal has been filed for execution of the said order.

3. He further submitted that because of ignorance the appeal could not be filed by the consumer well within time before the Electricity Ombudsman. However, as per Section 5 of the Indian Limitation Act, 1963 the delay in filing the appeal may be condoned in the circumstances as stated above.

4. On the other hand the learned counsel of respondent JUVNL has submitted that the instant appeal is not maintainable as it is barred by Law of Limitation as this appeal has been filed by the appellant after lapse of more than 60(sixty) days which has been absolutely barred under clause 14 of (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulation, 2011.

5. He further submitted that Section 5 of the Indian Limitation Act, 1963 is not applicable in the instant case as it is applicable only to the proceedings which are exclusively pending before the Courts and is not applicable to the proceedings pending before any Tribunals because the same is constituted by an act of Special Laws which prescribes all mode of remedies and never borrows any provisions from outside. Moreover, the learned VUSNF after going beyond their jurisdiction have entertained the Miscellaneous Case bearing No.01/2015 which is null and void in the eye of law.

6. The provision made in Clause 20(1) and 20(3) (b) of (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulation, 2011, reads as follows:

“20(1)-The licensee or any consumer, who is aggrieved with the order passed by Forum or non-implementation of the orders of the Forum, within one month of the order of the Forum may himself or through his representative, make a representation, in writing ,in Form-III duly signed by the complainant or his authorized representative to the Electricity Ombudsman.”

“20(3)(b)-The representation is made within thirty days from the date of receipt of the order of the Forum or such extended period as may be permitted by the Ombudsman not exceeding further thirty days for reasons to be recorded in writing. The Ombudsman; if satisfied that there exists sufficient cause for not filing it within that period”

7. Thus, after reading the aforementioned Regulation it is apparent that the limitation for filing any appeal by any licensee or consumer is only thirty days and if sufficient cause is shown then it extends for further thirty days, but it cannot extend for more than sixty days. In this view of matter it is found that this appeal has been filed by the appellant after 417 days which is beyond sixty days of limitation.
8. Therefore, I am of the view because the limitation will start to run from 04/06/2014 on which date the appellant has received the order of VUSNF. Thus, after a gap of 417days this appeal has been filed by the appellant which is barred by limitation.
9. As such this appeal is not maintainable as this appeal has been filed after sixty days of limitation. I do not find any force in the contention raised by the petitioner to grant condonation for delay in filing this appeal beyond the limitation period of sixty days. Therefore, the delay for not filing this appeal

within sixty days is fully attributable to the appellant itself, who has allowed this appeal/petition to be barred by clause 14 and 20 (3) (b) of Jharkhand State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman)Regulation,2011.

10.In the result, it is held that this appeal is not maintainable as barred by limitation and therefore this appeal is rejected.

Let a copy of this Order be served upon both the parties.

Sd/-
Electricity Ombudsman