

**BEFORE THE ELECTRICITY OMBUDSMAN, JHARKHAND**  
4<sup>th</sup> floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001

**Case No. EOJ/06/2014**

**Dated- 09<sup>th</sup> March, 2015**

Shivajee Pandeya

..... Appellant

VS

JUVNL & Others

..... Respondent(s)

Present:

Shri Ramesh Chandra Prasad : Electricity Ombudsman  
Appellant : Sri Shivjee Pandeya  
present in person  
Counsel for the Respondent : Sri. Rahul Kumar  
: Sri. Prabhat Kumar

**ORDER**

(Passed on this 9<sup>th</sup> day of March, 2015)

1) This representation under Rule 20 of the (Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Electricity Ombudsman) Regulations, 2011 is directed against the order of the Vidyut Upbhokta Shikayat Niwaran Forum, Chaibasa headquarter at Jamshedpur (herein after referred to as Forum for short) dated 20-09-2014 dismissing the Grievance of the appellant bearing Case No.5/2013.

2) The appellant is the Domestic Consumer of the respondent from 22-11-2003 bearing Consumer No.AZB-976 under Tariff Category DS-2 having connected sanctioned load of 1(one)KW.

3). The above named appellant has filed this appeal for recovery of Rs. 69538+ Rs. 3700 paid against Connection No.AZB-164 and compensation of Rs. 3,76,838/- from the respondent.

#### **4. Brief of the Case:**

4.1) The appellant is an ex. employee of M/s Tata Motors, Jamshedpur and superannuated from the post of Sr. Manager on 15.2.2002. For getting new electric connection from erstwhile Jharkhand State Electricity Board (herein after referred to as JSEB for short) the appellant has stated in his affidavit dated 3.5.03 that he does not have any electricity dues against the below mentioned premises and submitted application in the prescribed form of the respondents wherein the address indicated as Plot No.134, Khata No.24, Ward, No.19, (J.N.A.C), Azad Basti, (Jemco) P.O. & P.S. Telco, Town-Jamshedpur.

4.2) On 18.11.2003, a raiding party under the leadership of Sri. R.K.Sinha, Assistant Electrical Engineer with the help of police raided the house of Sri K.N.Jha, Sri Balbinder Singh, Sri S.Pandey, Sri Pyara Singh and Sri Jagir Singh. The raiding party found that these persons had connected P.V.C. Wire with main LT Line and they were committing theft of electricity PVC wire was cut and seized.

Sri S.Pandey was consumer of JSEB bearing Connection No.AZB-164. having electricity dues amounting to Rs.68, 157/- .The consumer S.Pandey committed theft of electricity causing loss amounting to Rs.3700/-. A case was registered on written report of the informant and accordingly charge sheet against above five persons were submitted. During trial in the Court of Additional Judicial

Magistrate, East Singhbhum, Jamshedpur Pyara Singh, Jagir Singh, K.N.Jha and Balbir Singh pleaded guilty vide order dated 23.2.2008 and a fine of Rs.100/- was imposed against each of the them but Sri S.Pandey did not plead guilty. Charge was framed for the offence punishable under the Act for which he denied and claimed to be tried.

**4.3)** Appellant's further case is that he went to the office of JSEB at Karandih and met the S.D.O. Sri. S.Akhtar and Sri.Basgit Singh on 20.11.2003 and tried to explain to them that the consumer no. AZB-164 was in no way related to him. However, the above officers advised him to deposit the amount given in F.I.R. and take bail from the court. Thereafter, the appellant deposited Rs.73238/- on 21.11.2003 in the name of S.Pandey, Consumer No. AZB-164 and took bail on 21.11.03. Thereafter, he was allotted consumer No. AZB-976 against the aforesaid applied premises and is regularly paying the energy bills.

The appellant faced trial in the court of Additional Judicial Magistrate, East Singhbhum, Jamshedpur and was acquitted vide order dated 22.1.2013.

**4.4** The appellant had approached District Consumer Forum and also preferred appeal before the State Consumer Forum. At both the Hon'ble Forums, it was held that the petitioner can not be considered as consumer vis-à-vis dues paid by him in respect of consumer No.AZB-164 and he should go to the competent court for remedy under the general law. Then, he (Sri S.Pandeya) preferred revision before National Consumer Disputes Redressal Commission (N.C.D.R.C), New Delhi where he was directed to approach proper court for his grievances in as much as he can not be considered as

consumer vis-à-vis his grievances. Accordingly, registered Consumer Case No. 05/2013 in the Forum as a consumer of Connection No. AZB-976 wherein he had claimed for refund of Rs. 69538 plus Rs. 3700/- which was deposited by him against theft of electricity of consumer bearing Connection No. AZB-164 which was in the name of S.Pandey and compensation amount to the tune of Rs.3,76,838/-. The learned Forum Chaibasa, at Jamshedpur dismissed the case vide order dated 20-9-2014 with the following observation-

“This forum cannot decide the identity of a person. The identity of a person can be decided only in a regular court of competent jurisdiction. It requires evidences to which the forum is not competent to record evidences on oath.

On perusal of the materials available on the record we are of the view that the respondents have committed no wrong. The petitioner’s case has no merit. Accordingly; the instant petition is liable to be dismissed.”

**5) Submission of the Appellant:**

5.1) In the instant case the appellant has claimed refund of deposited electric dues amounting to Rs.73238/- against consumer with Connection No. AZB-164 vide receipt No. 498780 and 497181 dated 21.11.2003. The appellant submitted that the dispute is with regard to Connection No.AZB-164 and not with Connection No.AZB-976.

Admittedly, theft case of electricity has been lodged against one Sri. S. Pandey S/o Surajdeo Pandey, Mandir Road, Azad Basti who was having electric Connection No. AZB-164 against whom G.R

Case No. 2010 of 2003 was registered. Based on which, police came looking for the appellant.

The appellant of this case has alleged that he had applied for new connection in his premises whose description has been mentioned in the petition for which affidavit along with duly filled in form was submitted to the respondent but after lodging of F.I.R, he was directed by the officials of Board to first deposit the dues of S.Pandey, Connection No. AZB-164 thereafter he will be provided new connection although he has no concern with Connection No. AZB-164. However, as advised by the officials of JSEB, he deposited the dues amount of Connection No. AZB-164 and took bail in G.R. Case No.2010/03 in the name of S. Pandey from the court of learned Addl. Chief Judicial Magistrate, Jamshedpur.

**5.2)** The appellant submitted that he contested the criminal proceeding in the Court of Addl. Chief Judicial Magistrate, Jamshedpur and has been exonerated in the criminal case instituted against electric Connection No.AZB-164 belonging to S.Pandey.

5.3) He further submitted that when the Electricity Act,2003 was in place in November,2003 then under what circumstances F.I.R was lodged under Sections 39 and 44(IPC379). Was it by ignorance or by design? Moreover, in one single day i.e. on 22-11-2003, how can all formalities such as sale of form, notarization, framing of estimate for giving electric supply, buying and testing of meter, work order preparation vis-à-vis approval thereon and finally giving power supply after allotting new connection number AZB-976 has happened is a matter of investigation. He further submitted that some how or other

he was implicated in false case of theft of electricity by connecting him to a consumer bearing Connection No.AZB-164 and compelled to deposit dues of Rs.69538 plus loss amount Rs.3700 amounting to total Rs.73238/-.

The appellant has elaborated many things in his petition to stress the point that he is not S.Pandey, Connection No.AZB-164 rather falsely implicated by JSEB officials for ulterior motive. Therefore, for the sake of justice he is liable for refund of the said amount along with interest etc. total amounting to Rs.476848 plus compounded per quarter interest at the rate of 1.5% per month or at opposite party's DPS rate which ever is higher from 21-11-2003 until paid.

**6) Submission of the Respondents:**

**6.1)** The learned counsel submitted that the Appellant has filed the instant appeal by mentioning his consumer no.AZB-976 meaning thereby he can agitate any short of grievances relating to Connection No.AZB-976 only. In this regard, Clause -9 of the Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer as notified by the Jharkhand State Regulatory Commission also provide for the procedure to file the Complaint.

**6.2)** The learned counsel further submitted that the Appellant on one hand has contested the entire criminal case in the name of S.Pandey being owner of electrical connection no.AZB-164 and now in the instant proceeding taking plea that the consumer no.AZB-164 does not belong to him. Therefore, this plea is not sustainable in the eyes of law and fit to be dismissed.

7) I have heard Shri Shivajee Pandeya, the appellant and learned counsel for the respondents. I have also gone through the documents produced by the parties on record.

8) The following issues arise for determination and I give findings on them as under:-

Issues	Findings
(i) Whether the trial court at any stage of the proceedings, either upon or without the application of either party, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all questions involved in the case as per provisions of Order 1 Rule 10 of Code of Civil Procedure, 1908... ..	No
(ii) Whether the appellant is entitled for refund of money deposited against Connection No.AZB-164 in the name of S.Pandey. ....	No

## **REASONS**

9) The appellant is a consumer of respondent and the consumer's Connection No. is AZB-976. There is no dispute regarding Connection No. AZB-976. The petitioner of instant case had appeared before the court of law and produced himself as Sri. S.Pandey, faced trial and was acquitted. Now, in the instant appeal he has taken plea that he has got no concern with the consumer S.Pandey. The petitioner has deposited the amount of dues plus loss amount due to theft of electricity. He had ample opportunities before the court of the learned Addl.Chief Judicial Magistrate to plead that he has got no concern with S.Pandey but he has not taken plea in the Criminal Court and faced trial in place of S.Pandey. In such circumstances his plea is not tenable within the ambit of Order 1 Rule 10 of the Code of Civil Procedure, 1908.

10) In the instant case, obviously dues amount along with loss amount was deposited in the name of S.Pandey, connection no. AZB-164 but, there is no evidence on record of the appellants pleading as Shivajee Pandeya, Connection No. AZB-976 in the trial court. The Appellant has filed the instant appeal by mentioning his consumer no. AZB-976 meaning thereby he can agitate any short of grievances relating to consumer no. AZB-976 only. In this regard, Clause -20 of the Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer as notified by the Jharkhand State Regulatory Commission vide Notification No.751 dated the 09<sup>th</sup> November, 2011 also provide for the procedure to file the Complaint. Moreover, this is not the appropriate Forum to decide the identity of a person which can only be decided by competent court of law.

11) Considering the fact and circumstances, I find no ground to interfere with the findings and judgement of learned VUSNF.

This appeal is, accordingly, dismissed with no order as to cost. However, the appellant is at liberty to file case before Competent Court for his grievances, if so advised.

Let copy of the Judgement be served to both parties.

Sd/-  
Electricity Ombudsman