

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

Appeal No. EOJ/07/2012

Dated- 21st September, 2012

Jharkhand State Electricity Board **Appellant**
Versus
M/s Inderchand Rajgarhia & Sons Pvt. Ltd. **Respondent**

Present:

Electricity Ombudsman	-	Shri Arun Kumar Datta
Counsel for the Appellant	-	Shri Rajesh Shankar
Additional Counsel for the Appellant	-	Shri Abhay Prakash
Counsel for the Respondent	-	Shri D.K. Pathak
Additional Counsel for the Respondent	-	Vijay Kr. Gupta

ORDER

1. This is an order on the petition filed on behalf of Appellant/J.S.E.B. for condonation of delay in filing this appeal and its objection filed on behalf of Consumer/Respondent. The learned lawyers of both the sides have been heard and it has come up today for order.

2. It has been submitted by Shri Rajesh Shankar learned Counsel appearing on behalf of appellant/J.S.E.B. that the copy of Order/Judgement dated 22.05.2012 passed by learned Vidyut Upbhokta Shikayat Niwaran Forum (In short to be referred as V.U.S.N.F.) of J.S.E.B., Ranchi in case No. 37/2011 was received by the J.S.E.B. on 25.06.2012 which will be proved from the receipt given in the office of the Chief Engineer (C&R), J.S.E.B. H.Q., Ranchi. According to Shri Shankar the period of

limitation will not start to run from the receipt of order by the J.S.E.B. or Nodal Officer of the J.S.E.B., as reported by the office of the V.U.S.N.F. of J.S.E.B. Ranchi rather it will be count from the date of receipt of the order by the Chief Engineer (C&R), J.S.E.B. H.Q., Ranchi. Because clause 2(s) of the **(Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Electricity Ombudsman) Regulation, 2011** the Nodal Officer is only the convener designated by the distribution licensee who would co-ordinate with the forum/Electricity Ombudsman. As such according to Shri Shankar the receipt of the copy of the order in the office of the Chief Engineer (C&R), J.S.E.B. H.Q., Ranchi on 25.06.2012 can only be said to be receipt of the order by the licensee. Therefore according to Shri Shankar the period of limitation will start from 25.06.2012 and not from 14.06.2012 and since this appeal was filed on 14.08.2012, therefore it is within the period prescribed under clause 20(3)(b) of the aforesaid Regulation 2011.

3. On the other hand Shri D.K. Pathak the learned counsel of Consumer/respondent has submitted that this appeal filed on behalf of appellant/J.S.E.B. is not maintainable as it is barred by law of limitation because this appeal has been filed by the appellant/J.S.E.B. after more than 60 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**. According to Shri Pathak the appellant/J.S.E.B. have not even shown as to what restricted the Chief Engineer (C&R), J.S.E.B. H.Q., Ranchi for more than one month in taking the decision for filing appeal knowing fully well that the

prescribed period for moving before this forum is only 30 days. Shri Phathak has further submitted that appellant/J.S.E.B. has not stated as to what prevented the Law Officer cum Nodal Officer from sending copy of the order dated 22.05.2012 for such a long period to the H.Q. nor it has been stated by the appellant as to when the Law Officer received copy of the order. Shri Pathak has also submitted that the appellant didn't take the copy of Judgement/Order passed by the learned V.U.S.N.F. after its pronouncement on 22.05.2012 especially when it is the V.U.S.N.F. of appellant it self nor the appellant complied the Order/Judgement passed by the learned V.U.S.N.F. and the Consumer/Respondent has filed representation for implementation of the order on 21.07.2012 by learned V.U.S.N.F. of J.S.E.B. Ranchi in case No. 37/2011 and when the notice was issued to appellant/J.S.E.B. in the case of implementation of the aforesaid order of learned V.U.S.N.F. which was filed by Consumer/Respondent on 21.07.2012 and only after receiving notice the appellant has filed the instant memo of appeal to make hurdle in implementation order dated 22.05.2012 of learned V.U.S.N.F. of J.S.E.B., Ranchi. Therefore it has been prayed on behalf of Consumer/Respondent that this memo of appeal filed by the appellant/J.S.E.B. is fit to be dismissed since not maintainable, being barred by limitation.

4. On perusal of the record it is found that the learned V.U.S.N.F. of J.S.E.B. has passed the Order/Judgement on 22.05.2012 in case No. 37/2011 and this appeal by appellant/J.S.E.B. has been filed on 14.08.2012. In such circumstances a report was called from the learned V.U.S.N.F. as to when the order of learned V.U.S.N.F. passed in case No. 37/2011 was sent/given or received by the J.S.E.B. on which it is reported

by learned V.U.S.N.F. that the aforesaid order of learned V.U.S.N.F. passed in case No. 37/2011 was received by the Board on 14.06.2012. Clause 14 of **(Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Electricity Ombudsman) Regulation, 2011** which is a provision for filing appeal by any licensee or any consumer who is aggrieved by order made by the forum prescribes a period of 30 days from the date of receipt of the order. Its proviso further lays down:-

‘That the Electricity Ombudsman may entertain an appeal after the expiry of the said period of 30 days if sufficient cause is shown for not filing the appeal within that period; but not exceeding maximum period of 60 days from the date of receipt of the order’.

This is also the provision made in clause 20(3)(b) of Jharkhand State Electricity Regulatory Commission, Regulation **(Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Electricity Ombudsman) Regulation, 2011** which reads as follows:-

‘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’.

5. Thus after reading the aforesaid Regulations it is found that the limitation for filing any appeal by any licensee or consumer is only 30 days and if sufficient cause is

shown then it extends for further 30 days, but it cannot extend for more than 60 days. In this view of matter it is found that this appeal has been filed by the appellant/J.S.E.B. after 60 days that is on 62 days. Because the appellant/J.S.E.B. has received the order of learned V.U.S.N.F. passed in case No. 37/2011 on 14.06.2012 and this appeal has been filed by the appellant/J.S.E.B. on 14.08.2012 which is beyond 60 days of limitation. I am of this view because the limitation will start to run from 14.06.2012 on which date the appellant/J.S.E.B. has received the order and not from the date of receipt of the order of learned V.U.S.N.F. by the Nodal Officer or Chief Engineer (C&R) H.Q., Ranchi. Thus it is 17 days in the month of June, 31 days in the month of July and 13 days in the month of August 2012, total 61 days and on 62 days that is on 14.08.2012 this appeal has been filed by the appellant.

6. As such this appeal is not maintainable as this appeal has been filed after 60 days of limitation I don't find any force in the contentions raised on behalf of appellant/J.S.E.B. that the period of limitation will start to run from the date of receipt of the order of learned V.U.S.N.F. passed in case No. 37/2011 by the Chief Engineer (C&R) H.Q. J.S.E.B., Ranchi. It is surprising as to why the Chief Engineer (C&R) H.Q. J.S.E.B., Ranchi has kept its decision pending for more than one month for filing this appeal before this forum especially when the period of limitation for filing is only 30 days. As such the appellant/J.S.E.B. should improve its functioning which should be in conformity with the Jharkhand State Electricity Regulatory Commission, Regulations and not violative of the Jharkhand State Electricity Regulatory Commission, Regulations. The delay for not filing this appeal within 60 days is fully

attributable to the appellant/J.S.E.B. it self because it is appellant/J.S.E.B. who has allowed this appeal to be barred by Clause 14 and 20(3)(b) of Jharkhand State Electricity Regulatory Commission, Regulation (**Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Electricity Ombudsman**).

7. 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 the Order be served on both the parties.

Sd/-
Electricity Ombudsman