

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

**Appeal No. EOJ/14/2011**

**Dated- 19<sup>th</sup> August, 2011**

<b>JSEB through its Chairman &amp; others</b>	.....	<b>Appellant(s)</b>
	<b>Versus</b>	
<b>Chandra Shekhar Prasad</b>	.....	<b>Respondent(s)</b>

**Present:**

<b>Shri Arun Kumar Datta</b>	<b>Electricity Ombudsman</b>
<b>Shri Rajesh Shankar</b>	<b>Standing Counsel for appellant Board</b>
<b>Shri Dheeraj Kumar</b>	<b>Addl. Counsel for appellant Board</b>
<b>Shri S.K. Prasad</b>	<b>Counsel for respondent</b>

**J U D G E M E N T**

1. This is an appeal filed by the appellant/JSEB against the Judgement/order dated 03/05/2011 passed in case no. 34/2010 by the learned Vidyut Upbhokta Shikayat Niwaran Forum (In short to be referred as V.U.S.N.F.) of JSEB, Ranchi.

2. The case of appellant in brief is that the consumer/respondent is a domestic consumer of JSEB bearing Consumer No. KN 22/SIN-11. On 23/01/2010 the premises of consumer/respondent was inspected by the officials of the JSEB, the connected load from 1KW to 7 KW was enhanced and the energy bills were charged for 1008 units from the month of January, 2010 to June, 2010. The energy bills from January, 2010 to June, 2010 for the consumption of 1008 units were charged adding the penalty charges of previous 24 months. The office of the Electrical Executive Engineer, New Capital, Ranchi had prepared a bill of Rs. 37390.08 and the additional security money amounting to Rs. 1200/- and the consumer/respondent was intimated to make payment of the aforesaid amount and further requested to file any objection, if any, before the Assessing Officer i.e., the Electrical Executive Engineer, New Capital, Ranchi. Accordingly the consumer/respondent had submitted an application to the Electrical Executive Engineer, New Capital, Ranchi for correction of bills on which the Assessing Officer heard and

examined the matter and the Assistant Electrical Engineer, Kanke was directed to re-inspect the premises of consumer/respondent. Thereafter the premises of consumer/respondent was re-inspected by the Assistant Electrical Engineer and submitted the report on 25/10/2010. The Assessing Officer after perusal of the documents and after hearing both the parties had passed an order on 25/11/2010 and the Electrical Executive Engineer, New Capital, Ranchi was directed for preparing final assessment bill on 6 KW by order dated 25/11/2010. In accordance with the order of the Assessing Officer, a final assessment bill of consumer/respondent was prepared a sum of Rs. 33348.12/- which was sent to consumer/respondent vide letter no. 1732 dated 08/12/2010. As such according to the appellant, the consumer/respondent was indulged in the fault of drawing excess load by the connected electrical equipments in his premises and therefore this case definitely falls under the purview of Section 126 of the Electricity Act, 2003 and as such the VUSNF had no jurisdiction to entertain such representation/complaint by the consumer/respondent and it is only the Chief Electrical Inspector who has the jurisdiction to hear appeal against the order of the Assessing Officer under Section 127 of the Electricity Act, 2003.

3. On the other hand, the case of consumer is that the Section 126 of the Electricity Act, 2003 does not speak about the excess load beyond the sanctioned load is either theft or unauthorized use of electricity and the Electrical Executive Engineer, New Capital, Division is authorized to make assessment only if the consumer is found indulged in unauthorized use of electricity under Section 126 of the Electricity Act, 2003. Further any assessment from Section 126 made by the Electrical Executive Engineer is an illegal and violative to the provisions of the Indian Electricity Act, 2003. As the Electrical Executive Engineer, New Capital Division, Ranchi had made assessment illegally therefore the learned VUSNF has rightly quashed the order of the Electrical Executive Engineer, New Capital Division and the learned VUSNF has rightly held that the consumer/respondent is not unauthorized user of electricity and therefore no question of assessment arises by the Electrical Executive Engineer. The consumer/respondent being aggrieved by the actions of the Electrical Executive Engineer had earlier filed his representation before the Chief Electrical Inspector by mistake for redressal of his grievances but the learned Chief Electrical Inspector had allowed his representation to be withdrawn saying that this is not a grievance redressal Forum. On the aforesaid ground the consumer/respondent has

prayed for dismissal of appeal of the appellant/JSEB and to uphold the Judgement/order dated 03/05/2011 passed in case no. 34/2010 by the learned VUSNF, Ranchi.

### FINDINGS

4. Sri Rajesh Shankar, learned Standing Counsel appearing on behalf of appellant JSEB has submitted that the learned VUSNF has failed to consider that the unauthorized load/excessive load drawn by the consumer/respondent falls under the purview of Section 126 of the Electricity Act and as such the Chief Electrical Inspector has the authority to hear appeal under Section 127 of the Electricity Act against the bills raised under Section 126 of the Electricity Act. It has been further contended by Sri Shankar that the learned VUSNF has also failed to appreciate the Electricity Supply (Code) Regulations, 2010 was enforced from 01/09/2010 with perspective effect and as such the same have not been any bearing on the explanation carried out on 23/01/2010 in the case of consumer/respondent. On the other hand, it has been submitted by Sri S.K. Prasad learned Counsel appearing on behalf of consumer/respondent that Section 126 does not speak about the excess load beyond the sanctioned load is either theft or unauthorized use of electricity and as such the consumer/respondent is out of the purview of Section 126 of the Electricity Act, 2003. Further the respondent/consumer does not come under explanation of Section 126 and therefore there is no question of unauthorized use of electricity arises.

5. Therefore the issue which arises in this case is that where unauthorized load/excessive load drawn by the consumer/respondent come under the purview of the Section 126 of the Electricity Act or not.

6. In this regard the explanation (b) of Section 126 of the Electricity Act, 2003 has defined the unauthorized use of electricity which reads as follows:-

“unauthorized use of electricity” means the usage of electricity-

- (i) by any artificial means; or
- (ii) by a means not authorized by the concerned person or authority of licensee; or
- (iii) through a tampered meter; or
- (iv) for the purpose other than for which the usage of electricity was authorized

Thus on perusal of the aforesaid explanation (b) of Section 126 of Electricity Act, 2003 it is not found that unauthorized load/excessive load drawn by any consumer or even by

respondent comes within the mischief of unauthorized use of electricity under Section 126 of the Electricity Act, 2003. This is the reason that amendment by Jharkhand State Gazette Notification no. 501 dated 01/09/2010 has been introduced in the Electricity Supply (Code) Regulations, 2005 by the Jharkhand State Electricity Regulatory Commission (In short to be referred as J.S.E.R.C.) by which when the connected load exceeds the sanctioned load then in that case it has been exempted that it will not be considered as unauthorized use of electricity. If exceeded load from the sanctioned load is drawn by any consumer was unauthorized use of electricity under Section 126 then such exemption could not have introduced in Electricity Supply (Code) Regulations, 2005. As such there is no force in the contentions of the learned Standing Counsel of appellant JSEB that because inspection was held on 23/01/2010 and the aforesaid amendment has been introduced on 01/09/2010 therefore the benefit of the aforesaid exemption can not be given to the consumer/respondent because in my view under Section 126 of the Electricity Act itself excessive load from the sanctioned load does not come within Section 126 of the Electricity Act, 2003 which has also been clarified by amendment in the Electricity Supply (Code) Regulations, 2005 by introducing amendment on 01/09/2010. Therefore I am led to hold that the withdrawal of excessive load from the sanctioned load does not come within the Section 126 of the Electricity Act and therefore the learned VUSNF has got jurisdiction to entertain the representation/complaint for redressal of grievances of the consumer/respondent and therefore the learned VUSNF has rightly held this issue in favour of the consumer/respondent which is also upheld by this Forum.

7. There is another issue as issue no.2 before the learned VUSNF as to what energy charges should be legally levied from the date the meter went defective i.e. August, 2009 and onwards. On this issue it is found that the meter of the consumer/respondent went defective in August, 2009 which becomes an admitted fact because from the energy bills from August, 2009 to December, 2009 was on the basis of 144 KWA/KW and thereafter he was charged 1008 KWh considering the connected load of 7 KW which was found on inspection made on 23/01/2010 at the premises of the consumer/respondent. In this regard 2<sup>nd</sup> proviso of clause 11.3.1 of Electricity Supply (Code) Regulations, 2005 clearly lays down that "provided further that in case the meter is defective or burnt and has stopped recording or lost, the consumer shall be billed on the basis of the average

consumption of the last 12 months immediately preceding the month in which meter was last read (including the month) for the period for which meter was stopped recording subject to maximum period of three months". In view of the aforesaid provisions of Clause 11.3.1 of Electricity Supply (Code) Regulations, 2005 all bills raised from August, 2009 and onwards are hereby ordered to be quashed and energy bills are to be raised from August, 2009 and onwards (until new meter is installed) on the basis of 12 months average consumption. As the impugned bills from January, 2010 and onwards were raised against the mandate of law and regulation therefore the same are also quashed. Accordingly the appellant JSEB is directed to issue revised energy bills from August, 2009 onwards (until new meter is installed) on the basis of 12 months average consumption recorded in the meter prior to August, 2009 the records of which must be available in the JSEB. The appellant JSEB is further directed to install new meter within one month from the date of the receipt of this order and the appellant JSEB will send one month notice to the consumer/respondent for regularization of the exceeded load in view of Clause 15.7 (iii) of the Electricity Supply (Code) Regulations, 2005 which has been included by amendment on 01/09/2010 on the basis of load re-inspected on 25/10/2010.

8. Thus from the aforesaid discussions and findings made above I am led to hold that there is no merit in this appeal and therefore Judgement/order of the learned VUSNF of JSEB, Ranchi dated 03/05/2011 passed in case no. 34/2010 is hereby confirmed without any interference. In the result this appeal is dismissed.

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

Sd/-  
Electricity Ombudsman