

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

Case No. EOJ/02/2006 Dated- 18th June 2007.

JSEB through its Chairman & Others

Vrs.

M/s Gorakhanath Ingots & Steel Co. Pvt. Ltd.

Present:

Mr. Sarju Prasad	Electricity Ombudsman
Mr. Rajesh Shanker	Counsel For the JSEB & others
Mr. M. S. Mittal, Advocate	Counsel for the M/s Gorakhanath Ingots & Steel Co. Pvt. Ltd.

J U D G E M E N T

1. This appeal has been preferred by Jharkhand State Electricity Board (J.S.E.B) after being aggrieved with the judgement/order dated 07/07/2006 passed by Vidyut Upbhokta Shikayat Niwaran Forum (V.U.S.N.F), J.S.E.B, Ranchi in case no. 14/2006.
2. The brief facts, giving rise to this appeal is that M/s Gorakhanath Ingots & Steel Co. Pvt. Ltd. having its factory at B-3, 5th phase, Industrial Area, Gamharia, Jamshedpur. The J.S.E.B had given an electric connection in the factory on 05/09/2005 on the application of the respondent M/s Gorakhanath Ingots & Steel Co. Pvt. Ltd. Before giving electric connection there was an agreement between the appellant and respondent on 2nd August, 2005. Initially in the erstwhile unified State of Bihar the tariff was being fixed by the Bihar State Electricity Board (B.S.E.B) since 1993. The B.S.E.B had introduced a special tariff for induction furnace on 29/09/1999 making it effective from 01/09/1999. The said tariff was superseded in May, 2001 and B.S.E.B published a new tariff in the Bihar gazette on 07/05/2001 but in the meantime there was separation of B.S.E.B from the State of Bihar and J.S.E.B of Jharkhand came in existence with effect from 01/04/2001. Thereafter a new Electricity Act, 2003 came into force and the whole power of fixing tariff vested upon the Jharkhand State Electricity Regulatory Commission (J.S.E.R.C). The J.S.E.R.C published a new tariff with respect to J.S.E.B which came into force with effect from 01/01/2004. In the tariff order of B.S.E.B which was published in Bihar Gazette on 07/05/2001 i.e. after the separation of Jharkhand State Electricity Board (J.S.E.B) there was a special provision for High Tension consumers (H.T) having induction furnace. According to which the consumer of H.T electricity

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with induction furnace was liable to pay electricity charges as per the actual units consumed or as per the maximum contract demand whichever is higher. The J.S.E.B never got published the tariff of B.S.E.B issued on 07/05/2001 but started charging from HT consumers having induction furnace on the basis of tariff order of B.S.E.B which was published after the separation of J.S.E.B from its parent Board i.e. B.S.E.B. The J.S.E.B has not only started to charge on the basis of tariff of May, 2001 of B.S.E.B but also started to charge at the enhanced rate of electricity charges as fixed by J.S.E.R.C in the tariff order of 2003-04. In the B.S.E.B tariff the consumption charges per unit was Rs. 1.20 paise but in the tariff order of J.S.E.R.C the consumption charges has been raised from Rs. 1.20 paisa to Rs. 2.50 paise. The consumer was issued electricity bills on the basis of tariff order of B.S.E.B regarding the maximum contract load and also started charging at the enhanced rate as per the tariff order of J.S.E.R.C from the month of September, 2005.

3. There was another development, there was some major break down in the factory of the respondent on 02/10/05 therefore the production of the respondent's factory was stopped. Before the break down of the factory there was an inspection by the officials of the J.S.E.B on 29/09/05 in which meter room door seal and meter box outer seals were found intact. Meter inner seal doubtful. After being doubted in the inner seal of the meter there was second inspection done on 13/10/05 by the officers of J.S.E.B but they did not find any tempering of wires. The metering unit was opened to check the continuity of wires which was found OK. However the CTPT of the consumer meter was removed from the premises of consumer for checking in the MRT Lab on 14/10/05 and the metering unit of the respondent was replaced on 15/10/05 by the officers of the J.S.E.B.
4. According to the respondent the two numbers of metering units were purchased by the respondent and the same were given to the officials of the J.S.E.B for testing along with required amount of Rs. 1000/- as testing fee before the metering units were installed. Both the metering units were checked and tested by the officials of the J.S.E.B and they sealed the metering units and ultimately the both metering units were installed by the officials of the J.S.E.B. At the time of removal of metering units as well as at the time of inspection, no tempering was found in the seal of the metering units as fixed by the officials of the J.S.E.B after testing. Therefore there is no question of any defect in the metering units, yet J.S.E.B has treated the same as defective and has issued bills treating metering units to be defective in terms of tariff of B.S.E.B which was issued on 07/05/2001 and also at the enhanced rate as per tariff order 2003-04 of JSERC.
5. Further the J.S.E.B has illegally disconnected the electricity of the respondent as yet they are issuing bills for consumption. Therefore according to the respondent bills issued by the J.S.E.B right from September, 2005 should be quashed and directed to issue the revised bills as per the tariff order of J.S.E.R.C only and charge AMG on annual basis and not on monthly basis as per the judgement of the "Hon'ble Supreme Court as well as the Hon'ble Patna High Court".
6. The appellant challenged claims of the respondent by filing counter affidavit and made several pleas for justification of the act done by it but the V.U.S.N.F held that the bills issued by J.S.E.B on the basis of tariff order of 2001 of BSEB is not at all justified. The J.S.E.B must revise the electricity bills on the basis of tariff order of J.S.E.R.C of 2003-04 and the V.U.S.N.F also found that the disconnection of the electricity connection is illegal/ AMG is to be charged on annual basis. Being aggrieved by the judgement/

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electricity connection is illegal/ AMTC is to be charged on annual basis. Being aggrieved by the judgement/ order of the V.U.S.N.F the J.S.E.B has preferred this appeal under clause 13 of the guidelines for Establishment of Forum for Redressal of Grievances of the consumers & Electricity Ombudsman, Regulations, 2005.

7. The learned lawyer for the respondent has referred the tariff order of B.S.E.B which was published on 07/05/2001 after the bifurcation of J.S.E.B from the B.S.E.B. The learned lawyer for appellant has not been able to show the same tariff order was adopted by the J.S.E.B and got published in the official gazette of the Jharkhand State. It is admitted that under Electricity Act, 2003 the entire power of fixing tariff lies with the J.S.E.R.C and the J.S.E.R.C has issued a tariff order of 2003-04 which was applicable with effect from 1st January, 2004 in which all the previous tariff orders have been repealed except the provision which has been specially allowed to be remain applicable. Therefore the submission of the appellant is that the J.S.E.B is entitled for charging the actual maximum consumption or the maximum contract demand whichever is higher is at all tenable. The J.S.E.B can charge only on the basis of tariff order of J.S.E.R.C of the 2003-04 for the reason that this tariff order has been issued by the competent authority repealing all other previous tariff orders and the electric connection of the respondent was provided after coming into force of J.S.E.R.C tariff order of 2003-04. The other reasons on which ground the J.S.E.B can not charge on the basis of tariff order of 2001 of B.S.E.B is that it was issued after the bifurcation of B.S.E.B and the J.S.E.B neither adopted the same nor it got published in the official gazette. The J.S.E.R.C tariff order of 2003-04 has fixed with respect to HTSS (HT consumer with induction furnace) which is contained in page 143 of the tariff order and on that basis only the J.S.E.B is entitled to realize the electricity charges. There is provision of MMC (Minimum Monthly Charges). Therefore, there can not be minimum monthly charges as well as the minimum charges on the basis of contract Demand. Either there will be Minimum Monthly Charges or The Minimum Charge as per the Maximum Contract Demand.
8. The learned lawyer for appellant has not been able to show that there was any defect in the meter. Admittedly the electric connection of the respondent was disconnected without giving any notice as required under Section 56 (1) of the Electricity Act, 2003. Therefore the disconnection must be held to be illegal. It is a settled principle of the law that the disconnection of the electricity is illegal; the Board can not realize electricity charges after the connection was illegally disconnected.
9. The learned lawyer for appellant has not been able to show that the judgement/order of the V.U.S.N.F is not justified or contrary to law. I do not find any merit of this appeal therefore this appeal is dismissed with direction to comply the order of the V.U.S.N.F within 15 days of receipt of the order failing which the J.S.E.B shall be liable to pay compensation to the respondent as per the regulation of the J.S.E.R.C.

Sd/-

Electricity Ombudsman

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