

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

Case No. EOJ/02/2007

Dated- 06th June2007

JSEB through its Chairman & others

.....Appellant(s)

Versus

M/s Kumardhubi Steels Pvt. Ltd.

..... Respondent(s)

Present:

Shri Sarju Prasad

Electricity Ombudsman

Shri Rajesh Shanker (Advocate)

Counsel for the Appellant(s)

Shri Ajit Kumar (Advocate)

Counsel for the Respondent

J U D G E M E N T

1. This appeal by the JSEB has been preferred after being aggrieved with the order of the judgement dated 22/11/06 passed in case no 43/2006 by Vidyut Upbhokta Shikayat Niwaran Forum (VUSNF), Jharkhand State Electricity Board (JSEB), Ranchi whereby and where under the petition filed by the consumer/respondent was allowed and JSEB has been directed to revise bills for the first 12 months i.e. from February, 2004 to January, 05 on the basis of actual consumption recorded in the meter.
2. The brief fact of the appeal is that the respondent M/s Kumardhubi Steels Pvt. Ltd. Dhanbad is a consumer of HTSS category with Induction furnace with effect from 03/02/2004 under consumer No. NR-537. The consumer filed a case before the VUSNF of JSEB, Ranchi challenging that as per the terms of clause 4 (C) of the agreement for supply of electricity, the JSEB can not charge more than the actual consumption recorded in the meter but the JSEB violeted the terms of agreement and tariff order fixed by JSERC and is charging at the rate of 100% of the contract demand which is illegal. The bill issued by the JSEB is liable to struck down with direction to revise the bills on the basis of the actual

consumption recorded in the meter in the first 12 months i.e. February, 2004 to January, 2005.

3. The JSEB has taken a plea that there was an agreement between the Bihar State Electricity Board and the steel manufacturers of Bihar State in the year 1999 and as per the agreement the consumer are liable to pay 100% of the contract demand or the actual consumption recorded in the meter whichever is higher. Thereafter a special tariff order for consumers having induction furnace came into force by special tariff notification dated 24/09/1999 which was published in Bihar Gazette on 15.03.2000/06.04.2000, which was adopted by JSEB on 20/03/2001 therefore JSEB is justified in raising bills on the basis of actual maximum demand recorded during the month or 100% of the contract demand whichever is higher. It is admitted that Electricity Act, 2003 came into force on 10/06/2003. It is not dispute that after the enactment of Electricity Act, 2003 wherein the power to frame the tariff as well as conditions of supply and regulations solely lies with the State Regulatory Commission i.e. JSERC. It is admitted that JSERC has notified a new tariff order in the year 2003-04 which is applicable with effect from 01/01/2004. Thus it is crystal clear that respondent had obtained electric connection after the tariff order 2003-04 came into force.
4. From the tariff order 2003-04 we find that the tariff of HT special service (HTSS) consumer with induction furnace is contained in page 143 of the tariff order. From this tariff order it appears that HTSS consumer with induction furnace for contract demand of 300 kVA and more having induction furnace of melting capacity of above 500 Kg, following is the tariff -
Demand charge Rs. 300/kVA/month.
Energy charge Rs. 2.50/kWh.
Monthly minimum charge of Rs. 400/kVA.
5. In the tariff order it has not been mentioned that consumer with induction furnace are liable to pay actual consumption recorded in the meter or 100% of the contract demand whichever is higher as was in the case of earlier tariff order of the BSEB rather we find that a monthly minimum charge of Rs. 400/kVA has been fixed in this tariff order of 2003-04. Had the JSERC allowed the licensee for electricity supply minimum 100% of the contract demand in case of less consumption, then there was no necessity for fixing minimum monthly charge of Rs. 400/kVA. It should have been mentioned here 100% of the contract demand instead of Rs. 400/kVA. This monthly minimum charge of Rs. 400/kVA means that the consumer is liable to make payment of minimum Rs. 400/kVA of the contract demand

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means that the consumer is liable to make payment of minimum Rs. 400/kVA of the contract demand.

6. Further we find that there is no saving clause especially saving the special provisions of BSEB tariff of 1999-2001 which provides that 100% of the contract demand in case there is less consumption than 100% of the contract demand. On the contrary in the tariff order of 2003-04 there is a specific monthly minimum charge of Rs. 400/kVA. Therefore JSEB can not take recourse to repealed tariff order of BSEB which is not applicable to a consumer having electric connection after the tariff order of JSERC of the year 2003-04.
7. From the judgement of VUSNF, we find that before connection of electricity was provided to consumer, an agreement was entered between the JSEB and the consumer in which there is a specific provision that for the first 12 months JSEB will charge on the basis of actual consumption of electricity recorded in the meter. Therefore VUSNF has held that as per the terms of that agreement the JSEB must revise electricity bill of the consumer for the first 12 months i.e. from the month February, 04 to January, 05 on the basis of actual consumption recorded in the meter.
8. The appellant has submitted that terms of agreement which was contrary to the tariff order will not prevail and that clause against the provision of tariff order of BSEB of 1999-2001, therefore that agreement is not a valid term. In my opinion I find that there is no merit in the submission of the lawyer of the JSEB because the tariff order of 1999 or 2001 is not applicable after the tariff order of 2003-04 issued by the JSERC and that provision is not at all contrary to the provisions of the tariff order of 2003-04. The JSEB should forget the tariff order which was prevailing before issued of tariff order of JSERC and they should charge only on the basis of tariff order of 2003-04 which don't provide to realize the consumption charges at 100% of the contract load in case there is less consumption than the contract load recorded in the meter of the consumer. The tariff order 2003-04 provides for monthly minimum charge of Rs. 400/kVA which can be realized, if there is any shortfall in the consumption of electricity recorded in the meter of the consumer than contracted demand. If the officers of the JSEB are so negligent that they entered into an agreement with the consumer for charging less than the tariff order then the Board must blame itself, and should not have made grievances, if the VUSNF directed them to realize charges on the basis of actual consumption recorded in the meter.
9. From the materials on the record we find no merit in the appeal and the appeal is hereby dismissed. The JSEB must comply with the order of the VUSNF within 30 days of the order, failing which any excess

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amount which is realized more as the consumptions charge shall carry interest at the rate of 12.50 % from the date of filing application by the consumer before VUSNF till realization.

Sd/-
Electricity Ombudsman