

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

**Case No. EOJ/08/2016**

JUVNL & Others ..... Appellant  
Versus  
M/s Smt. Lily Bala Singh ..... Respondent(s)

Present:

Electricity Ombudsman : Shri Ramesh Chandra Prasad  
Counsel for the Appellant : Sri. Rahul Kumar  
: Sri. Prabhat Singh  
Advocate for the Respondent : Sri. Durga Singh  
: Sri. Pashupati Nath Singh

**ORDER**

(Order passed on this 20<sup>th</sup> day of October, 2016)

The instant appeal has been filed by the appellant on 08.09.2016 against the Order dated 21/07/2016, passed in Case No.26/2015, by the learned Vidyut Upbhokta Shikayat Niwaran Forum, Hazaribag (herein after referred to as VUSNF) which reads as follows:

- “ a) Reconnection bill framed from 05/1999 to 10/2014 is quashed.  
b) Electrical connection restored in 11/2014 must be treated as fresh connection keeping in mind section 7.5 of chapter 7 of Supply Code 2005 and bill may be raised accordingly on the basis of meter reading installed on 25.11.2014.

- c) Rs. 50000/- already deposited on 24.11.2014 be refunded to petitioner.
- d) Bill may be raised from 11/2014 to 09/2015 as per reading of meter installed in the premises and petitioner is liable to pay the same.”

2. The appeal was taken up for admission on 27/09/2016 which was vehemently opposed by the respondent through learned advocate Sri P.N.Singh on the following ground:

i) The appellant has filed the appeal without refunding to the respondent the 50% of amount deposited by her as per impugned order dated 21.07.2016 violating regulation 14 of “(GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS AND ELECTRICITY OMBUDSMAN) REGULATIONS, 2011”.

ii) The appellant has filed the appeal on 06.09.2016 without annexing an application for condonation of delay showing sufficient cause after expiry of 30 days from the date 21.07.2016 or date of receipt of the impugned order dated 21.07.2016 though the impugned order was again served on the appellant on 25.07.2016 by speed post vide letter dated 25.07.2016 by the respondent/petitioner’s Senior Counsel namely Sri. Hari Narayan Deo.

iii) The very issue of affidavit being filed contrary to Clause 31 of “(GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS AND ELECTRICITY OMBUDSMAN) REGULATIONS, 2011”. Moreover, verification has not been made according to the prescription as required in the Form-V of the aforesaid regulation and, is also in breach of Order 19, Rule 1-3 of the Civil Procedure Code, 1908 and the law as laid down by the Supreme Court A.K.K. Nambiar Vs. UoI & Anr.1969(3) SCC 684. The appeal being without proper affidavit &

verification is liable to be dismissed summarily, the averments being unreliable & untrue.

IV) The instant appeal has not been filed by any of the persons who were respondents before the VUSNF, Hazaribag whereas only Law Officer, JUVNL has been made party in the impugned appeal. Therefore, the appellant is guilty of concealing series of material fact and there by, intent to gain the unauthorized benefits illegally and adopted unfair means as a result the law as laid down by the Hon'ble Supreme Court has been violated. Hence, the appeal is liable to be dismissed summarily as non maintainable because the law as laid down in (1996) 9 SCC 395 as followed by the Hon'ble High Court in P.N.Srivastava Versus State of U.P. & Ors. 1999 (17) LCD 24 provides that no lawful proceedings can be launched or trial can commence after the time fixed by the statutory rules, the appeal is in violation of the above law.

3) On the point of maintainability, on 27/09/2016 the learned counsel Sri Rahul Kumar prayed for time to clarify the issue on next date i.e. on 19/10/2016 and, accordingly the matter was placed for discussion on the aforesaid date.

4) The learned counsel Sri Prabhat Kumar submitted that due to the procedural paraphernalia the issue could not be taken up within the stipulated period as per the regulation and prayed to condone the delay which is not deliberate in any respect and entertain the instant appeal on merit and files condonation petition along with willingness to deposit fifty percent of the impugned amount.

5) The learned advocate Sri. Pashupati Nath Singh submitted that the appellant has filed the appeal without refunding to the respondent 50% of amount deposited by her as per impugned order dated 21.07.2016 violating Clause 14 of “(GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS AND ELECTRICITY OMBUDSMAN) REGULATIONS, 2011”. Moreover, the appellant has filed the appeal on 06.09.2016 without annexing an application for condonation of delay showing sufficient cause after expiry of 30 days from the date of receipt of the impugned order of the Forum.

6) The learned advocate put emphasis on the very issue of affidavit being filed contrary to Clause 31 of the REGULATIONS, 2011 as the verification has not been made according to the prescription as required in the Form-V of the aforesaid regulation and, is also in breach of Order 19, Rule 1-3 of the Civil Procedure Code, 1908 and the law as laid down by the Supreme Court A.K.K.Nambiar Vs. UoI & Anr.1969 (3) SCC 684. The appeal being without proper affidavit & verification is liable to be dismissed summarily, the averments being unreliable & untrue. Moreover, the instant appeal has not been filed by any of the persons who were respondents before the VUSNF, Hazaribag whereas only Law Officer, JUVNL has been made party in the impugned appeal. Therefore, the appellant is guilty of concealing series of material fact and there by, intent to gain the unauthorized benefits illegally and adopted unfair means as a result the law as laid down by the Hon’ble Supreme Court has been violated. He relied upon the following judgements :

i) (1977)4Supreme court Cases 94

ii) (1079) 3 Supreme Court Cases 489

7) Heard both the parties and gone carefully through the materials on record.

8) Prima- facie issue is as under:

- a) Condonation of delay in filing the appeal within stipulated period and,
- b) Permission to deposit fifty percent of the impugned amount to the consumer as per order of the Forum and allow the appeal for further hearing on merit.

9) The Jharkhand State Electricity Regulatory Commission has laid down in “(GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS AND ELECTRICITY OMBUDSMAN) REGULATIONS, 2011” the methodology of filing an Appeal as under:

*“14.Appeal*

*The licensee or any consumer aggrieved by an order made by the Forum(s) may prefer an appeal against such order to the Electricity Ombudsman within a period of thirty days from the date of the receipt of the order, in such form and manner as may be laid down in these Regulation.*

*Provided further that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of thirty days if sufficient cause is shown for not filing the appeal within that period, but not exceeding a maximum period of 60 days from the date of receipt of the order.*

*Provided further that the Electricity Ombudsman shall entertain no appeal by any consumer, who is required to pay any amount in terms of an order of the Forum, unless the consumer has deposited in the prescribed manner at least fifty percent of that amount.*

*Provided further that the Electricity Ombudsman shall entertain no appeal by any licensee, who is required to pay any amount in terms of an order of the Forum to the Consumer, unless the Licensee has refunded in the prescribed manner at least fifty percent of that amount.*

*31. Affidavit in support*

*All complaint/representation/appeal shall be verified by an affidavit as per Form-V.”*

**10)** During discussion, thrust of the prayer made by the learned counsel is delay in filing the appeal is not deliberate but due to procedural defect in the hierarchy. He sought unconditional apology for not filing memo of appeal well within stipulated time as per the regulation. Moreover, he showed willingness to deposit fifty percent of the impugned amount to the respondent.

**11)** It is, thus, beyond the pale of doubt that the respondents have erred in complying order of the learned Forum in Case No.26/2016 passed on 21.07.2016 wherein it was directed that Rs. 50,000/=already deposited on 24.11.2014 be returned to petitioner. Infact, the licensee is also bound by law, but it appears that unnecessary litigation are being generated by them, where as they are obliged to implement the rules and regulations fairly.

**12)** Considering the entire matter from different angles in order to sort out the issue pertaining to the grievances, and in view of the circumstances of the case, the delay of 12 days in filing the memo of appeal is hereby condoned and preliminary objections for summary dismissal of the appeal raised by the respondent on maintainability is overruled in the larger interest of justice.

**13)** Therefore, the appellant the Jharkhand State Electricity Board now known as Jharkhand Urja Vikas Nigam Limited(JUVNL) through it's Law Officer is directed to deposit fifty percent of the impugned amount Rs.50,000/=(fifty thousand) to the respondent by 25/10/2016 and submit receipt of it's payment before this forum and thereafter further hearing on merit will be made.

Let a copy of this order be given to both the parties free of cost.

Sd/-

Electricity Ombudsman