

Jharkhand State Electricity Regulatory Commission Ranchi

(Case No. 23 of 2012)

18th December, 2014

M/s Krishna Fuels Petitioner
Vrs.
Jharkhand State Electricity Board & Ors. Respondents

Quorum: Hon'ble Mr. Sunil Verma, Member (Finance)

Present: Learned Lawyer Mr.M.S.Mittal and Mrs Shilpi John - Petitioner
Learned Lawyer Mr. Saket Upadhyay, Advocate (JUVNL)..... -Respondent

(ORDER)

The petitioner M/s Krishna Fuels filed the petition with the Commission praying for refund of security money deposited by the petitioner along with up to date interest.

The lawyer of the respondent has raised the issue of maintainability/jurisdiction of the Commission as per section 86(1)(f) of the Electricity Act, 2003.

The Commission heard the arguments of the petitioner's lawyer and respondent's lawyer at length.

Commission's views

The adjudicatory functions of the State Commission are clearly specified in the Section 86 of the Electricity Act, 2003. The relevant section i.e. 86(1)(f) is herewith quoted below:

“adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration”

As per section 86(1)(f) the Commission is empowered to hear disputes arising between generators and licensees. Admittedly, the petitioner is neither a generator nor a licensee. To our mind the petitioner's dispute is not covered by the aforesaid section.

Moreover, it is a consumer grievance and there is a complete mechanism set-up under the JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Electricity Ombudsman) Regulation, 2011 and the forums are functional in the State of Jharkhand.

We find support for the aforesaid conclusion in the judgment of the Hon'ble Supreme Court in the case of Civil Appeal No. 2846 of 2006 of Maharashtra Electricity Regulatory Commission Vs. Reliance Energy Limited & Others.

The relevant order of the judgment is quoted below:-

(13) *"It may be noted from a perusal of Section 86(1)(f) of the Act that the State Commission has only power to adjudicate upon disputes between licensees and generating companies. It follows that the Commission cannot adjudicate disputes relating to grievances of individual consumers. The adjudicatory function of the Commission is thus limited to the matter prescribed in Section 86(1)(f).*

(33) *"As per the aforesaid provision, if any grievance is made by a consumer, then they have a remedy under Section 42(5) of the Act and according to sub-section (5) every distribution licensee has to appoint a forum for redressal of grievances of the consumers. In exercise of this power the State has already framed the Maharashtra Electricity Regulatory Commission (Consumer Grievance redressal Forum and Ombudsman) Regulation, 2003 (hereinafter referred to as 'the 2003 Regulations") and created Consumer Grievance Redressal Forum and Ombudsman. Under these 2003 Regulations a proper forum for redressal of the grievances of individual consumers has been created by the Commission. Therefore, now by virtue of sub-section (5) of Section 42 of the Act, all the individual grievances of consumers have to be raised before this forum only. In the face of this statutory provision we fail to understand how could the Commission acquire jurisdiction to decide the matter when a forum has been created under the Act for this purpose. The matter should have been left to the said forum. This question has already been considered and decided by a Division Bench of the Delhi High Court in Suresh Jindal Vs BSES Rajdhani Power Ltd and Dheeraj Singh Vs. BSES Yamuna Power Ltd. And we approve of these decisions. It has been held in these decisions that the forum and ombudsman have power to grant interim orders. Thus a complete machinery has been provided in Section 42(5) and 42(6) for redressal of grievances of individual consumers. Hence wherever a forum/ombudsman have*

been created the consumers can only resort to these bodies for redressal of their grievances. Therefore, not much is required to be discussed on this issue. As the aforesaid two decisions correctly lay down the law when an individual consumer has a grievance he can approach the forum created under sub-section (5) of Section 42 of the Act.

(34) “In this connection, we may also refer to Section 86 of the Act which lays down the functions of the State Commission. Sub-section (1)(f) of the said section lays down the adjudicatory function of the State Commission which does not encompass within its domain complaints of individual consumers. It only provides that the Commission can adjudicate upon the disputes between the licensees and generating companies and to refer any such dispute for arbitration. This does not include in it an individual consumer. The proper forum for that is Section 42(5) and thereafter Section 42(6) read with the Regulations of 2003 as referred to hereinabove”

In view of this, the petitioner is directed to approach the concerned redressal forum.

With this the case is disposed off without any cost.

Let a copy of this order be sent to the parties.

Sd/-

Member (Fin)