

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT  
RANCHI  
Case No. 19 of 2022**

M/s Auto Profiles Ltd. ....**Petitioner**

Versus

Jharkhand Bijli Vitran Nigam Limited and Ors .....**Respondents**

**CORAM: HON'BLE JUSTICE MR. AMITAV KR. GUPTA, CHAIRPERSON  
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LEGAL)  
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)**

For the Petitioner : Mr.S.L. Agarwal, Advocate  
For the Respondent : Mr. Mrinal Kanti Roy, Advocate

**Date – 29<sup>th</sup> May, 2024**

1. The Petitioner-M/s Auto Profiles Ltd.has filed the instant petition under clause 26 of the JSERC (Guidelines for Establishment of Forum for redressal of grievances of the Consumer,Electricity Ombudsman and Consumer Advocacy) Regulation, 2021 read with section 142 of the Electricity Act, 2003 for compliance of the order passed by the Consumer Grievance Redressal Forum, Chaibasa.
2. The Petitioner in the instant petition has prayed for the following relief:
  - (a) For appropriate action under clause 26 of the JSERC (Guidelines for Establishment of Forum for redressal of grievances of the Consumer, Electricity Ombudsman and Consumer Advocacy) Regulation, 2021 for compliance of the order passed by the CGRF, Chaibasa.
  - (b) For grant of any other relief or reliefs as this Commission may deem fit in the facts and circumstances of the instant case and in the interest of the justice.

The factual matrix of the case may be appreciated in the following manner:

**Submission of Petitioner**

3. The Learned counsel for the petitioner has submitted that the petitioner is a company registered under the provisions of Indian Companies Act, having Consumer No. HJAP 105 with contract demand of 135 kVA being supplied at 11 kV voltage level.
4. It was pointed out that the petitioner had filed a complaint before the Jharkhand Vidyut Upbhokta Shikayat Niwaran Forum (JVUSNF) for quashing

letter No.846/ESE Jamshedpur, dated 23.03.2021 along with calculation chart issued by Electrical Superintending Engineer (ESE), Electric Supply Circle, Jamshedpur, whereby the petitioner was directed as under:

- i. For quashing the Letter No. 846 ESE Jamshedpur dated 23.03.2021 along with calculation chart issued by Electrical Superintending Engineer, Electrical Supply Circle, Jamshedpur, whereby the petitioner has been directed to pay the revised arrear amount of Rs.2,86,66,158/- within 21 days.
  - ii. For quashing letter No.119 ESE/ JSR, dated 05.05.2021, issued by ESE whereby the petitioner has been directed to pay Rs.2,23,39,506/- being the principal amount of fuel surcharge;
  - iii. For quashing letter No.1175/ESE, dated 17.05.2021 issued by Electrical Executive Engineer, Jamshedpur, wherein the petitioner has been directed to pay Rs.2,93,92,643/- excluding amount of Rs.1,08,222/ which is kept in abeyance;
  - iv. For quashing letter No.1376 ESE/JSR, dated 16.06.2021 issued by Electrical Executive Engineer, wherein the petitioner has been directed to pay Rs.2,93,96,001/ within 15 days failing which its service line will be disconnected-
  - v. For refund of excess amount paid by the petitioner against the amount of Rs.31,91,079.12.
5. The counsel has further submitted that the petitioner being aggrieved by non-compliance of the order passed by the Consumer Grievance Redressal Forum (CGRF), Chaibasa, at Jamshedpur passed in Case No.01/2021, Judgment dated 19.02.2022 whereby the learned Chairman was pleased to quash the letter No.846/ESE/JSR, dated 23.03.2021 along with revised bill dated 23.03.2021 issued by ESE whereby the applicant was directed to pay revised bill amounting to Rs. 2,86,66,158/- and consequently letter No.110/ESE, dated 05.08.2021 issued by ESE directing the applicant to pay Rs. 2,93,92,643/- was also quashed and further directed the respondent to revise the bill in accordance with law within a month from the date of receipt/production of copy of the judgment.
- Further, it was also directed that the revised bill shall be prepared mentioning various items under distinct heads and for recovery of DPS was stayed till final disposal of the LPA No.470/2015, and the respondents were also directed to refund/adjust the excess amount realized, if any, along with the interest in terms of clause 10.7.4 of the JSERC Electricity Supply Code (Regulation), 2015.
6. It was pointed out that the petitioner had deposited Rs. 59,53,987/- against

the principal amount of Rs. 31,97,079.12 against the fuel surcharge and this payment has been acknowledged by the respondent during the course of hearing.

7. The learned counsel has further submitted that the petitioner had also informed vide its letter dated 26.03.2022 requesting for grant of NOC from the respondent to switch over to another licensee. Thereafter, pursuant to the petitioner's letter dated 26.03.2022 the respondent, vide letter No.603 ESE/JSR dated 30.03.2022 informed the petitioner that as per VUSNF compliance the revision of bills is still under process and NOC may be granted after implementing the VUSNF order and relevant clause of JSERC.
8. It was pointed out that even after a lapse of three months, nothing was done by the respondent. Hence, the petitioner wrote a letter dated 30.06.2022 to the General Manager-cum-Chief Engineer regarding compliance of order dated 19.02.2022 passed by VUSNF, Karandih. Further the petitioner has submitted that the respondent was informed, vide letter No.603, dated 30.03.2022 that revision of bill was in process but the respondents are still sending bills showing huge dues.
9. It was contended that vide letter No.1684/ESE, dated 10.04.2022 the Electrical Superintending Engineer wrote a letter to the General Manager-cum-Chief Engineer, Electric Supply Area, Jamshedpur regarding checking and approval of re-casted calculation sheet of the applicant. The energy bill of the applicant was re-casted and summary of the recasting was drawn and to the best of the petitioner's knowledge, the fuel surcharge amount was mentioned as Rs. 32,08,721/- and the excess amount paid by the petitioner was calculated as Rs.27,45,195/-. The interest of excess payment against fuel surcharge up to July, 2022 was Rs.83,29,958/- and DPS on Fuel surcharge was due, part payment was Rs.21,08,613/- a total of Rs.54,87,953/- was kept in abeyance till the decision of the Hon'ble High Court.
10. It was submitted that during the course of meeting with the General Manager-cum-Chief Engineer, JBVNL, he was reluctant to pay the interest on excess amount on the ground that there is no such provision in law.
11. It was also submitted that the respondent is not complying with the Judgment passed by the VUSNF Chaibasa at Jamshedpur due to which the petitioner is suffering a heavy loss as respondent are reluctant to grant NOC due to which the petitioner can not switch over to another licensee thus keeping the dues pending.

### **Submission of Respondent**

12. The Learned counsel for the respondent has stated the case in a nutshell that the connection for 135 kVA on 11 kV supply under HTS tariff was released on 12.02.1993. The supplementary bill on account of fuel surcharge for Rs. 36,10,952.81 from 04/1996 to 06/2000 was served to the petitioner on 30.08.2000 but the petitioner didn't pay the said amount in a single time, rather paid partial amount time to time while no instalment was granted by JSEB. The Petitioner paid Rs. 20,00,000/- in 13 instalments by way of his will of Rs. 1,50,000/- each during the period from 30.06.2001 to 29.05.2002 and one instalment of Rs. 50,000/- on 28.04.2003. It was further submitted that due to partial payment, arrear was increased and DPS was charged.

Details of Payment are as follows:

Sl.No	Amount Paid	Dated
1	1,50000/-	20.06.2001
2	1,50000/-	30.07.2001
3	1,50000/-	27.08.2001
4	1,50000/-	25.09.2001
5	1,50000/-	23.10.2001
6	1,50000/-	27.11.2001
7	1,50000/-	27.12.2001
8	1,50000/-	24.01.2002
9	1,50000/-	21.02.2002
10	1,50000/-	26.06.2002
11	1,50000/-	30.04.2002
12	1,50000/-	27.05.2002
13	1,50000/-	28.06.2002
14	50,000/-	28.04.2003

13. It was submitted that thereafter, petitioner preferred W.P.(C) 874/2005 before the Hon'ble High Court of Jharkhand for quashing letter No. CM/FAC/803/2000/345/EB dated 11.07.2000 issued by JSEB fixing the rate of fuel surcharge for different period and for quashing the bill dated 30.08.2000, 04.10.2000 and 01.01.2005. Hon'ble High Court on 22.02.2005 passed the order as under :

*"So for the first two bills are concerned; I am not inclined to entertain the writ petition challenging the bills which were raised 5 years ago. So far as the third bill dated 01.01.2005 is concerned, counsel for the board will seek instruction and file counter affidavit. Put up this case after four week".*

14. It was submitted that while the aforesaid writ was pending for hearing, the petitioner challenged the order dated 22.02.2005 passed in W.P.(C) No. 874/2005 by filing LPA No. 195/2005 whereby and where under the learned single judge refused to entertain bills dated 30.08.2000 and 04.10.2000 the Hon'ble High Court disposed off the said LPA vide order dated 05.05.2005 and directed the Hon'ble single bench to decide the matter of pending hearing of the writ application, the appellant shall go on paying the current bills as raised. However, the delayed payment surcharge on earlier bills will be subject to the determination on the said question by the learned single judge" and

accordingly Rs. 1,08,222/- as DPS amount of the energy bill 04/2005 was kept in abeyance in electricity bill 05/2005 in the light of said order of LPA and this amount continues till date.

15. The respondent raised supplementary fuel surcharge to the tune of Rs. 36,10,953 instead of Rs. 31,91,079 (i.e. excess charged Rs. 4,19,874). The respondent calculated interest of Rs. 756348 on Rs. 4,19,874. Accordingly, the respondent had adjusted Rs. 11,76,222( i.e. Rs.756348+ Rs.419874) in electricity bill dated 02/2005.

As in note sheet arrear up to 12/2004 was Rs. 82,35,299/-(A) less the adjusted excess fuel surcharge billed (Rs. 4,19,874/-(B).

Interest on excess Fuel surcharge (10/2000 to 11/2004) Rs. 4,19,875/-(C)

(A-B-C) =Rs. 73,95,551/-

Petitioner has submitted 15 postdated cheques of Rs. 4,90,037/ against Rs. 73,95,551/- but only five cheques were credited as per details given below:-

S.No	Amount	Deposited
1	Rs.493037/-	MR No. 497035 dated 12.01.2005
2	Rs.493037/-	MR No. 497137 dated 12.02.2005
3	Rs.493037/-	MR No. 745635 dated 16.03.2005
4	Rs.493037/-	MR No. 745752 dated 21.04.2005
5	Rs.493037/-	MR No. 758234 dated 14.05.2005
<b>Total</b>	<b>Rs.24,65,185/-</b>	
6	Rs.493037/-	MR No. 758398 dated 21.06.2005

The sixth cheque was dis-honored whereafter the petitioner stopped paying the rest cheque amount.

16. It was submitted by the petitioner that a notice was issued by the respondent vide office letter No. 1151 dated 23.06.2008 for Rs. 1,00,60,920/- and further the petitioner preferred W.P.(C) No. 3287 of 2008 with respect to fuel surcharge and DPS on the arrear amount as directed by the Hon'ble High court in the interim order passed on 10.07.2008, and it was instructed that if the petitioner pays the said admitted amount of Rs. 31,91,079.12 excluding the amount already received by the Board against the declared amount, petitioner's connection will not be disconnected for non-payment of arrears in the bill dated 09.06.2008. It was also made clear that the petitioner will go on paying current charges.
17. It was argued that the petitioner had submitted a letter on 22.07.2008 referring to the aforesaid order and stated that as per the package offered by the General Manager, JSEB, they deposited 15 cheques & five cheques were credited and they stopped further payment of post-dated cheque in the light of the said order. Petitioner submitted details as under:

Total Supplementary bill amount after correction: Rs.31,91,079.12

Payment against postdated cheque: Rs. 24,65,185.00

Balance: Rs.7,25,894.00.

Hence, Rs. 7,25,894.00 to be paid in compliance with the aforesaid order Rs. 7,25,894/- was paid on 31.07.2008 vide receipt No, 926740.

18. It was submitted that the Hon'ble High Court dropped the writ W.P.(C) 3287/2008 vide order dated 01.08.2008 with observation that "petitioner has deposited the amount towards fuel surcharge of Rs. 31,91,079.12 and this fact has also been acknowledged in the counter affidavit filed on behalf of the respondent JSEB and also notice for disconnection has been withdrawn".Consequently, W.P.(C) No. 874/2005 was disposed off by the Hon'ble High Court vide order dated 14.09.2010 and the respondent Board were directed to revise the bill in terms of the judgment of the Hon'ble Supreme Court in the case of Bihar State Electricity Board Vrs. Pulk enterprises and others reported in (2009) 5 SCC 641.
19. Learned Counsel for the respondent has further submitted that the petitioner filed W.P.(C) No. 1364/2011 challenging the validity of various bills raised by the respondent JBVNL towards fuel surcharge and DPS upon it and during the pendency of the writ petition, Hon'ble High Court vide order dated 08.05.2015 passed in CWJC No. 2758 of 2000 for levy of short paid fuel surcharge in favour of JBVNL.
20. Thereafter, the petitioner preferred LPA No. 470/2015 before the Hon'ble High Court against the aforesaid order passed in W.P.(C) No. 1364/2011 and it was submitted that the said LPA is still pending for hearing before the Hon'ble High Court vide order dated 03.11.2015 passed in this LPA, Hon'ble High Court directed the petitioner to deposit the principal amount of fuel surcharge. It was submitted that the Hon'ble High Court also ordered that recovery of DPS shall remain stayed till final disposal of the LPA. Thereafter, the respondent vide letter No. 2768 dated 10.11.2015 requested the petitioner for deposition of balance fuel surcharge Rs. 7,62,908/- which was paid by the petitioner on 10.11.2015.
21. It was also submitted that the petitioner preferred W.P.(C) No. 3708/2015 and prayed to quash the notice issued under section 56(1) of the Electricity Act, 2003 and also challenged the bill issued by JBVNL whereby petitioner was asked to deposit Rs. 2,55,24,647/- as interest on DPS on account of fuel surcharge.
22. It was submitted that the aforesaid writ was disposed of by the order dated 22.01.2020 and Hon'ble High Court directed the General Manager cum Chief Engineer, electric Supply Area, Jamshedpur to look into the grievance of the

petitioner and pass appropriate order in accordance with law within a period of eight weeks.

23. Thereafter, the petitioner made representation before the General Manager Cum Chief Engineer, Electric Supply Area, Jamshedpur and after hearing both the parties, the General manager decided the issue vide order dated 01.12.2020. In pursuance of the order, the bill was revised as per order by General Manager Cum Chief Engineer, Electric Supply Area, Jamshedpur and was served to the petitioner for payment on 23.03.2020 vide ESE letter No. 846 for an amount of Rs. 2,86,66,158/- along with detailed calculation chart. The petitioner made protest on 10.04.2021 regarding correctness of the bill. However, petitioner didn't pay the same, rather paid the current assessment only.
24. It was submitted that in compliance with General Manager's letter, petitioner was informed vide letter No. 1119 dated 05.05.2021 that the bill is revised as per order of General Manager Cum Chief Engineer, Electric Supply Area, Jamshedpur dated 01.12.2020 considering the actual rate of fuel surcharge as per court's order and the DPS was calculated only on short payment amounts. Further, no DPS on DPS is charged, rather the adjustment of payment is made as per applicable in Supply Code Regulation. In the detailed calculation provided, at no place the payment exceeds the amount of JBVNL claim, rather the arrear is outstanding from the very beginning so there is no question of giving interest on the claimed excess paid amount since no excess payment is received by JBVNL.
25. It was submitted that the Hon'ble High Court vide order dated 03.11.2015 in LPA No. 470/ 2015 has stayed the interest amount but the principal amount of Rs. 2,23,39,506/- was to be paid. Being aggrieved by the aforesaid letters, petitioner preferred W.P.(C) No. 2454/2021 for quashing the letter no. 846/ESE dated 23.03.2021 along with calculation chart.
26. It was also submitted that the Hon'ble High Court dismissed the writ petition as not maintainable vide order dated 21.09.2021, however, the petitioner was given liberty to prefer a compliant before the Hon'ble VUSNF, Jamshedpur before 28th September, 2021.
27. The Hon'ble VUSNF in case No. 01/2021 pronounced judgment on 19.02.2022 and directed JBVNL to revise the bill within a month and the revised bill shall mention various items under distinct heading in compliance with the Hon'ble High Court's order dated 03.11.2015 passed in LPA No. 470/2015. Further, the amount of DPS recovery, which has been stayed till final disposal of the LPA, shall be kept in abeyance and this fact shall be mentioned in the revised bill.
28. The Learned counsel for the respondent has submitted that the petitioner, vide its letter No. 26.03.2022, requested the respondent for grant of NOC to

switch over to another licensee i.e. JUSCO to which the respondents replied vide letter No. 603 dated 30.03.2022 that revision of bills are under process in compliance with Learned VUSNF's order dated 19.02.2022.

29. Thereafter, the petitioner vide letter No. 1158 dated 29.06.2022 and 1372 dated 23.07.2022 sought necessary directions from General Manager Cum Chief Engineer, Electric Supply Area, Jamshedpur for implementing the order of Hon'ble High Court dated 03.11.2015 in LPA No. 470/2015 and VUSNF's order dated 19.02.2022 in case No. 01/2021 with a copy to the General Manager (Revenue), JBVNL Head Quarter, Ranchi.
30. It was submitted that the respondent, in light of the direction received from General Manager (Revenue), JBVNL Head Quarter, Ranchi through letter no. 1149 dated 25.07.2022, for implementing the order dated 19.02.2022 of Learned Vidyut Upbhokta Sikayat Niwaran forum case No. 01/2021, General Manager Cum Chief Engineer, Electric Supply Area, Jamshedpur constituted a committee to scrutinize the re-casted calculation sheet of M/S Auto Profile Ltd. The committee so constituted submitted its report which has been forwarded to the petitioner vide letter no. 549 dated 20.03.2023.
31. It was also submitted that a revised bill has been raised in terms of the aforesaid committee report and the order passed by the Consumer Redressal Forum Chaibasa in case no. 01/21 has been complied with in true letter and spirit.

#### **Commission's Observation and findings**

32. The Commission has considered the submissions of the parties and perused the materials available on records.
33. The Commission has take note of para 17 of the order passed in Case No. 01 of 2021 dated 19.02.2022 passed by the learned Vidyut Upbhokta Shikayat Niwaran Forum Chaibasa, Jamshedpur, passed in Case which is extracted hereunder:

*"17Accordingly, the aforementioned letters along with impugned bill are hereby quashed and the respondents are directed to revise the bill in accordance with law within a month from the date of receipt/production of copy of this judgement. Revised bill shall be prepared mentioning various items under distinct headings. In compliance of the order of the Hon'ble High Court dated 03.11.2015 passed in L.P.A. No.470/2015, the amount of DPS recovery of which has been stayed till final disposal of the LPA, shall be kept in abeyance and this fact shall be mentioned in revised bill. Respondents are further directed to refund/adjust excess amount realized, if any, along with interest in terms of clause 10.7.4 of the JSERC(Electric Supply Code)Regulations,2015.*

*The Complainant/petitioner is directed to pay the amount of revised bill except the amount of DPS recovery of which has been stayed by the Hon'ble Court within 3 weeks after service of copy of the revised bill.*

*Accordingly, the petition is hereby partly allowed.*

*Let a copy of judgement be given to both the parties free of cost."*

34. According to the judgement of VUSNF, the respondent had submitted the revised bill to the petitioner amounting to Rs.2,68,84,365(Rupees two crore, sixty-eightlaks, eighty-fourthousand, three hundred and sixty-five only).

**ORDER**

35. On scrutiny and analysis of the revised bill submitted by the Respondent-JBVNL, the Commission is of the opinion that the revised bill is not in accordance with the directions issued by the VUSNF Chaibasa and the order of Hon'ble High Court wherein DPS amount was to be stayed till disposal of LPA. In the given facts and circumstances the respondent is directed to prepare separate revised bill of fuel surcharge excluding DPS on fuel surcharge till the outcome of LPA 470/2015.
36. In the backdrop of the aforesaid discussions, the Respondent is directed to revise the fuel surcharge bill excluding DPS amount which has been stayed by the Hon'ble High Court, within 15 days from the issue of this order.
37. The Petition stands disposed off, with the aforesaid directions.

Sd/-  
Member(T)

Sd/-  
Member(L)

Sd/-  
Chairperson