

(2012) 07 JH CK 0067
Jharkhand High Court
Case No: Writ Petition (C) No. 7443 of 2006

Airport Authority of
India

APPELLANT

Vs

Jharkhand State
Electricity Regulatory
Commission, Ranchi
and Others

RESPONDENT

Date of Decision: July 23, 2012

Acts Referred:

- Electricity Act, 2003 - Section 42, 42(5), 42(6), 86

Citation: AIR 2013 Jhar 20

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: S.K. Verma, for the Appellant; Rajesh Shankar and Abhay Prakash, for the Respondent

Judgement

Aparesh Kumar Singh

1. Heard learned counsel for the parties. This writ petition has been preferred for quashing the demand notice dated 03.10.2006 whereby a sum of Rs. 15,68,678/- has been submitted to the petitioner for payment on account of electric dues against the High Tension Connection. The petitioner is also aggrieved by the order dated 26.11.2005 passed by the Jharkhand State Electricity Regulatory Commission, Ranchi in Petition No. 12/04-05 where he had moved for redressal of his aforesaid grievance.

2. From perusal of the Annexure-4 to the writ petition, order passed by the Jharkhand State Electricity Regulatory Commission, Ranchi dated 26.11.2005, it appears that the proceeding was terminated on account of the fact that none appeared on behalf of the petitioner-the Airports Authority of India, Ranchi, but

counsel for the respondent-Jharkhand State Electricity Board, Ranchi was present.

3. Learned counsel for the respondents-JSEB has submitted on the basis of the provisions of the Electricity Act 2003, which have duly been dealt with in the judgment of the Hon'ble Supreme Court of India in a case of [Maharashtra Electricity Regulatory Commission Vs. Reliance Energy Ltd. and Others](#), that petitioner was required to approach alternative statutory forum created by the Jharkhand Electricity Board under the Provisions of the Section 42(5) of the Electricity Act, 2003, instead of approaching the Commission, which do not have jurisdiction to decide individual complaint. Relevant paragraphs of the aforesaid judgment contained at para- 32,33 and 34 are being quoted hereinbelow for better appreciation:-

32. For deciding this question, the relevant provision is Section 42(5) of the Act, which reads as under:

42. Duties of Distribution licensee and open access. (1)-(4) * * *

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance, with the guidelines as may be specified by the State Commission.

33. As per the aforesaid provision, if any grievance is made by a consumer, then they have a remedy u/s 42(5) of the Act and according to subsection (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) Regulations, 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 V. BSES Rajdhani Power Ltd. and Dheeraj Singh V. 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.

4. In view of the alternative statutory remedy available to the petitioner and the fact that the Regulatory Commission do not have jurisdiction to decide the individual dispute relating to Electricity Bill, the petitioner is at liberty to approach alternative forum as established u/s 42(5) of the Electricity Act 2003, having jurisdiction to entertain the present dispute. Accordingly, with the aforesaid liberty, this writ petition stands disposed of.