
(2014) 09 NCDRC CK 0025

In the National Consumer Disputes Redressal Commission

JODHPUR VIDYUT VITRAN NIGAM LTD

APPELLANT

Vs

LAL SINGH

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Citation : 2014 0 NCDRC 645

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : GAUTAM GUPTA , ADITYA MADAN , ASTHA TYAGI

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 22.2.2010 passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, "the State Commission ") in Appeal No. 1481/2009 - JD. V.V.N.L. Vs. Lal Singh by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainant/respondent had electricity connection from OP/petitioner from 16.4.2004. Complainant complained about fast running of meter and OP changed the meter and issued bill for December, 2004 for Rs.4027/- showing previous outstanding, which was wrong. Complainant did not deposit amount and OP disconnected supply on 24.3.2005. Complainant on 15.9.2008 applied for new electricity connection and he was issued bill for previous outstanding of Rs.7387.79 inclusive of Rs.1915.35 as interest which demand was totally illegal. OP refused to release connection without depositing demanded amount. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted complaint and submitted that for grant of new connection demand towards previous outstanding was to be deposited and OP was well within its rights to call for outstanding amount and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and quashed demand of Rs.7387.79. Appeal filed by OP was dismissed by learned State Commission vide impugned order against which, this revision petition has been filed.

3. HEARD learned Counsel for the parties and perused record. Learned Counsel

for the petitioner submitted that petitioner was well within its rights to recover the outstanding dues, as dues were continuously shown outstanding in petitioner's record; even then, learned District Forum committed error in allowing complaint and learned State Commission further committed error in dismissing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the respondent submitted that in the light of Section 56 (2) of Electricity Act, order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. IT is admitted case of the parties that complainant's previous connection was disconnected and certain amount was outstanding against him. It is also not disputed that complainant applied for new electricity connection after 3 -4 years and OP asked the complainant to deposit previous outstanding amount of Rs.7387.79 and complainant refused to deposit amount.

5. NOW , the core question to be decided is whether OP is under an obligation to release connection without deposit of outstanding amount of Rs.7387.79 by the complainant?

6. LEARNED Counsel for the petitioner submitted that as per Sections 6, 8 & 9 of Rajasthan Government Electrical Undertaking (Dues Recovery) Act, 1969, petitioner is entitled to recover outstanding dues and as per Section 9, limitation for recovery is 6 years. Learned Counsel for the respondent submitted that after Electricity Act, 2003 came into force, Rajasthan Government Electrical Undertaking (Dues Recovery) Act, 1969, does not remain in force. Learned Counsel for the respondent could not show that aforesaid Act of 1969 stands repealed by Electricity Act, 2003.

7. EVEN if for the sake of argument it is presumed that aforesaid Act of 1969 stands repealed, Section 56 (2) of the Electricity Act, 2003 saves limitation for recovery of aforesaid amount. Section 56 (2) runs as under: ""56 (2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity:

8. AS per aforesaid provision, due amount is not recoverable after two years from the date when such sum became due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supply meaning thereby, if the amount has continuously been shown as recoverable, limitation to recover amount does not lapse. Perusal of Jodhpur Vidhyut Vitran Nigam Ltd., L.T. Consumer's Ledger reveals that Rs.5472.44 has been shown outstanding in favour of the respondent as on 16.1.2010 and this amount is continuously being shown outstanding against respondent right from June 2005 and learned District Forum committed error in quashing demand being time barred and learned State Commission further committed error in treating demand as time barred.

9. IN the light of above discussion, it becomes clear that petitioner is entitled to recover aforesaid amount till it is shown recoverable in their ledger and petitioner rightly demanded amount at the time of release of new electricity connection to respondent and revision petition is to be allowed.

10. CONSEQUENT LY , revision petition filed by the petitioner is allowed and impugned order dated 22.2.2010 passed by learned State Commission in Appeal No. 1481/2009 - JD. V.V.N.L. Vs. Lal Singh and order of District Forum dated 23.09.2009 is set aside and complaint stands dismissed with no order as to costs.