

M. P. STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

PLOT NO.76, ARERA HILLS, BHOPAL

FIRST APPEAL NO. 1643 OF 2023

(Arising out of order dated 18.08.2023 passed in C.C.No.511/2022 by District Commission, Gwalior)

1. M.P.MADHYA KSHETRA VIDYUT VITRAN
COMPANY LIMITED THROUGH EXECUTIVE
ENGINEER, SOUTH DIVISION, AAMKHO,
LASHKAR, GWALIOR (M.P.)

2. M.P.MADHYA KSHETRA VIDYUT VITRAN
COMPANY LIMITED THROUGH ASSISTANT
ENGINEER, SIKANDER QAMPOO,
ZONE LASHKAR, GWALIOR (M.P.)

... APPELLANTS.

Versus

SMT. RENU SIKARWAR,
W/O SHRI DEEWAN SINGH SIKARWAR,
R/O NEAR KALLU KI CHAKKI, DHOKALPURA,
LASHKAR, GWALIOR (M.P.)

.... RESPONDENT.

BEFORE :

HON'BLE SHRI A. K. TIWARI : **ACTING PRESIDENT**
HON'BLE DR. SRIKANT PANDEY : **MEMBER**

COUNSEL FOR PARTIES :

Ms. Sapna Aggarwal, learned counsel for the appellants.
Shri Anurag Khaskalam, learned counsel for the respondent.

ORDER

(Passed On 22.07.2024)

The following order of the Commission was delivered by A. K. Tiwari, Acting President:

Feeling aggrieved by the order dated 18.08.2023 passed by the District Consumer Disputes Redressal Commission, Gwalior (For short 'District Commission') in C.C.No.511/2022 whereby the complaint filed by

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the complainant/respondent has been allowed, the opposite parties/appellants-electricity company have filed this appeal.

2. Brief facts of the case as portrayed by the complainant are that the complainant had obtained a domestic electricity connection 2424307-44-14-0660062000 from the opposite parties/appellants M. P. Madhya Kshetra Vidyut Vitran Company Limited (For short 'Electricity Company') of which she was paying the bills regularly. It is alleged that in the month of April-2022 the electricity company raised a bill for a sum of Rs.79,854/- in which Rs.79,759/- were shown as arrears. The complainant therefore filed a complaint against the electricity company seeking amended electricity bill removing the earlier dues of Rs.79,759/- along with Rs.20,000/- as compensation and costs.

3. The opposite parties-electricity company resisted the complaint stating that on inspection carried out by the officers of the electricity company it was found that the complainant was using the electricity by bypassing the meter. The complainant was drawing electricity in an unauthorized manner and proceedings under Section 135 of the Electricity

Act, 2003 have been initiated against her and Case No.679/2022 is pending before the Special Court regarding theft of electricity and therefore this complaint is not maintainable before the District Commission.

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4. The District Commission while allowing the complaint quashed the demand of Rs.34,048/- as previous arrears in the bill for the month of May-2023 and surcharge. Compensation of Rs.5,000/- with costs of Rs.3000/- is also awarded.
5. Learned counsel for the opposite parties/appellants-electricity company argued that the District Commission has failed to consider this fact that the present case is related to theft of electricity and a criminal complaint under Section 135 of the Electricity Act, 2003 is still pending before the Special Court. She argued that the District Commission without having any jurisdiction to entertain such complaint has erred in allowing the complaint.
6. Learned counsel for the complainant argued that the District Commission after considering all aspects of the matter has rightly allowed the complaint. He prayed for dismissal of appeal.
7. Having heard learned counsel for the parties and on perusal of record we find that the record reveals that present case is based on allegation of theft of electricity. The opposite party-electricity company have inspected the premises of the complainant/respondent on 29.12.2020 and found that the complainant was drawing the electricity in an unauthorized manner by making a cut in service line before the meter of which panchnama (R-2) was prepared in the presence of the

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complainant who denied to sign the same and raised a provisional assessment order under Section 126/135 of the Electricity Act, 2003 for a sum of Rs.66,714/- (page 46). In the memo of appeal, appellants have stated that a criminal case no. 679/2022 regarding theft of electricity is still pending before the Special Court.

8. The Supreme Court in the case of *U.P.Power Corporation Limited & Ors. Vs Anis Ahmad, III (2013) CPJ 1 (SC)* has held that a Consumer Forum cannot derive power to adjudicate a dispute in relation to assessment made under Section 126 or offences under Section 135 to 140 of the Electricity Act, 2003 as acts of indulging in unauthorized use of electricity as defined under Section 126 or committing offence under Section 135 to 140 of the Electricity Act do not fall within the ambit of Consumer Protection Act. Therefore, the District Commission has no jurisdiction to entertain a complaint in respect of the disputed penal bill.
9. In view of the decision of of Hon'ble Supreme Court in *Anis Ahmed (supra)* and considering the facts, circumstances and evidence available in the present case, we are of a considered opinion that from the documents available on record, it is found to be a case of theft of electricity of which panchnama was prepared in the presence of complainant and a provisional assesment order was issued by the electricity company.

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10. For the foregoing discussion, we are of a considered view that the complaint being not maintainable before the District Commission and therefore the District Commission has committed grave error in entertaining and allowing the complaint. In such circumstances, the impugned order cannot be sustained and it is hereby set-aside. Consequently, the complaint is dismissed.
11. In the result, this appeal succeeds and is hereby allowed. No order as to costs.

(A. K. Tiwari)

(Dr. Srikant Pandey)

Acting President

Member