

**Junior Engineer and Another Vs. Vishwanath**

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**Court :** Maharashtra State Consumer Disputes Redressal Commission SCDRC  
Nagpur

**Decided On :** Jan-28-2014

**Judge :** The Honourable Mr. B.a. Shaikh, Judicial Presiding Member & the Honourable Mrs. Jayshree Yengal Member

**Appeal No. :** First Appeal No. A/02 of 615

**Appellant :** Junior Engineer and Another

**Respondent :** Vishwanath

**Judgement :**

Jayshree Yengal, Member:

1. This appeal challenges the order dated 21/01/2002 passed by the District Consumer Forum, Yavatmal partly allowing the consumer complaint bearing No. 314/2001 thereby directing the respondent Nos.1and2/ appellants herein to issue a corrected electricity bill and to adjust Rs., 1680/- in the said bill, granting compensation of Rs. 1000/- towards mental and physical harassment and Rs. 500/- more towards cost of the proceeding.The appellants to be referred as opposite party and respondent No.1 be referred as complainant for the sake of brevity.2. Brief facts giving rise to this appeal are that:-œComplainant -Vishwanath is a consumer of the opposite party and has electricity connection bearing DL No. 307. The complainant was regularly paying the bills issued by the opposite party

towards electricity consumption. The opposite party issued bill for the period from 01/03/2001 to 28/05/2001 for a sum of Rs. 2390/-. The said bill reflected an outstanding amount Rs.1395/- which was also included in the said bill. The complainant challenged the said bill and sought for its correction since it was illegal and faulty. The opposite party on 18/06/2001 issued a corrected bill of Rs. 1680/- . The complainant challenged the corrected bill also but the opposite party warned the complainant that it would disconnect the electricity supply if the corrected bill was not paid. The complainant therefore, to avoid disconnection paid the bill of Rs. 1680/-. The complainant informed the opposite party that he had made an excess payment of Rs.719/-. The Opponent assured the complainant that the said excess amount received from the complainant would be adjusted in the future bill. The complainant was not under any default of payment nor was there any outstanding bill against the complainant, still the opposite party disconnected the electric supply on 22/08/2001. Since, it was a period of religious festivals like Ganesh Utsav and Mahalaxmi the complainant could not celebrate the said religious festivals satisfactorily and therefore he was subjected to the physical and mental harassment. The complainant challenged the disconnection by submitting a written representation before the opposite party. The opposite party endorsed on the said representation that the electricity supply be restored immediately. The complainant was directed to show the said endorsement in respect of restoration of electricity supply to the linemen. Since, the complainant refused to approach the line men for restoration of electricity supply the opposite party himself informed the linemen to restore the electricity supply which was restored on 29/08/2001. Therefore, the complainant was deprived of electricity for 9 days for no default on the part of the complainant. Therefore alleging deficiency in service the complainant filed a consumer complaint seeking issuance of corrected bill for the month of May- 2001 and seeking refund of Rs. 1680/- which he was forced to deposit by the opposite party and compensation of Rs.25000/- towards defamation, mental and physical harassment incurred by the complainant as the complainant was deprived of electric supply from 22/08/2001 to 29/08/2001 and Rs. 3000/- more towards cost of the proceeding.<sup>3</sup> The complaint was proceeded without written version and when the opposite party sought for filling the written version supported by an application seeking permission to file the same

the Forum dismissed the said application. Therefore, the Forum partly allowed the complaint without taking the W.S. of the opposite party on record and granted relief as aforesaid.<sup>4</sup> Feeling aggrieved by the impugned order the opposite party - M.S.E.B. has filed this appeal and sought for remanding the matter before the District Consumer Forum for adjudicating the dispute as per law.<sup>5</sup> The opposite party /appellant herein has filed the copy of the written version which was sought to be filed before the Forum and submitted that they have not rendered any deficiency in service and has explained in detail the electricity bill issued to the complainant and the amount adjusted in subsequent bill and the complete statement of account of the complainant.<sup>6</sup> The opposite party /appellant has submitted that since the written version was not taken on record the stand of the opposite party was not considered and the complaint was decided without giving any opportunity to the opposite party to put its case in respect of service rendered by the opposite party. Therefore, this appeal deserves to be remanded before the Forum for adjudicating the disputes as per law by granting opportunity to the opposite party to defend and be heard.<sup>7</sup> We heard counsel for the appellant. Respondent- Viswanath though served was absent hence, we had no opportunity to hear the respondent. We perused the copy of the complaint, the documents filed on record by the appellant and copy of the written version which was sought to be filed by the appellant before the Forum. The said written version clearly reflect that the opposite party had from time to time issued corrected bill and adjusted the amount recovered from the complainant in the bills issued by it. Therefore, prima facie it seems that the opposite party has not rendered any deficiency in service. The Forum allowing the complaint by holding that the opposite party failed to file written version on the adjourned dates itself reflect that it does not want to file its say on record cannot sustain in law. The Forum could have taken the written version on record by imposing conditions in the interest of justice. The consumer complaint then would have been decided observing the principles of natural justice. Recording findings and deciding a dispute without following the principles of natural justice cannot sustain in law and we feel that this is the fit case to be remanded to the Forum to be adjudicated as per law.<sup>8</sup> For the forgoing reason we find that the appeal deserves to be allowed and the complaint deserves to be remanded to the Forum for adjudication as per law.

In the result we pass the following order.

## **ORDER**

i. Appeal is partly allowed.ii. Impugned order dated 21/01/2002 is set aside. The complaint is remanded back to the District Consumer Forum, Yavatmal for accepting the written version of original opposite party on record and for deciding the said complaint afresh as per provisions of law.iii. The original opposite party /appellant shall appear before the District Consumer Forum, Yavatmal on 28/03/2014. The District Consumer Forum shall issue notice to the original complainant for hearing.iv. In the peculiar facts and circumstances of the case, parties to bear their own cost.

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