



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6981 of 2025

S.D.O.-1 (Elect.), TPWODL, Bargarh ..... Petitioner  
Electrical Division, Bargarh

Mr. P.K. Tripathy, Advocate

-Versus-

Nandini Nirod Panda ..... Opposite Party

CORAM:  
MR. JUSTICE R.K. PATTANAIK

ORDER  
27.03.2025

Order No.  
01.

1. Heard Mr. Tripathy, learned counsel for the petitioner.
2. No notice is issued to the opposite party, as the matter is disposed of at the stage of admission.
3. Instant writ petition is filed by the petitioner challenging the impugned order dated 23<sup>rd</sup> December, 2024 under Annexure-6 passed in connection with Consumer Complaint No.43 of 2023 by learned District Consumer Dispute Redressal Commission, Bargarh (hereinafter referred to as 'the DCDRC') on the grounds stated therein.
4. Mr. Tripathy, learned counsel for the petitioner submits that the learned DCDRC, Bargarh did not have jurisdiction to entertain the complaint in view of the order of the Apex Court in **U.P. Power Corporation Ltd & others Vrs. Anis Ahmad AIR 2013 SC 2766** despite an objection from the side of the petitioner. It is further submitted that without any issue being framed on the point of jurisdiction in view of the objection as above, learned DCDRC, Bargarh allowed the complaint with a direction to refund an amount of Rs.36,401/- which was deposited by the opposite party



with an undertaking-cum-declaration i.e. Annexure-3 series. The contention is that in absence of any such jurisdiction of the learned DCDRC, Bargarh, the impugned order, i.e., Annexure-6 is liable to be set aside. In course of hearing, Mr. Tripathy, learned counsel for the petitioner submits that the opposite party may have the liberty to challenge the final assessment with an appeal filed as per Section 127 of the Electricity Act, 2003. With such submission, a copy of the order dated 20<sup>th</sup> September, 2024 in W.P.(C) No.23035 of 2024 of this Court is filed. With regard to the jurisdiction point, the contention is that the same is clearly excluded in view of the decision of the Apex Court in **Anis Ahmad** (supra).

5. In fact, an objection was filed by the petitioner before the learned DCDRC, Bargarh challenging the jurisdiction and maintainability of the complaint. Upon a reading of the impugned order as at Annexure-6, the Court finds that notwithstanding such an objection, no issue was framed on the point of jurisdiction. The learned DCDRC, Bargarh framed issues with regard to deficiency in service and the relief if the opposite party is entitled to receive and not on jurisdiction. The Apex Court in the aforesaid decision, after an elaborate discussion with reference to the relevant provisions of the Electricity Act, 2003, observed that after notice of provisional assessment to the person indulged in unauthorized use of electricity, the final decision by an Assessing Officer is a quasi-judicial decision, hence, does not fall within the meaning of “consumer dispute” defined in 2(1)(c) of the Consumer Protection Act, 1986.

6. It is apposite to make mention of the ratio laid down by the Apex Court and the relevant extract of the decision in **Anis Ahmad** (supra) and the same is reproduced herein below:

“47. In view of the observation made above, we hold that:- (i) In case of inconsistency between the Electricity



Act, 2003 and the Consumer Protection Act, 1986, the provisions of the Consumer Protection Act will prevail, but ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matters which do not come within the meaning of “service” as defined under Section 2(1)(o) or “complaint” as defined under Section 2(1)(c) of the Consumer Protection Act, 1986.

(ii) A “complaint” against the assessment made by the assessing officer under Section 126 or against the offences committed under Sections 135 to 140 of the Electricity Act, 2003 is not maintainable before a Consumer Forum.

(iii) The Electricity Act, 2003 and the Consumer Protection Act, 1986 run parallel for giving redressal to any person, who falls within the meaning of “consumer” under Section 2(1)(d) of the Consumer Protection Act, 1986 or the Central Government or the State Government or association of consumers but it is limited to the dispute relating to “unfair trade practice” or a “restrictive trade practice adopted by the service provider”; or “if the consumer suffers from deficiency in service”; or “hazardous service”; or “the service provider has charged a price in excess of the price fixed by or under any law”.

7. In view of the law referred herein above, considering the submission of Mr. Tripathy, learned counsel for the petitioner and as there has been no decision on the point of jurisdiction as made to reveal from Annexure-6, when an objection was raised as per Annexure-5, the Court is of the view that the impugned order i.e. Annexure-6 is liable to be set aside with a direction to the learned DCDRC, Bargarh to consider the same with a disposal. The Court is also of the view that the opposite party in view of final assessment would have the liberty to avail appropriate remedy as per Section



127 of the Electricity Act, 2003, nevertheless, the direction is for a fresh decision on the point of jurisdiction by the learned DCDRC, Bargarh.

8. Accordingly, it is ordered.

9. In the result, the writ petition stands disposed of with a direction to the learned DCDRC, Bargarh to consider the question of jurisdiction in view of the decision of the Apex Court in **Anis Ahmad** (supra) and thereafter, to proceed and dispose of the complaint accordingly. As a necessary corollary, the impugned order under Annexure-6 in Consumer Complaint No.43 of 2023 is hereby set aside restoring the proceeding for a fresh disposal in the light of the directions as aforesaid.

10. In the circumstances, however, there is no order as to costs.

11. Issue urgent certified copy as per rules.

(R.K. Pattanaik)  
Judge

Alok

Signature Not Verified

Digitally Signed  
Signed by: ALOK RANJAN SETHY  
Reason: Authentication  
Location: ORISSA HIGH COURT  
Date: 28-Mar-2025 19:25:25

