

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3509/2022

**RAJASTHAN TEXTILE MILLS
ASSOCIATION & ORS.**

..APPELLANT(S)

VERSUS

**JAIPUR VIDYUT VITRAN NIGAM LIMITED
(JVVNL) & ORS.**

..RESPONDENT(S)

O R D E R

Circumstance of COVID-19 is the reason the appellants before us sought enforcement of Clause 45 (4) of the TCOS claiming that there is no liability to pay minimum billing amount on account of 'command of civil or military authority'. The Rajasthan Electricity Regulatory Commission (RERC) decided the petition filed under Section 86 (1)(f) read with Sections 142 and 146 of the Electricity Act, 2003 opining that a Commission would not have any jurisdiction in the matter. We may notice that the appellants are the large industrial consumers of electricity from the respondent(s) distribution licensee.

The aforesaid order dated 28.10.2020 was assailed in appeal before the appellate Tribunal which rejected the appeal in terms of the order

dated 03.12.2021 opining that the appellants were at liberty to avail of appropriate remedy before the Consumer Grievance Redressal Forum (CGRF) set up by the respondents and an aggrieved party other than the respondents can even appeal before the CGRF in case of any adverse order.

Learned Counsel for the appellants has sought to contend by relying on the judgment of this Court in *Maharashtra Electricity Regulatory Commission vs. Reliance Energy Ltd.*, (2007) 8 SCC 381 that the Commission is empowered with all powers right from granting licence and laying down the conditions of licence and to frame regulations and to see that the same are appropriately enforced. The submission is what he is seeking is enforcement of the terms and conditions of a licence.

On the other hand, learned counsel for the respondents referred to the judgment of this Court in the case of *Hindustan Zinc Limited (H.Z.L.) vs. Ajmer Vidyut Vitran Nigam Limited*, (2019) 17 SCC 82, more specifically, para 19 opining that the adjudication upon disputes under Section 86 of the said Act can only be between licencees and generating companies and not licencees and consumers. It is thus her submission that the appellants being consumers while the respondents are licencees, such a dispute cannot be adjudicated

by the Commission as rightly opined.

On consideration of the matter we find force in the contention of the learned counsel for the respondents. On perusal of the impugned order in this behalf we find that the approach adopted has the imprimatur of the judgment in *Hindustan Zinc Limited (H.Z.L.) (supra)* aforesaid. In effect the appellants are seeking to raise a dispute with the respondents as a consumer on the basis that the interpretation of the terms and conditions of the licence envisages a situation where there is stoppage of commercial activities by order of the civil administration amongst others. We are also informed that there are other cases where the matter is pending before the ombudsman having been opined against the consumers by the Commission.

We are thus of the view that the Tribunal has given appropriate liberty to the appellants.

Needless to say in view of the passage of time already gone by, the Redressal Forum/Ombudsman will endeavour to bestow its early consideration to the matter.

The appeal is dismissed accordingly.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[SUDHANSHU DHULIA]

**NEW DELHI,
AUGUST 01, 2023.**

ITEM NO.16

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3509/2022

RAJASTHAN TEXTILE MILLS ASSOCIATION & ORS.

Appellant(s)

VERSUS

JAIPUR VIDYUT VITRAN NIGAM LIMITED (JVNL) & ORS. Respondent(s)

Date : 01-08-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Appellant(s) Mr. Anand K. Ganesan, Adv.
Mr. Nikunj Dayal, AOR
Ms. Aishwariya Subramani, Adv.

For Respondent(s) Ms. Christi Jain, Adv.
Mr. Puneet Jain, Adv.
Mr. Yogit Kamat, Adv.
Ms. Shruti Singh, Adv.
Mr. Umang Mehta, Adv.
Mr. Mann Arora, Adv.
Ms. Akriti Sharma, Adv.
Ms. Pratibha Jain, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed
order.

Pending application, if any, stands disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]