

**BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY
Appellate Jurisdiction, New Delhi**

Appeal No. 119 of 2007

Dated this 20th day of February, 2008

**Coram : Hon'ble Mr. A. A. Khan, Technical Member
Hon'ble Ms. Justice Manju Goel, Judicial Member**

IN THE MATTER OF:

Chhattisgarh State Electricity Board

Daganiya, Raipur

... Appellant

Versus

Chhattishgarh State Electricity Regulatory Commission

Civil Lines, G.E.Road,

Raipur – 492 001.

... Respondent

For the Appellant : Mr. K. Gopal Choudary and
Ms. Ruchika Rathi, Advocates

For the Respondents: Mr. M. G. Ramachandran along with
Mr. Anand k. Ganeshan and
Ms. Swapna Seshadri, Advocates

J U D G M E N T

Ms. Justice Manju Goel, Judicial Member

1) This appeal is directed against the order of the Chhattisgarh State Electricity Regulatory Commission (the Commission for short)

dated 20.07.07 whereby the Commission found the appellant, Chhattisgarh State Electricity Board (the Board for short), to have violated the directive of the Commission and liable to penalty under section 142 of the Electricity Act 2003 and imposed a penalty of Rs.25,000/- on it.

Facts:

2) The Commission in its tariff order dated 2005-06 made an observation that call centers could not be established to register and monitor the complaints of the consumers and advised the appellant to study and plan for its implementation. The observation is as under:

“16. Consumers grievance Redressal:

There is an urgent need to build up the system for customer care. In spite of repeated advice, the CSEB has not so far instituted an internal Grievance Redressal mechanism and has not set up the Consumers' Forums at Raipur, Bilaspur and Jagdalpur in the first phase. Call centres to register and monitor consumers' complaints could not be set up so far while these are successfully functioning in many states.

We CSEB is advised to study the practices and initiatives undertaken in other States and plan implementation of similar systems in Chhattisgarh.”

3) The appellant established call centers at Raipur, Bilaspur and Durg-Bhilai. The call centers were operated by private service providers. These call centers were required to record complaints of consumers regarding the supply as well as regarding metering and billing. They were also to accept applications for new connections and receive payments of charges due to the appellant. The call centers were thereafter required to monitor the disposal of the complaints. The Commission visited the call center at Civil Lines, Raipur and thereafter made certain observations about the functioning of the Raipur Center vide its letter dated 16.03.2006. It observed in this letter that the complainants were not being given computer generated printed acknowledgements in token of having registered their complaints but instead were being given hand made receipts towards cheques and drafts. Further it also found that the call center had not been able to extend the link between the call center and the designated officers of the licensee and of the Commission and the State Government. The Commission also observed that the appellant licensee had not been able to supply the customer care software to the call centers despite expiry of seven

months. The Commission directed the Board to take the following actions to improve the functioning of the call centers.

“1. Board should immediately provide “Customer Care Software” which is supposed to be provided to the contractor by the board.

2. The contractor should be asked by the Board to give computer generated printed acknowledgement to all persons making complaints.

3. Call Centers may be got so equipped immediately that they are able to provide information to the consumers about billing schedules, billing amount, due date of payment and other related information.

4. The Call Centers may be asked by the Board to register billing relating complaints forward it to the concerned authority and keep complete status of complaints redressed.

5. Call Centers should be able to give computer generated printed acknowledgement

of the cheques submitted by the consumers towards energy bills.

6. Proper consumer indexing indicating pole number, transformer number, 11 KV feeder number Distribution Center number and Division number against each domestic consumer.”

4) The call centers had been appointed under a contract for one year and which was subsequently extended for six months ending in February, 2007. The Board in response to the letter dated 16th March, 2006 sent a reply on 07.09.06. It informed the Commission that the Board has provided consumer data to M/s. Sincom, the call center contractor, for preparation of customer care software, that printed acknowledgements were being issued to customers for making complaints, that billing schedules had been provided to the call centers, that steps are being taken for correction in billing in respect of which complaints have been registered with the call center, arrangements have been made for money receipts through computer and other steps were also taken in response to the directions.

5) The Board did not extend the contract of the call centers beyond February 2007. The Commission sent a letter dated 23rd February, 2007 based on a newspaper item appearing in Nav Bharat on 19th February, 2007 to the effect that computerized call centers were being withdrawn/closed from the end of February 2007. The Commission wrote “*the closure of call centers by the Board will amount to violation of directions given by the Commission in this regard*”. The Commission wanted to know the status. The Commission issued a notice on 26th March, 2007 in respect of the closure of the call centers threatening to take action under 142 of the Electricity Act and calling for a reply. A formal show cause notice was issued on 22nd May, 2007. In the show cause notice the Commission mentioned the direction in the tariff order for the year 2005-07, the direction given in the letter dated 16th March, 2006 and the Commission’s reminder that closure of call centers will not be in the interest of the consumers (probably the letter dated 23rd February, 2007). It proceeded to say that the closure of call centers without intimation to the Commission “*is a retrograde step taken by the Board and is clearly against the interest of the consumers of the State.*” The Board submitted a reply stating therein how the Board had acted to give effect to the instructions of the Commission to establish call centers and to improve their functioning. The Board also mentioned how the call centers including those of Raipur, Bilaspur, Durg-Bhilai were not giving services to the satisfaction of

the Board. It then said that SE (City Center Raipur) recommended not to extend the contract which was expiring in February, 2007. Further, the Board brought out a high cost at which the call centers were working. The Board also mentioned the steps taken to improve the working of the call centers following a letter dated 16th March, 2006 and that it is making preparation for setting up a Customer Interaction Centre (CIC) and is implementing a SAP package and was in the process of rolling out SAP HT/LT customer care module through its laid network across the State. It also mentioned the useful features of the SAP and the CIC. The Board informed further that the contract of call centers have not been extended in anticipation of creation of CIC and implementation of SAP module. It said, further, that the work of the call centers were being done departmentally with the existing establishment without affecting standard of services to the customers. The Commission thereafter sent another notice dated 25th June 2007 asking the Board to submit certain information. One of the information required was in respect of the alternative system proposed to be set up and how the proposed system would meet the shortfall in the earlier ones and the time period within which the alternative system shall be operational. This was replied to by the Board vide letter dated 06th July, 2007. The impugned order was passed on 19th July 2007. The Commission vide a letter dated 11th July, 2007 made further query in respect of Bilaspur call center. The

Commission required the Board to state as to how the Bilaspur call center was closed down even without information to the Commission and without placing the alternative system in place. This was replied to by the Board vide letter dated 12th July, 2007. It stated, inter alia, that all the call centers were found to be of no use except registering calls and that the work performed through the call centers were of the conventional nature which the Board performed departmentally and was doing so effectively and economically. The Board apologized to the Commission for not informing the Commission and ascertained that the services to the consumers were being provided departmentally at the same standard at which the call centers were providing. The Commission thereafter passed the impugned order.

6) After the initial narration of the facts the Commission examined the Board's claim that it had already made necessary arrangements for receiving and monitoring consumer complaints as was being done by call centers. It stated that "*the claim was not borne out by certain report in the local newspapers.*" It stated that certain report indicated large pendency of complaints without requisite arrangements for their disposal. It also found that alternative system would take a long time to be established and the board had not given any time schedule for implementation of the alternative system. It also noted that while there were short

comings in the functioning of call centers at Raipur, there was no such complaints in Bilaspur and Durg-Bhilai which were also closed down and for which the Board had failed to give any reasons. The Commission concluded that *“the action of the Board is in violation of the directive of the Commission and is utter disregard of the interest of the consumers and hence should invite penalty under 142 of the Act.”* Hence the penalty of Rs.25,000/-.

7) We have heard the counsel for the Board Mr. K. Gopal Choudary and counsel for the Commission Mr.M.G.Ramachandran. It is submitted on behalf of the Board that the Board had done almost all that it could have done in the interest of the customer care as was required by the Commission in its tariff order. It first established the call centers and thereafter having failed to receive quality services from these call centers had planned a better system of customer interaction center with an improved software. The Board further mention that the services, as were being provided by call centers, were being provided by the Board departmentally with the same efficiency as being done by call centers. The Board submits that in view of the present services provided by the Board departmentally and its future project of improved services through SAP it has substantially complied with the direction of the Commission and is therefore not liable to any penalty. The Commission has found the Board’s claim of continuing services

through its staff in office not substantiated. This finding of the Commission is based on certain newspaper reports. We are constrained to observe that notwithstanding the desirability of establishment of call centers for improved services to consumers, the penal provision of 142 cannot be resorted to on the basis of any newspaper report. The newspaper reports as such are hearsay evidence and not admissible and no finding can be based on such evidence.

8) Further the newspaper reports, mentioned in the impugned order, merely say that a large number of complaints were pending and were not being attended to. This does not throw light as to whether the functioning by the department was any better or worse than the functioning of the call centers. The Commission would certainly not have penalized the Board had it found that the services provided departmentally were as effective as the services provided by the outsourced call centers. The claim of the Board could have been disbelieved only after the Commission had made a thorough investigation and found sufficient evidence to prove that the claim was false.

9) So far as the closure of the center at Raipur, Bilaspur, Durg-Bhilai are concerned the Board had stated that their functioning

were not better than that of the center at Raipur and therefore all the three were required to be given the same treatment.

10) Although the Board could not establish call centers to the satisfaction of the Commission, it cannot be said that the Board was callous about its responsibility and disregarded the Commission's orders altogether. Before proceeding to punish the Commission must establish that the default or violations were contumacious. We find that the Board had made its efforts to establish call centers in order to provide customer care services although the efforts did not yield the desired result and did not satisfy the Commission. This will however not entail the consequences of violation of the Commission's order. In our opinion, the Board should not have been visited by the penalty. We therefore allow the appeal and set aside the impugned order. The show cause notice stands discharged.

Pronounced in open court on this **20th day of February, 2008.**

**(Ms. Justice Manju Goel)
Judicial Member**

**(A. A. Khan)
Technical Member**

The End