

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 482 of 2025 & IA No. 1883 OF 2025 & IA No. 248 OF 2026 &
IA No. 1881 OF 2025 & IA No. 1882 OF 2025 & IA No. 1884 OF 2025

Dated: 17th February, 2026

Present: Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

Kanhaiyalal Parmar

.... Appellant(s)

Versus

Madhya Pradesh Paschim Kshetra Vidyut Vitran
Company Limited & Anr.

.... Respondent(s)

Counsel on record for the Appellant(s) : Soumya Dharwa
for App. 1

ORDER

This appeal is filed, under Section 111(1) of the Electricity Act, against the order passed by the Electricity Ombudsman in Case No. LOO-15/2024 dated 06.02.2025. On the Registry taking an objection to the maintainability of this appeal, the matter has been listed before us.

Ms. Soumya Dharwa, Learned Counsel for the Appellant, would place reliance on the MPERC (Establishment of Forum and Electricity Ombudsman for Redressal of Grievance of the Consumers) (Revision-2) Regulations, 2021 (the “2021 Regulations” for short) in support of her submission that, since the Madhya Pradesh Electricity Regulatory Commission (“MPERC” for short) has, by making the 2021 Regulations, delegated its powers to the Ombudsman, the order passed by the Ombudsman must be treated as an order passed by the Commission itself; and, consequently, an appeal would lie there-against before this Tribunal under Section 111(1) of the Electricity Act. She would also place

reliance on Regulations 2(j) and 4.1 of the 2021 Regulations, and on the judgment of Madhya Pradesh High Court in **Kanhaiyalal Parmar Vs State of Madhya Pradesh & Ors.** (judgment in WP No. 6965 of 2024 dated 30.08.2025).

Regulation 2(j) of the 2021 Regulations defines “Electricity Ombudsman” to mean an authority appointed or designated by the Commission, under Section 42(6) of the Electricity Act, to whom a representation may be made by any consumer, who is aggrieved by non-redressal of his grievance by the forum. Chapter IV of the 2021 Regulations relates to Electricity Ombudsman, and Regulation 4 thereunder relates to the appointment/designation of the Electricity Ombudsman. Regulation 4.1 enables the Commission, from time to time, to appoint or otherwise designate such person or persons, which the Commission may consider appropriate, as the Electricity Ombudsman or Ombudsman to discharge the functions under Section 42(7) of the Electricity Act.

Section 42(5) of the Electricity Act requires every distribution licensee to establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission. Section 42(6) enables any consumer, who is aggrieved by the non-redressal of his grievance under Section 42(5), to make a representation, for the redressal of his grievance, to an authority to be known as ombudsman to be appointed or designated by the State Commission. Section 181 confers power on the State Commission to make Regulations and, under Sub-Section (1) thereof, the State Commission may, by notification, make regulations consistent with the Electricity Act and the Rules generally to carry out the provisions of the Electricity Act. Section 181(2) stipulates that, in particular and without prejudice to the generality of the power contained in Sub-Section (1), such

Regulations may provide for all or any of the matters enumerated in clauses (a) to (zo) thereunder. Section 2(46) defines “notification” to mean a notification published in the Official Gazette, and the expression “notify” to be construed accordingly. The 2021 Regulations, referred to herein above, were made by MPERC in the exercise of the powers conferred on it under Section 181(2) read with Section 42(5), (6) & (7) of the Electricity Act, 2003 read with the Electricity (Rights of Consumers Rules 2020) notified by the Government of India.

The 2021 Regulations, made in exercise of the powers conferred by Section 181 of the Electricity Act, are in the nature of subordinate legislation and constitute law. **(PTC (India) Ltd. v. CERC, (2010) 4 SCC 603)**. The 2021 Regulations cannot, merely because they also relate to the appointment of an Electricity Ombudsman for redressal of grievances of consumers, be held to be a delegation of power by the State Commission to the Ombudsman, requiring the order under appeal to be presumed as an order passed by the State Commission itself. Statutory Regulations are law, and are therefore binding on the MPERC also. It does not stand to reason that a law binding on the MPERC can be construed as a delegation of power by it to the Ombudsman.

In **Kanhaiyalal Parmar Vs State of Madhya Pradesh & Ors. (judgment in WP No. 6965 of 2024 dated 30.08.2025)**, on which reliance is placed on behalf of the Appellant, the Madhya Pradesh High Court placed reliance on an earlier order passed by the Madhya Pradesh High Court in Writ Appeal No. 861 of 2022 dated 18.08.2022 to hold that the Appellant had an alternate remedy of approaching the MPERC instead of filing a Writ Petition under Article 226 of the Constitution of India.

The judgment of the MP High Court, on which reliance is placed, does not hold that an appeal lies to this Tribunal against the order of the Ombudsman under Section 111(1). Even otherwise, as conferment of

jurisdiction is a legislative function, jurisdiction cannot be conferred either on the MPERC or on this Tribunal by a Superior Court. (**Jagmittar Sain Bhagat v. Health Services, Haryana, (2013) 10 SCC 136; PTC India Ltd. v. Punjab SERC, 2024 SCC OnLine APTEL 124**). The jurisdiction of the State Regulatory Commissions to adjudicate disputes, and on APTEL to adjudicate appeals, is conferred by a law made by Parliament ie the Electricity Act. While the jurisdiction conferred on the State Regulatory Commission to adjudicate disputes is under Section 86(1)(f), the jurisdiction conferred on this Tribunal to decide appeals is under Section 111(1) of the Electricity Act.

In **Hindustan Zinc Ltd. v. Ajmer Vidyut Vitran Nigam Ltd., (2019) 17 SCC 82**, the Supreme Court observed that adjudication of disputes by the State Electricity Regulatory Commission, under Section 86 of the Electricity Act, can only be between licensees and generating companies and not between licensees and consumers, which is provided for in an open access situation by Section 42 of the Electricity Act; and a separate mechanism is provided in Section 42(6) of the Electricity Act, where a representation for redressal of grievances may be made to the Ombudsman appointed or designated by the State Commission.

In the light of the law declared by the Supreme Court, in **Hindustan Zinc Ltd. v. Ajmer Vidyut Vitran Nigam Ltd., (2019) 17 SCC 82**, it is evident that the MPERC cannot entertain and adjudicate disputes involving consumers. As the judgement of the Madhya Pradesh High Court, in **Kanhaiyalal Parmar Vs State of Madhya Pradesh & Ors. (judgment in WP No. 6965 of 2024 dated 30.08.2025)**, is contrary to the law declared by the Supreme Court in **Hindustan Zinc Ltd. v. Ajmer Vidyut Vitran Nigam Ltd., (2019) 17 SCC 82**, the former must necessarily yield to the latter.

The Appellant's claim that they are entitled to prefer an appeal to this Tribunal against the order of the ombudsman necessitates rejection in view of two earlier judgements of this Tribunal in **Dakshin Haryana Bijli Vitran Nigam Hisar v. Electricity Ombudsman, 2008 SCC OnLine APTEL 121** and **Polyplex Corporation Limited, GBD v. Uttaranchal Power Corporation Limited in Appeal No. 220 of 2006 dated 30th March, 2007 (Energy Law Reporter 2007 APTEL 115)**.

In **Dakshin Haryana Bijli Vitran Nigam Hisar v. Electricity Ombudsman, 2008 SCC OnLine APTEL 121**, the appeal was directed against the order of Electricity Ombudsman (Vidyut Lokpal) Haryana dated 05.03.08 in Appeal No. 35 of 2007. The preliminary question that had to be determined was whether this Tribunal, acting under Section 111 of the Electricity Act 2003, had the jurisdiction to hear an appeal against the order of the Electricity Ombudsman.

The attention of this Tribunal was drawn to an earlier judgment of this Tribunal in **Polyplex Corporation Limited, GBD v. Uttaranchal Power Corporation Limited in Appeal No. 220 of 2006 dated 30th March, 2007 (Energy Law Reporter 2007 APTEL 115)**. In that judgment, this Tribunal held that Section 111 of the Act does not give jurisdiction to this Tribunal to hear an appeal from the order of an Electricity Ombudsman.

It is in this context that this Tribunal, in **Dakshin Haryana Bijli Vitran Nigam Hisar v. Electricity Ombudsman, 2008 SCC OnLine APTEL 121**, observed thus:-

“.....16. We find much force in the argument of Mr. Maninder Singh. It is true that the term ‘adjudicating officer’, written in small letters, appear to indicate a common noun. It also gives an impression that there would be several adjudicating officers under the Act. However, when

closely examined any authority or officer working under any section other than section 143 clearly does not perform the function of adjudication. They may either 'redress', 'settle', 'assess' or 'inquire' into. The Act does not specifically provide the function of adjudication on any of these authorities. The function of the Consumer Redressal Forum is to 'redress' and the function of the Ombudsman is to 'settle' the grievances of the consumers. These functions may have some trappings of adjudication. However, the Act itself does not recognize their function as that of adjudication. Therefore, it would not be correct to read Ombudsman into the words adjudicating officer.

17. There is yet another way of looking at it. If the Act intended to provide for an appeal against an order of Ombudsman before this Tribunal the Act would certainly have used the word Ombudsman. The 'assessing officer' cannot be read into the common description of the adjudicating officer as the 'assessing officer' has been used with an appropriate definition. Similarly an inquiry conducted by Electrical Inspectors are not in the nature of adjudication. However, if anyone is found responsible for an accident he can go in appeal against such a finding. However, fact finding enquiries are not adjudications. It further follows that only adjudication contemplated by the Act is a function of the adjudication done under section 143 as per the principles laid down in section 144 and as per the procedures laid down in section 142. No other provision deals with 'adjudication' or 'adjudicating officer'. Therefore, the only possible interpretation of section 111 of the Act is that an appeal can lie before this Tribunal from an order under section 142/143 or an order of an appropriate Commission.....

.....19. On the basis of the above analysis, we find ourselves in total agreement with the previous finding of this Tribunal rendered in the case of Polyplex Corporation Limited, GBD v. Uttaranchal Power

Corporation Ltd. (supra) and reiterate that no appeal would lie before this Tribunal from an order of the Electricity Ombudsman.....”

All that Section 42(5) of the Electricity Act provides is for the establishment of a Consumer Redressal Grievances Forum, and Section 42(6) for an appeal to be provided there against to the Ombudsman. Section 111(1) of the Electricity Act stipulates that any person aggrieved by an order, made by (i) an adjudicating officer under Electricity Act (except under Section 127) or (ii) an appropriate Commission under the Electricity Act, can prefer an appeal to the Appellate Tribunal for Electricity. It is only if the Appellant is aggrieved by an order made either by an adjudicating officer or by the appropriate Commission is he entitled to file an appeal to this Tribunal under Section 111(1) of the Electricity Act. Section 2(4) of the Electricity Act defines “appropriate Commission” to mean the CERC under Section 76(1) or the SERC under Section 82 or the Joint Commission refer to in Section 83. The order, impugned in this appeal, is not an order passed by the Regulatory Commission against whose order an appeal lies to this Tribunal under Section 111(1). The authorised officer, referred to in Section 111(1), is evidently the officer referred to in Section 143(1) and thereunder, for the purpose of adjudication under the Electricity Act, the Appropriate Commission shall appoint any of its Member to be an adjudicating officer for holding an enquiry in such manner as may be prescribed by the appropriate government. It is not in dispute that the Electricity Ombudsman is not an adjudicating officer in terms of Section 143 of the Electricity Act. Since an appeal lies under Section 111(1), only against the order passed by either one of the afore-said authorities, we are satisfied that no appeal lies to this Tribunal under Section 111(1) against the order passed by the Electricity Ombudsman.

The view we have taken herein is in line with the aforesaid judgments of this Tribunal in **Polyplex Corporation Limited, GBD v. Uttaranchal Power Corporation Ltd. 2007 (Energy Law Reporter 2007 APTEL 115)** and **Dakshin Haryana Bijli Vitran Nigam Hisar v. Electricity Ombudsman, 2008 SCC OnLine APTEL 121.**

Since the aforesaid provisions of the Electricity Act (law made by Parliament) make it amply clear that no appeal lies against the order of the Ombudsman to this Tribunal under Section 111(1), we must express our inability to entertain the present appeal. It is settled law that where no statutory remedy is provided, the person aggrieved is entitled to invoke the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India. Leaving it open to the Appellant, if they so choose, to avail such a remedy, the present appeal is dismissed as not maintainable.

The appeal fails, and is accordingly, dismissed.

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

sk/kns