

Bill No. 135 of 2022

THE ELECTRICITY (AMENDMENT) BILL, 2022

By

SHRI HANUMAN BENIWAL, M.P.

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further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by
5 notification in the Official Gazette, appoint.

Insertion of new section 126A.

2. After section 126 of the Electricity Act, 2003, the following section shall be inserted, namely:–

Rights of consumer to file complaints before Consumer Forums in cases relating to Vigilance Checking Report and audit report by the assessing Officer.

“126A. Notwithstanding anything contained in any judgment, decree or order of any Court or any law for the time being in force, any consumer supplied with electricity for his domestic or agricultural use, as the case may be, who is aggrieved by the assessment made by the assessing officer in cases relating to Vigilance Checking Report (VCR) or audit under section 126, may file a complaint before the concerned consumer forums under the provisions of the Consumer Protection Act, 2019 in such manner as may be prescribed.”.

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STATEMENT OF OBJECTS AND REASONS

Section 126 of the Electricity Act, 2003 empowers the officials of the Power Companies to inspect the premises of the consumer and make provisional assessment of electricity charges against the consumer if unauthorized use of electricity is noticed. After determining the amount against the consumer by the officer or engineer of the power companies, the final assessment order of electricity charge is made after giving notice to the consumer regarding depositing the amount.

Against the said final assessment order passed under section 126, there are provisions to appeal before the appellate authority under section 127 and the order passed by the appellate authority is final and no appeal lie against it.

In practice, many complaints are being received about the misuse of the above authority given to the officers of the power companies. In order to increase the revenue income of the Power Companies, officers, employees and engineers wrongly and illegitimately inspect and pass assessment orders arbitrarily and they misuse their powers to increase the income of the companies and to harass the consumers. There is also complaint from the consumers that the engineers and employees of the companies demand illegitimate amount from them. On not paying the said amount, they also make false inquiry report and fix the outstanding amount in lakhs of rupees and pressurize lodging the police case or to disconnect the power connection.

Under section 126, where the power to inspect and determine the amount has been given to the junior officers, junior engineers and assistant engineers, etc. of the power companies, the appeal against their order lies with the appellate authority under section 127 which are also heard by the senior officers of the same power companies. Both the officers are employees of the same power companies and they get their salary from the power companies and of course their intention and motive is inclined more towards the interests and benefits of the power companies than the consumers. It is natural for the said appellate authority to protect and justify the proceedings of the officers subordinate to it. In such a situation, the consumer aggrieved by the subordinate officers cannot get justice from the higher appellate authorities. Justice, therefore, cannot be expected from such higher officials.

Provisions of section 126 and 127 of the Electricity Act, 2003 are also completely contrary to the principles of natural justice. Adjudication of the proceedings of the subordinate officers of the electricity company by other officers of the same company is completely contrary to the well established legal principle that no person can be the judge of his own case.

It is necessary, according to law, to test the validity and correctness of the powers of the administrative officers under judicial proceedings, but according to the above provisions of the Electricity Act, 2003 the doors of the courts have been closed in relation to the scrutiny or examination of the said powers conferred on the administrative officers which is very unfortunate situation for the democratic system.

Under section 145 of the Electricity Act, the jurisdiction of the Civil Court has been barred in relation to the action taken by the Assessing Officer under section 126 and the Appellate Authority under section 127.

Although Consumer Protection Act, 2003 is applicable in respect of other disputes between consumers and Power Companies under the Electricity Act, however according to the judgment of Hon'ble Supreme Court in UP Power Corporation *Vs.* Anis Ahmed dated 01.07.2013, consumer's right to take action under the Consumer Protection Act against assessment orders under section 126 and 127 has been exhausted. In such a situation, the aggrieved, helpless consumer has no way to get justice from the power companies, which tantamount to violation of the fundamental rights provided under the constitution.

Therefore, this is necessary to bring amendment in Electricity Act, 2003 so that any consumer who is dissatisfied with the proceedings under section 126 can approach the Consumer Disputes Redressal Commission under the Consumer Protection Act, 2019.

Hence this Bill.

NEW DELHI;
5 July, 2022.

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further to amend the Electricity Act, 2003.

(Shri Hanuman Beniwal, M.P.)