
(2006) 09 JH CK 0002
In the Jharkhand High Court

Ambika Engineering Works	Vs	APPELLANT
The Chairman, Jharkhand State Electricity Board and Others		RESPONDENT

Date of Decision : 25-09-2006

Acts Referred:

Electricity Act, 2003 — Section 126, 135

Citation : (2007) 3 JCR 518

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this writ application the petitioner has sought a direction on the respondents to provide a fresh electric connection to the

petitioner unit of 10 H.P., 3 phase line so that the unit can restart its production. The petitioner's line was disconnected by the respondents on

9.7.97 due to non-payment of energy bill to the tune of Rs. 1,67,294.00. It has been stated that out of the said outstanding dues, the petitioner has

deposited Rs. 37,263.00 on 11.1.05, Rs. 1,00000 has been paid while he was so directed as a condition for grant of anticipatory bail on 31.1.06

and Rs. 18,000 was deposited as the security amount and that now there is no outstanding dues against the petitioner. The respondents, however,

have been denying electricity connection on the ground that the petitioner was found pilfering electricity by way of hooking from Board's LT line

through all three phases and the Board has provisionally assessed loss of Rs. 4,20,000 and an FIR has been lodged against the petitioner.

2. The respondents have filed their counter-affidavit whereby they have supported their action stating therein that an FIR has been lodged against

the petitioner u/s 135 of the Electricity Act, 2003 (hereinafter referred to as "the said Act") as the petitioner was found pilfering electricity by way

of hooking from LT Line and thereby has caused loss to the Board to the tune of Rs. 4,20,000 on account of the alleged pilfering by the petitioner

and they are entitled to assess the same under the provisions of Section 126 of the said Act.

3. Learned Counsel for the petitioner submitted that Section 126 of the said Act provides procedure for making such assessment only after serving

a notice of the provisional assessment on the consumer or any person in occupation or possession or in charge of the place or premises in question.

But no such notice has been served on the petitioner and as such the provisional assessment of dues on the allegation of pilfering electricity is not in

accordance with the provisions of the said Act. Learned Counsel submitted that Section 135 of the said Act prescribes penalty for such offence

and none of the provisions of Section 135 prohibit giving connection and it only provides for the punishment, if the charge u/s 135 is proved in the

Court of law.

4. After considering the submissions of learned Counsel for the parties and also the provisions of law, I do not find any provision u/s 126 or

Section 135 of the said Act which compels the consumer to pay the amount unilaterally and provisionally assessed by the respondents without

giving him any notice and affording opportunity to represent or of hearing as a condition for giving a fresh connection. The allegation of pilfering

electricity and causing loss to the Board to the tune of Rs. 4.20,000/- is still to be proved in the Court of law and the petitioner can not be

compelled to deposit the amount not legally assessed as a condition for giving a fresh connection.

5. In the circumstances of the case, this writ application is disposed of with a direction to the respondents to consider the petitioner's prayer for

providing a new connection afresh in accordance with law within a period of ten days from the date of receipt/production of a copy of this order if

there is no other outstanding legal dues against the petitioner. The respondent shall not compel the petitioner to deposit any amount in the name of

provisional assessment, not assessed in accordance with the procedure prescribed by law as a condition for giving the petitioner a fresh electric

connection. It is made clear that this Court has not gone into the merit of the claim or the extent of liability of the petitioner which is to be dealt with

and decided by the prescribed authority in accordance with law.