

(2003) 09 JH CK 0024

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1269 of 2003

Bokaro Steel Employees Co-operative House Construction
Society Ltd.

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 716

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

**Advocate : K.B. Sinha, Amitabh, Nitu Singh and Mamta Sahay, for the
Appellant; P.K. Sinha and Rajiv Ranjan, for the Respondent**

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The writ petition has been preferred by the Bokaro Steel Employees Co-operative, House Construction Society Ltd., Bokaro Steel City (for short Bokaro Co-operative Society) against the letter No. 393 dated 21st February, 2003 issued by the General Manager (HRD), Steel Authority of India Ltd. (for short SAIL), Bokaro Steel Plant, Bokaro, whereby and whereunder, the Honorary Secretary of the Bokaro Co-operative Society has been informed of the outstanding dues accrued and accumulated towards water charges in addition of amount of water charges for the month of December 2002 and January, 2003.

2. The grievance of petitioner is that the respondent while enhanced the rate of water charges illegally asked the petitioner to pay arrears of Rs. 1,33,94,066.33 ps.

According to the petitioner, the respondents illegally raised the water charges from retrospective date and asked for arrears, though enhancement of water charges from a retrospective date is not permissible.

3. From the affidavits and enclosures filed by the parties, the following fact

emerges.

The Bokaro Co-operative Society was allotted 90 (ninety) acres of land by the Bokaro Steel Plant for development and its distribution amongst its members, all of whom were employees of SAIL, Bokaro Steel Plant. The respondent-Bokaro Steel Plant developed the entire sewerage and other infrastructural facilities for the establishment of the Residential House Cooperative Society and also provided all necessary help to the Bokaro Co-operative Society.

According to the respondents, what initially started as a purely Residential Housing Colony in the Co-operative Society, now it has transpired into a thriving Commercial Complex and losing its residential character violating the terms and conditions of the lease on the basis of which the Bokaro Co-operative Society was handed over with the land.

The water connection was given to the Society by the respondents in the year 1970, which constructed a Captive Dam known as Garga Dam over River Garga and the drinking water was being supplied to all the consumers including the Bokaro Cooperative Society from the said Dam. Over the period of time, the requirement of water in the township having increased, manifold, additional requirement is being met from water taken from the Tenughat Dam/Canal for which the respondents are paying to the State Government towards raw water including cess thereon, at the rate charged by the State Government from time to time.

Initially, vide order dated 18th March, 1970, the rate of Rs. 1.50 per 1000 Gallon was fixed for supply of water to all private consumers including the Bokaro Cooperative Society.

In the year 1977, vide order dated 7th September, 1977, an arrangement was arrived at with the Bokaro Co-operative Society for providing some concession in supply of electricity and water. The concession of free supply of water to the Bokaro Co-operative Society equivalent to 12,000 Gallons per month per employee on the rolls of the company having constructed house in the colony was allowed. Beyond this limit, the Co-operative Society was to pay water charges @ Rs. 1.50 per 1000 Gallon.

The respondents revised the water charges for others vide an order dated 17th March, 1994, excepting the HSCL and Bokaro Co-operative Society (petitioner herein). The order, reads as follows :--

"STEEL AUTHORITY OF INDIA LTD.

BOKARO STEEL PLANT

BOKARO STEEL CITY

No. 567/A.O.

Ref : No. 5-17(6)94-5,15

March 17, 1994

OFFICER ORDER

Sub : Revision of water charges recoverable from outside parties by T.A. Department.

It has been decided to revise the water charges recoverable by T.A. Deppt. from outside parties such as City Centre, Sector Market, Bank Colony etc. (excluding HSCL and Bokaro Steel Em. Co-op. House Constn. Society) as under :--

"(a) @ Rs. 4.50 (Rs. four and paise fifty only) per 1000 Gal. from 1.4.1992 to 31.10.1993.

(b) @ Rs. 6.50 (Rs. Six and paise fifty only) per 1000 Gal. from 1.11.1993 to 31.3.1994, and

(c) @ Rs. 7.40 (Rs. Seven and paise forty only) per 1000 Gal. from 1.4.1994 onwards.

3. This issues with the concurrence of Finance and has the approval of the Managing Director.

Note : The above rates are subject to review based on actual cost and the rates for HSCL and Bokaro Steel Employees Co op. House Constn. Society shall be worked out separately.

Sd/- (P.K.K. Nair)

Manager (L&A)"

4. According to the respondents, a strong objection was raised by the Central Government Audit team with respect to delay in revision of water charges for the petitioner-Bokaro Co-operative Society.

5. It appears that only after the objection raised by the Central Government Audit Team, the respondents revised the water charges for the employees of M/s. HSCL and petitioner-Bokaro Co-operative Society) vide Officer Order No. 516 dated 31st March, 1998, a quoted hereunder :--

"STEEL AUTHORITY OF INDIA LIMITED

BOKARO STEEL PLANT BOKARO STEEL CITY

No. 825/A.O.

Ref. No. 9.17(6)/98

March 31, 1998.

OFFICER ORDER

Sub : Revision of Water charges recoverable from M/s. HSCL and BSECHCS Ltd. B.S. City by T.A. Department.

Ref : Office Order No. 567/A.O. dated 17.3.1994.

It has been decided to revise the water charges recoverable from M/s. HSCL and Bokaro Steel Employees Cooperative , House Construction Society Ltd. (BSECHCS Ltd.) Bokaro Steel City to Rs. 7.40 (Rupees seven and paise forty only) per 1000 Gal. with immediate effect. However, enhancement of rates of water supply to above agencies for different periods between 1970 till date and the arrears payments by the above two parties shall be worked out separately.

This issues with the concurrence of Finance and has the approval of Managing Director.

Sd/- (V.P. Bakshi)

Sr. Executive (L&A)/Co-ordo."

6. In view of the aforesaid Audit objection and revision of water charges, as made vide order dated 31st March, 1998 to Rs. 7.40 ps. per 1000 Gallon the respondents have raised the hill in question.

7. Admittedly, the respondents never made any objection nor raised the water charges for the members of the petitioner-Bokaro Co-operative Society, when the revision of water charges was made vide order dated 17th March, 1994. On the other hand, they were excluded from the revision of water charges which was communicated to the petitioner.

Subsequent revision of water charges to Rs. 7.40 ps. per 1000 Gallon has been made with immediate effect, vide order dated 31st May, 1998. Such revision having been made with immediate effect i.e., from 31st March, 1998, there was no occasion for the respondents to calculate the arrears of water charges in the revised rate for the earlier period nor they should have asked the petitioner to pay the arrears on the basis of revision of water charges from retrospective date. Further, the respondents have no jurisdiction to revise the water charges from a retrospective date, in absence of any delegated power to enhance the water charges from retrospective date.

8. For the reasons aforesaid, there being no other option, the demand, as made vide letter dated 21st February, 2003 and the consequential bills, prepared by respondents towards arrears of water charges on the basis of the revised water charges are set aside.

9. It is open to the respondents to issue fresh bill or demand notice for arrears if any due, on the basis of the water charges as was fixed from time to time and to charge @ 7.40 per 1000 Gallon from prospective date i.e. w.e.f. 31st March, 1998.

10. The writ petition is allowed with the aforesaid observations.