
(2000) 03 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

DELHI ELECTRIC SUPPLY UNDERTAKING (now D.V.B.)

APPELLANT

Vs

Ajay Aggarwal

RESPONDENT

Date of Decision : 02-03-2000

Acts Referred:

Citation : 2000 1 CPC 629 : 2000 1 CPJ 542 : 2000 2 CPR 425

Hon'ble Judges : Lokeshwar Prasad , Desh Bandhu , Rumnita Mittal J.

Final Decision : Appeal dismissed

Judgement

1. BRIEF facts of the case are that the respondent filed a complaint in District Forum No. II for directions for installing a permanent S.I.P. connection of 15 HP in premises No. T-33, Khirki Village, Malviya Nagar, New Delhi. He also claimed refund of excess charges recovered from him in the form of alleged misuse of supply amounting to Rs. 1,01,932/-. The complaint was contested. After hearing the two sides and on the basis of records before it, the learned District Forum gave the following directions : (i) to continue the electric supply as already sanctioned till the electrification of Jahanpanah, Hauz Rani Scheme comes into operation. The complainant shall be given opportunity of completing commercial formalities, if any; (ii) from 5.7.1994 onwards when the Municipal Licence was sanctioned, there was no justification for opposite party to levy misuse charges and accordingly the electric rates at the rates prescribed for temporary SIP Connection shall be charged from 5.7.1994 onwards; and (iii) to adjust the excess amount received from the complainant against future demands or to refund the same to the complainant, if so desired by him, within one month of the receipt of such a request.

2. DVB, the opposite party in the complaint matter, filed an appeal on 30.4.1996. The main thrust of the appeal was that the District Forum could not have passed a direction to the appellant to supply electricity in an unelectrified unauthorised colony. Further, the refund of misuse charges has also been challenged. We have gone through the records of the case and have also heard the Counsel for the two sides. The officials of the appellant also appeared before us to apprise us of

the progress of the work of electrification of the area in question which had already been taken in hand and was proceeding.

The short question before us is as to whether there is any infirmity in the order of the learned District Forum referred to in the earlier part of this order. In the first part of the directions, the learned District Forum have stated that electric supply as already sanctioned be continued till the electrification scheme comes into operation and the complainant be given opportunity of completing commercial formalities required, if any. We do not see any infirmity in this direction. Electric connection was sanctioned to the respondent on 9.3.1990 though on temporary basis. It is not disputed that sanction has been extended from time to time and the respondent still has electric supply. Further, electrification of the area is already under way for quite some time now. There is no reason for us to upset the direction of the learned District Forum to continue the electric supply till the electrification scheme comes into operation.

3. IN the second direction, the learned District Forum has said that as from 5.7.1994 misuse charges shall not be levied in view of the fact that the Municipal Licence had been obtained and submitted on the said date. During the arguments, on 9.2.1999, the learned Counsel for the appellant pointed out that the licence in question was in the name of respondent's tenant and not in his own name and that, therefore, he could not claim benefit on that account. He promised to produce rules in that behalf. The learned Counsel could not produce any rule/regulation or direction to that effect despite being afforded opportunity. We are, thus, left with no alternative but to draw an adverse inference on the said question and hold that the benefit of failure to produce any supporting document should accrue to the consumer. Therefore, with regard to the second direction of the learned District Forum also, there is no infirmity in the finding that there was no justification for levy of misuse charges after submission of the Municipal licence on 5.7.1994. In the result, the concluding direction of the learned District Forum to charge electricity rates at the rates prescribed for temporary SIP Connection from 5.7.1994 onwards and adjust or refund the excess amount recovered from the respondent shall also hold good.

4. THE appeal is, therefore, without merit and is dismissed with costs. Costs are assessed at Rs. 2,500/- which the appellant shall pay to the respondent within thirty days of the receipt of this order. A copy of the order be communicated to the parties. Appeal dismissed.