
(2019) 07 MP CK 0060
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8013 Of 2019

Devendra Singh Kushwah

APPELLANT

Vs

Madhya Pradesh Madhya Kshetra Vidyut Vitran Co.Ltd

RESPONDENT

Date of Decision : 03-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
Electricity Act, 2003 — Section 43(1), 44, 48(b), 50, 56, 181(2)(t), 181(2)(x)
Madhya Pradesh Vidhut Sudhar Adhiniyam, 2000 — Section 9(j)

Citation : (2019) 07 MP CK 0060

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : D.P. Singh, Anil Sharma

Final Decision : Dismissed

Judgement

1. The petitioner in the present petition filed under Article 226 of the Constitution assails the order dated 05/04/2019 passed by respondent

No.4/Company invoking clause 4.12 of Madhya Pradesh Electricity Supply Code, 2013 (for brevity 'the 2013 Code') declining grant of fresh electric

connection to the petitioner on the ground that the erstwhile occupier (tenant) of the petitioner's premises has left behind unpaid arrears of electric

tariff to the tune of Rs.2,75,985/-.

2. Learned counsel for petitioner relies upon Clause 9.5 contained in chapter 9 of 2013 Code relating to payment of disconnection, which is reproduced

below for ready reference and convenience

â??9.5 In the event of non-realisation of cheque, the licensee shall have the right to initiate any action as per law besides recovery towards charges

for dishonoured cheque as per MPERC (Recovery of expenses and other charges

for providing electric line or plant used for the purpose of giving supply) (Revision-I) Regulations, 2009.â??

2.1 Further reliance is placed on Annexure R/2 along with the return which is consent letter of the petitioner expressing no objection to grant of

electric connection in favour of the erstwhile tenant/respondent No.5.

2.2 Reliance is further placed on Annexure R/3 which is an affidavit filed by the tenant stating that if any arrears of electricity is found then the

company is entitled to recover the same from the tenant.

2.3 Learned counsel for the petitioner submits that there was tenancy agreement between the respondent company and the tenant respondent No.5

which was inter alia subject to stipulation that any arrears left behind by the tenant can be recovered by the company and therefore, the petitioner

owner can not be fastened with the obligation of clearing the arrears of electricity dues left behind by the respondent No.5/tenant and thus, the said

default on the part of the tenant can not be raised as a legitimate cause for denying fresh electricity connection of 7 (seven) HP for running small

scale industry made by the petitioner.

3. On the other hand, learned counsel for the company has filed return which inter alia contends that the petitioner has alternative statutory remedy to

approach before Grievance Redressal Forum constituted under the Madhya Pradesh Electricity Regulatory Connection (Establishment of Forum and

Electricity Ombudsman for Redressal of Grievance of Consumer) Regulation 2004.

3.1 Learned counsel for the respondents company has placed reliance on the provision of Clause 4.12 of the Code 2013 which is part of chapter -3

titled as System of Supply and Classification of Consumers under which a sub classification of new power supply and licensees obligation, one of the

provision under clause 4.12 is to the following effect :-

4.12 â??If the consumer, in respect of an earlier agreement executed in his name or in the name of a firm or company with which he was associated

either as a partner, director or managing director or as occupier and/or owner of the premises, has any arrears of electricity dues or other dues for the

premises where the new connection is applied for and such dues are payable to the licensee, the requisition for supply may not be entertained by the

licensee until the dues are paid in full. However, release of new connections shall

not be refused by the Distribution License in following cases:-

i. If the lease deed is canceled by the State Government on account of any reason and allocated to a new party/consumer, then the new party/consumer shall not be required to pay the energy dues of erstwhile consumer.

ii. If the property is attaches and sold by the Income Tax Department/ Commercial Tax department or such other Government Departments for recovery of their dues, then the new purchaser shall not be required to pay the energy dues of erstwhile consumer.

iii. If the Financial institutions created under the State Act/Central Act attach and sale the property for recovery of their dues, then the purchaser shall not be required to pay the energy dues of erstwhile consumer.

iv. On vacation of Government Quarter/flat on transfer of an employee leaving arrears of energy charges, new occupant shall not be required to pay the energy dues of erstwhile consumer.

v. If there is a specific order from a Court for non-recovery of arrears outstanding on the premises.

4. Pertinently, the aforesaid provision of the Code 2013 has been framed in exercise of power u/S.181(2)(t) r/w Section 43(1), Section 181(2)(x) r/w

Section 44, Section 48(b), Section 50 and Section 56 of the Electricity Act, 2003 (No.36 of 2003) and Section (9)(j) of the Madhya Pradesh Vidhut

Sudhar Adhiniaym, 2000 (No.4 of 2001) and therefore, is statutory in nature.

5. A bare reading of clause 4.12 makes it clear that if fresh connection for electric supply is sought by a person who was party to an earlier

agreement executed in his name as an occupier or owner of the premises where electricity dues are unpaid, fresh connection would not be provided

till dues remained outstanding. The said provision has certain exceptions in regard to which the parties agree that the same do not apply to the present case.

5. There may have been tenancy agreement between the petitioner and the erstwhile tenant/respondent No.5 but the company was not privy to the

said agreement and therefore, company can not be bound by the same especially in the face of statutory provision contained in Clause 4.12 which

overrides any arrangement between the owner and the erstwhile tenant which is contrary to the said Clause 4.12 of the Code 2013.

11. In view of above, the impugned order Annexure P/1 dated 05/04/2019 passed by the Manager, Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co.Ltd. (Govt. Of M.P. Undertaking), Gol-Pahadiya Zone, Gwalior (Respondent No.4) can not be found fault with and therefore, the present petition stands dismissed.

No cost.