

(2008) 08 OHC CK 0095
In the Orissa High Court
Case No : W.A. No. 62 of 2008

Executive Engineer (CESCO/CESU), Kendrapara Electrical
Division-1 and Another

APPELLANT

Vs

Grievances Redressal Forum and Another

RESPONDENT

Date of Decision : 07-08-2008

Acts Referred:

Citation : (2008) CLT 429 Supp

Hon'ble Judges : B.S. Chauhan, C.J.; B.N. Mahapatra, J

Bench : Division Bench

Advocate : S.C. Dash, for the Appellant; Biswanath Behera, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Chauhan, C.J.—This writ appeal has been filed challenging the Judgment and order dated 24.3.2008 passed by the learned Single Judge in W.P.(C) No. 17429 of 2006 by which the writ petition filed by the present Appellants has been dismissed.

2. The facts and circumstances giving rise to this case are that Respondent No. 2 is a consumer of electricity under the Appellants-company under Domestic Tariff for a contract demand of 2.5 K.W. and a meter has been installed in her premises for the purpose of billing of the electricity supplied. As the regular bills were not paid the outstanding dues accrued to the tune of Rs. 5708/- up to May, 2003. On 25.6.2003 the premises of Respondent No. 2 was verified by the Divisional MRT squad of the Appellants-company and on inspection it came to the conclusion that there has been tampering with the meter. On the basis of inspection report dated 25.6.2003 a bill was prepared for a sum of Rs. 11,240/- and accordingly the consumer was asked to file her objection within seven days of the receipt of the provisional assessment. The consumer instead of submitting any objection paid 50% of the bill, i.e., Rs. 5600/- on 15.7.2003. Instead of making payment of the balance amount, Respondent No. 2 approached the State Consumer Redressal Forum (hereinafter referred to as the "Commission") and obtained an

ex parte interim order against the Appellants not to disconnect the power supply to her premises. The said case was finally decided by the Commission on 25.8.2003 directing the said Respondent to deposit a sum of Rs. 3,000/- with the Appellants without prejudice to her rights, and relegated the matter to GRF for redressal of her grievance. The said Respondent deposited a sum of Rs. 3000/- and the matter was entertained by the GRF. It was contested by the Appellants and decided vide order dated 28.1.2006. By the said order, the GRF set aside the report dated 25.6.2003 and it was provided that the amount deposited by Respondent No. 2 under different orders should be adjusted in the future bills.

3. Being aggrieved and dissatisfied, the Appellants filed a writ petition which has been dismissed by the learned Single Judge by Judgment and order dated 24.3.2008 by a speaking and reasoned order agreeing with the findings recorded by the GRF. Hence this writ appeal.

4. Learned Counsel for the Appellants has made submissions very elaborately without realizing that the amount involved herein was less than the total expenses incurred by the Department in litigation, and when we tried to persuade him that for such a petty amount the Department should not have contested the matter, he insisted that we must examine as to whether the findings of fact recorded by the GRF are factually correct. GRF is a body constituted under the provisions of the Electricity Act and a part of the Department of the Appellants. It was consisting of the Experts of the Department. Therefore, we fail to understand under what circumstances the writ Court or the Appellate Court can sit in appeal against the findings recorded by the Expert Body.

5. Undoubtedly, the Court does not have expertise in all subjects, therefore, it has to be slow in disturbing the decision taken by the Committee of experts, working in the field, have day to day experience, and which has acquired special skill in the subject.

6. A Constitution Bench of the Supreme Court; in *The University of Mysore and Anr. v. C.D. Govindarao and Anr.* 1965 SC 491, held that in academic matters where the decision under challenge has been taken by the Committee of Experts, "normally the Court should be slow to interfere with the opinion expressed by the experts" unless there are allegations of mala fide against any of the members of the expert committee.

7. A similar view has been reiterated by the Hon"ble Supreme Court in the State of Bihar and Others Vs. Dr. Asis Kumar Mukherjee and Others, ; Dr. M.C. Gupta and Others Vs. Dr. Arun Kumar Gupta and Others, ; Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others, ; Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, , Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others, ; Dr. Uma Kant Vs. Dr. Bhika Lal Jain and others, ; Bhushan Uttam Khare Vs. The Dean, B.J. Medical College and others, ; The Chancellor and Another Vs. Dr Bijayananda Kar and Others, ;

Central Areca Nut and Cocoa Marketing and Processing Cooperative Ltd. Vs. State of Karnataka and Others, ; Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others, ; and The Dental Council of India Vs. Subharti K.K.B. Charitable Trust and Another, ; wherein the Hon"ble Supreme Court held that in the matter of academic courses, the Court should not disturb the decision taken by the educational institution unless there are compelling circumstances and sufficient material warranting the interference.

8. In view of the above, findings recorded by the Expert Body do not warrant any interference by this Court. The Court cannot enter a probe of factual controversy in such a fact situation. More so the amount involved is less than expenses towards cost of litigation.

9. At this juncture, learned Counsel for the Appellants has insisted to consider the appeal more seriously as this is not the way to dispense justice. The Appellants have come for justice before this Court. The Court confronted the learned Counsel for the Appellants as to what he understands by the term "justice" and would he like to define the same. He is not in a position to throw any light on the issue.

10. Justice is the virtue, by which the Society/Court/Tribunal gives to a man what is his due, opposed to injury or wrong. (Wharton's Law Lexicon, 1976 Reprint Edn., p.552). Justice is an act of rendering what is right and equitable towards one who has suffered a wrong. Therefore, while tempering the justice with mercy, the Court has to be very conscious that it has to do justice in exact conformity to some obligatory law for the reason that human actions are found to be just or unjust as they are in conformity with or in opposition to the law. In Delhi Administration Vs. Gurdip Singh Uban and Others, , the Hon"ble Apex Court observed as under:

The words "justice" and "injustice", in our view, are sometimes loosely used and have different meanings to different persons, particularly to those arrayed on opposite sides...Justice Cardozo said, "The Web is tangled and obscure shot through with a multitude of shades and colours the skeins irregular and broken. Many hues that seems to be simple, are found, any when analysed, to be complex and uncertain blend. Justice itself, which we are wont to appeal to as a test as well as an ideal, many mean different things to different minds and at different times. Attempts to objectify its standards or even to describe them have never wholly succeeded." (Selected Writings of Cardozo, pp 223-24; Fallon Publications, 1947).

11. It is not the case where cause of injustice has been shown by the Appellants. Findings of fact have been recorded by their own officers, i.e., the Body consisting of Experts. There is nothing on record to show that the findings recorded by them are perverse being based on no evidence or taking into consideration extraneous materials.

12. We do not find any infirmity or illegality in the Judgment and order of the

learned Single Judge. The appeal lacks merit and is accordingly dismissed.

B.N. Mahapatra, J.

13. I agree.