
(2002) 05 P&H CK 0025
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition 688 of 2001

Gee Emm Enterprises

APPELLANT

Vs

Punjab State Electricity Board and Others

RESPONDENT

Date of Decision : 03-05-2002

Acts Referred:

Electricity Act, 1910 — Section 26

Citation : (2003) 133 PLR 72 : (2002) 4 RCR(Civil) 358

Hon'ble Judges : M.M. Kumar, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : V.G. Dogra, for the Appellant; G.S. Sandhawalia, for Respondent
Nos. 1, 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This is a petition for quashing communication Annexure P2 dated 21.2.1990 sent by the Assistant Executive Engineer, DS Industrial Sub-Division, S.A.S. Nagar (Mohali) to the petitioners; decision Annexure P5 dated 27.10.1998 of the Zonal Level Dispute Settlement Committee (for short, the Zonal Committee); demand notice Annexure P6 dated 6.11.1998 and decision Annexure P15 dated 24.30.2000 of the Dispute Settlement Authority (for short, "the DSA").

2. The petitioner is engaged in the manufacturing of zinc sulphate and allied chemicals. For this purpose, it set up an industrial unit in village Behlolpur, Tehsil Kharar in 1983. It was given electric connection with sanctioned load of 98.118 KW with account No.MS-308. For proper utilisation of the load, a transformer with the capacity of 200 KVA was installed. A rectifier was also installed in order to get alternate current changed to the direct current.

3. M/s H.M. Chemicals, which is owned by the son and wife of the proprietor of the petitioner, was provided with an electric connection with sanctioned load of 96.5KW (power load) and 3KW (light load) with account No.MS-317. On

21.2.1990, the flying squad of the Punjab State Electricity Board (for short, "the Board") checked the connection of the petitioner and found that the connected load of the unit was 226.416 KW as against the sanctioned load of 98.118 KW. Shri Jagminder Singh Mahal, representative of the petitioner signed the checking report. He also admitted that load of M/s H.M. Chemicals which was situated in the same premises, might have been running from the petitioner's connection. The checking party also found that the connection of M/s H.M. Chemicals was disconnected, but it was carrying on manufacturing activities by obtaining supply from the meter of connection No.MS-308 belonging to the petitioner through 4-core cable which was used for linking the supply of two meters. Consequently, a demand of Rs. 1,30,138/- was created and the petitioner was directed to submit fresh report after removing the unauthorised load. The petitioner challenged demand notice by filing a civil suit which was dismissed on 3.2.1993. The appeal filed by it was dismissed by the Additional District Judge, Rupnagar on the ground that the Civil Court did not have the jurisdiction to entertain the dispute and the remedy, if any, available to the consumer was to raise a dispute. Thereafter, the petitioner sought reference of the dispute by depositing 1/3rd of the total demand. In its meeting held on 27.10.1998, the Zonal Committee upheld the demand by recording the following observations:-

"The case was considered by the Committee and from the consumer side Sh. G.S. Mahal was given hearing. He admitted that the load of H.M. Chemicals in the same premises might have been running from M/s G.M. Enterprises. The consumer is required to pay charges as per checking of the Flying Squad. Thus the unauthorised load to the extent detected by the Flying Squad was actually running at the time of checking and the amount charged is correct. Hence the same is recoverable."

4. In pursuance of the decision of the Zonal Committee, the Assistant Executive Engineer (Commercial), Supply Distribution, Mohali issued notice Annexure P6 dated 6.11.1998 requiring the petitioner to deposit Rs.2,28,147/-,

5. The petitioners challenged the decision of the Zonal Committee and demand notice Annexure P6 by filing an appeal. The DSA considered the petitioners appeal in its meeting held on 24.10.1998 and dismissed the same by assigning various reasons including the followings:-

(1) the electricity was being supplied from account No.MS-308 of the petitioner to M/s H.M. Chemicals through 4-core cable and this fact was admitted by its representative: and

(2) the connected load of the petitioner's account was found to be 226.146 KW as against the sanctioned load of 98.118 KW and no explanation had been given for this unusual and abnormal increase in the connected load.

Shri V.G. Dogra laid emphasis on the fact that the flying squad had not seized 4-core cable allegedly used for supply of electricity from the connection of the petitioner to the establishment of M/s H.M. Chemicals and, therefore, the Zonal

Committee and the DSA committed a serious illegality by upholding the demand created by the authorities of the Board. He invited our attention to the departmental instruction No. 136.5 and argued that the failure of the flying squad to preserve the equipment used for manipulating the load should have been treated as sufficient to quash the demand. Learned counsel further submitted that since the rate to be charged for both the connections is identical and flat rate, there cannot be any motive to divert the load of M/s H.M. Chemicals for utilization by the petitioner and it would lose monetarily by connecting the load of M/s H.M. Chemicals as it would in any case pay the minimum consumption charges without using any energy and his client would also pay for the electricity consumed by M/s H.M. Chemicals. He also submitted that such a huge load cannot run on one meter as the connection of such a huge load would result in burning of the same.

6. Sri G.S. Sandhawalia, learned counsel appearing for respondent Nos.1, 3 and 4 laid emphasis on the fact that the representative of the petitioner had signed the checking report and thereby admitted the fact that connected load of the unit was 226.146 KW and, therefore, the failure of the flying squad to seize 4-core cable and non-production thereof before the Zonal Committee and the DSA was inconsequential. Learned counsel further submitted that the purpose of drawing the load from the petitioner-firm was obviously to utilize energy during the period when M/s H.M. Chemicals was not being supplied electricity from its independent feeder because both the accounts were being fed from separate feeders.

7. We have given serious thought to the respective arguments and carefully gone through the entire record. In our opinion, the non-seizure of 4-core cable by the flying squad is not sufficient to vitiate the concurrent finding of fact recorded by the Zonal Committee and the DSA that the petitioner had misused the electric connection provided to it. The petitioner has not denied the fact that its representative has signed the checking report prepared by the flying squad and had admitted that electricity was being supplied from its connection to M/s H.M. Chemicals. Therefore, the conclusion recorded by the Zonal Committee cannot be termed as perverse.

8. The argument of Shri Dogra that the petitioner and M/s H.M. Chemicals did not have any motive to misuse the connection does not require serious consideration because it is an admitted position that both the units were drawing energy from two separate feeders at the time when inspection of the premises was under-taken on 21.2.1990. One unit was drawing energy from 11 KVA Rubber Plant Feeder, whereas the other was drawing energy from 11 KVA Punwire Feeder. In the replication filed by the petitioner-firm, this fact has not even been controverted. The object of connecting the load of one meter to the other was to ensure the un-interrupted supply of energy to both the units. Therefore, no fault can be found with the order of the DSA on this score.

For the reasons stated above, this petition fails and the same is dismissed.