

(2002) 12 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

GOVIND CHANDRA SENAPATI

APPELLANT

Vs

J.E.(ELECTRICAL) UNIT I

RESPONDENT

Date of Decision : 31-12-2002

Acts Referred:

Citation : 2004 1 CPJ 460

Hon'ble Judges : D.M.Patnaik , Arati Mohanty J.

Final Decision : Complaint allowed

Judgement

1. COMPLAINANT's grievance is the Cesco authorities without prior notice/ information entered into his residential premises at Bhubaneswar, a tenanted premises being under the occupation of State Bank of India and carried on an inspection of the meter and apparatus installed therein. It is his further allegation that though there was no defect in the meter nor there was any mischief committed either by the complainant himself or the tenant, yet the authorities with a view to harass and humiliate the complainant carried on such an inspection and falsely reported that the meter was by-passed and the conditions of installations were such that they endangered human life. They disconnected the power supply on the same day i.e. 9.4.2002. It is further his case that it was obligatory on the part of the authorities that before any such inspection of the premises they should have served notice on the complainant or his agent.

2. THE Cesco authorities filed a written version in which they pleaded that the inspection was done in presence of the representative of the complainant namely one Dillip Kumar Jena who was staying in the premises. According to them the meter was found by-passed and the incoming service line were found unsafe for which power supply was disconnected taking resort to Clause 47 of Orissa Electricity Regulatory Commission Distribution (Condition of Supply) Code, 1998. Heard Mr. K.N. Jena the learned Counsel for the complainant and Mr. B.K. Nayak the learned Counsel for Cesco. Perused the complaint petition and the written version. It is alleged that power supply has been disconnected for the complainant by-passing the meter. Admittedly the premises has been inspected

by the authorities on 5.4.2002 and on the basis of such allegation of tampering of the meter a penal bill has been raised amounting Rs. 1,93,391/- and the total amount demanded is Rs. 2,42,429/- making the complainant liable to pay this amount.

The main thrust of argument of Mr. Jena is that as per the 1998 Regulation, authorities grossly violated the regulation by not informing the complainant that they would carry on an inspection on the particular day. It is further submitted that Dillip Kumar Jena is not the representative of the complainant and also the complainant is not aware as to who is the said Dillip Kumar Jena. Reference is made to the signature of the said Dillip Kumar Jena as a tenant. The Cescro authorities in the written version mentioned that the premises was verified in the presence of the consumer's representative and the Bank who was the tenant does not raise any objection that Dillip Kumar Jena was not the representative or officer of the Bank.

3. THEREFORE, question remains for decision at the outset is whether the inspection by the authorities done on 5.4.2002 at 12.10 p.m. was done pursuant to the Regulation, 1998. Regulations 46 and 51 have to be read together. Reading together it brings out that the authorities are competent to check unauthorised drawal of power including theft of energy and this would also include by-passing the meter. But Clause 51 of the Regulation predicates that such entry to the premises of the consumer has to be done after informing the consumer. Since the action authorised to be taken under the Regulation is a stringent action authorising the authorities to disconnect the power supply, the provisions of the Regulation has to be strictly construed. Therefore, the premises has to be inspected only after informing the consumer. In the present case the complainant is no doubt a consumer being the owner of the premises and since the State Bank of India was in occupation of the premises as tenant is also the consumer. Admittedly complainant himself was not informed. It seems the inspection took place on a working day. Assuming the premises was used for official purpose some responsible officer must have been present at the time of inspection and nothing prevented the authorities to inform and carry on such inspection in presence of the responsible person who was in-charge of the premises on behalf of the complainant. Dillip Kumar Jena has not been shown to be either the consumer himself nor it has been shown that the said Dillip Kumar Jena was the duly authorised agent of the complainant or under the peculiar circumstances of the case, the said Dillip Kumar Jena was authorised by the person who himself was a tenant in the premises. We find the provisions of the Regulation have not been complied with. We accordingly held that inspection of the premises by the authorities was not in conformity with the Regulation. However, for this we do not hold that the authorities were in any way liable for deficiency of service since they were exercising their power bona fide under the Regulation and, therefore, their action was protected under the law. Once the inspection is found to be not in conformity with the provision of Regulation the bills raised also cannot be sustained in the eye of law. The authorities should

raise a fresh bill only after hearing the complainant, or his authorised agent on the basis of the Inspection Report dated 9.4.2202. After any such fresh demand the complainant may challenge the same before the Competent Authority. Since the meter has been sealed from the date of its inspection and the complainant is going without any electricity of the premises while disposing this C.D. case, we direct the authorities to restore power supply to the premises of the complainant on the complainant depositing a sum of Rs. 5,000/- towards any arrear bill that might be outstanding against him but this should be without prejudice and ultimately to be adjusted in the future bills or any penal bill that may be raised against him on the basis of such inspection. Since the meter has been sealed we do not think the authorities can carry on another inspection in presence of the complainant or his duly authorised agent in writing. They are free to raise a fresh penal bill if found justified after the re-inspection already done. The C.D. case is allowed. No cost. The power connection shall be restored within 24 hours from the date of depositing the amount of Rs. 5,000/- by the complainant as indicated above. Complaint allowed.