

**(1988) 02 GUJ CK 0014**  
**In the Gujarat High Court**  
**Case No : First Appeal No. 26 of 1988**

Gujarat Electricity Board, Vadodara

APPELLANT

Vs

Kantilal Rajabhai Patel

RESPONDENT

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**Date of Decision :** 03-02-1988

**Acts Referred:**

Electricity (Supply) Act, 1948 — Section 19

**Citation :** AIR 1988 Guj 261 : (1988) CivCC 429 : (1988) 2 GLR 1500

**Hon'ble Judges :** A.P. Ravani, J

**Bench :** Single Bench

**Advocate :** C.V. Jani, for the Appellant;

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## Judgement

1. Even when it is found that the meter was not tampered with, it was proper and reasonable for the G.E.B. not to restore the electric connection immediately. Was the delay of about three months in restoration of electric connection justified ? Is it not necessary that the superior officers of the Board be little more vigilant and try to minimise the hardships of petty consumers who are generally at the mercy of junior officers and other employees of the Board at the lower levels ?

2. The learned counsel for the appellant was told that if he does not have sufficient record with him he is at liberty to ask for adjournment. He fairly stated that for the purpose of arguing the matter he had sufficient papers with him and he did not want adjournment on that ground. I have gone through the judgment of the lower court and heard the learned counsel for the appellant, on all the points urged by him.

3. The respondent-original plaintiff filed a suit against the appellant-board for recovery of Rs. 25,000/- as damages on the allegation that the electric supply was wrongly disconnected and he was wrongly deprived of the electric supply for a period of about three Months.

4. The trial court after recording the evidence and after hearing the parties came

to the conclusion that the meter was not tampered with as alleged by the defendant; that the officers who had prepared the panchnama and who put their signatures below panchnama were not examined by the defendant and one Sri Ahuja and another Sri Aashif who had suspected the meter to have been tampered with and who had taken the inspection of the meter have also not been examined. Instead, one Mr. Panchal who was not present at the time of checking and in whose presence nothing happened has been examined by the appellant-defendant-board. On overall appreciation of the evidence the trial court came to the conclusion that immediately on the next day when the meter was tested it was found that there was no defect in the meter and even the defendant board had not raised any dispute on this score. Thereafter the plaintiff was forced to file a suit on Jan. 7, 1983. During the pendency of the suit the defendant-board restored the electric connection. There is no satisfactory explanation whatsoever for the said inordinate delay in restoring the electric connection immediately. Once it came to the notice of the Board that the meter was not at all tampered with and it was in proper working condition, the Board ought not to have delayed the restoration of the electric supply. The ground advanced by the Board that the electric meter was tampered with and therefore the board was entitled to disconnect the electric supply is not available to the board, much more so when after the testing of the meter by the laboratory, it was found that the meter was in proper working condition. At the initial stage the officers of the Board viz. Sri Ahuja and Sri Aashif may have some suspicion about the proper working condition of the meter. But after the meter was tested there was no reason whatsoever to doubt the proper working of the meter. Moreover the fair reading of the Panchnama, relevant portion of which has been reproduced by the trial court in Para 15 of its judgment clearly shows that the suspicion that the seats were tampered with was not well founded. On this point the board has not been able to give any satisfactory evidence. Therefore the conclusion arrived at by the trial court that nothing was there to show that the seals were tampered with is unassailable. In above view of the matter I agree with the reasoning given and conclusion arrived at by the trial court that the board was not justified in delaying the reconnection of the electric supply.

5. Learned counsel for the appellant submitted that there is no evidence to award the damages to the extent of Rs. 5,000/-. This submission cannot be accepted. The plaintiff was using the electric connection for irrigation of his land. The entire area of land is to the extent of little over 30 acres. The trial court found that two-third of this land belonged to the plaintiff and therefore on overall consideration of the evidence, the trial court came to the conclusion that the amount of Rs. 5,000/- was fair and just amount to be awarded as damages. Learned counsel for the appellant has fairly stated that a supplementary bill of Rs. 14,908/- was issued by the Board to the plaintiff for a period of six months prior to the disconnection of the electric supply. This means that even according to the Board the plaintiff was consuming electricity of which the consumption charges were about Rs. 2,500/- every month. The plaintiff as an agriculturist

who consumed electricity for which he had to pay charges of more than Rs. 2,500/- per month. Therefore it can never be said that the amount of Rs. 5,000/- awarded to the plaintiff for deprivation of electricity for a period of three months is in any way excessive. On the contrary the amount of damages awarded appears to be on lower side.

6. It is unfortunate that the appellant board which is "State" within the meaning of Art. 12 of the Constitution, has adopted such an unreasonable attitude towards an agriculturist. From the judgment of the trial court it appears that there was no reasonable ground for not connecting the electric supply immediately on the next day after the testing of the meter by the laboratory. This took place on Nov. 6, 1982. Simply because there is a clause in the agreement that electricity supply can be disconnected in case where seals of the meters are tampered with, it does not mean that the board can invoke this clause arbitrarily. At the most the conduct of the officers of the board may be justified till Nov. 6, 1982. The action of the officers of the board for inspecting the meters cannot be said to be in any way unreasonable. Similarly the immediate testing of the meter was also in perfect conformity with the reasonable exercise of power that may be claimed by the officers of the Board. But at any rate, after the receipt of the report from the laboratory that the meter was intact and was not in any way tampered with, there was no reason whatsoever not to restore the electric connection, immediately. From the reading of the trial court judgment it becomes very clear that the action of the officers of the board in not restoring the electric connection immediately was not at all justified. Had it been so, the officers who inspected the meter and who had carried the entire operation of checking and testing of the meter would have stepped into the box. But these persons have not been examined at all by the Board. It is hoped that the top officers of the Board will see that the consumers are not put at the mercy of the junior officers of the board and that the consumers are not put to unnecessary and avoidable hardship.

7. For the reasons stated above. I do not find any substance in the appeal. Hence dismissed.

8. Appeal dismissed.