

(2010) 10 KAR CK 0077

In the Karnataka High Court

Case No : Writ Petition No"s. 32648-49 of 2010

Heidelberg Cement India Limited

APPELLANT

Vs

The Asst. Ececutive Engineer, BESCOM and Others

RESPONDENT

Date of Decision : 12-10-2010

Acts Referred:

Citation : (2010) 10 KAR CK 0077

Hon'ble Judges : N. Kumar, J

Bench : Single Bench

Advocate : S.N. Bhat, for the Appellant; Rudragowda, for the Respondent

Final Decision : Dismissed

Judgement

N. Kumar, J.—Sri B. Rudra Gowda, the learned Counsel, is directed to take notice for the respondents.

2. These Writ Petitions are directed against the demand dated 17.8.2010 issued by Respondent No. 1, demand dated 29.9.2010 as per Annexure-F and also demand issued on 8.10.2010 as per Annexure-G and seeking quashing of the same or in the alternative to receive the statutory appeal and pass appropriate orders on merits.

3. The Petitioner is a cement manufacturing company having installed capacity of manufacturing 1,500 tons of cement. The utilization capacity is 1,200 tons per day. They have employed 550 persons directly and about 2000 persons indirectly. They have put up 600 residential quarters in the premises for its employees. Portions of the property which are constructed have been let out to State Bank of Mysore, BSNL to run the Telephone Exchange and they are paying electricity charges according to the bills issued to them. On 19.8.2010 the first Respondent issued a back billing notice to the Petitioner company directing them to pay a sum of Rs. 18,98,787/-. They have also enclosed an inspection report to the said bill. Similarly one more notice of demand was issued demanding Rs. 38,81,786/- on 25.6.2010. Similarly, yet another demand was also issued. On

receipt of the said demands, the Petitioner preferred a statutory appeal and he has kept ready a demand draft for 50% of the amount demanded. However, Respondents 1, 2 and 3 are not sure of who should hear the appeal and they are asking the Petitioner to approach the other. In those circumstances, as there was a threat of disconnection, the Petitioner has approached this Court.

4. Sri Rudra Gowda, learned Counsel appearing for the Respondents submit that, against the impugned demands a statutory appeal is provided. In order to avail the benefit of statutory appeal, the Petitioner has to deposit 50% of the amount demanded. If he deposits the amount, the appeal would be entertained and would be decided on merits after hearing him. It is also submitted that by virtue of Regulation 44.04, the fifth respondent-Managing Director is the appellate authority who has competence to adjudicate the correctness of the demand notice.

5. In view of the above submission, as the Petitioner has an alternate and efficacious remedy by way of a statutory appeal, it is inappropriate for this Court to entertain these petitions. Accordingly, I pass the following order:

(a) Writ Petitions are rejected.

(b) The fifth Respondent is directed to entertain the statutory appeal to be filed by the Petitioner on his depositing 50% of the demand and thereafter to decide the appeal on merits and in accordance with law after hearing the Petitioner.

(c) The disconnection of electrical installation is stayed for a period of 30 days to enable the Petitioner to prefer the statutory appeal and to make the requisite deposit and then seek for appropriate interim orders by the appellate authority.