

(2007) 03 KAR CK 0070
In the Karnataka High Court
Case No : Writ Petition No. 1846 of 2001

H.M.P. Cements Limited and Another	APPELLANT
Vs	
Karnataka Electricity Board (KPTCL) and Others	RESPONDENT

Date of Decision : 09-03-2007

Acts Referred:

Citation : (2007) 03 KAR CK 0070

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : N.K. Gupta, for Respondent Nos. 1 to 3, Nadiga Shivanandappa, High Court Government Pleader for Respondent No. 4 and D. Leelakrishnan, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—This writ petition is filed on behalf of M/s. H.M.P. Cements Limited, a company incorporated under the provisions of Indian Companies Act, 1956, who is not prosecuting the petition with any diligence or bona fides.

2. Writ petitioners have sought for quashing the demand notice calling upon the 1st petitioner-company to pay huge arrears of electricity charges amounting to Rs. 14,69,32,704/- and for a declaration that Karnataka Power Transmission Company has no power to claim minimum demand charges. A writ of mandamus is also sought to direct the respondents to consider the request/representations of the 1st petitioner-Company said to have been made on 4-8-2000 and 14-8-2000 favourably. Petitioners had also sought for an interim prayer to direct the respondent-KPTCL to grant supply of electricity to the factory premises at Shahabad and for other reliefs.

3. While admitting the writ petition on 2-3-2001 in terms of the interim order passed on that day, this Court directed restoration of power supply to the 1st petitioner-factory subject to such conditions in the order and that they should further deposit some more amount without prejudice to the contentions in the writ petition and should continue to pay the periodic power charges for

consumption of electricity thereafter etc.

4. The matter had come up for further orders on 6-10-2003 and at the request of the learned Counsel for the petitioners it was directed to be called after two weeks. Thereafter it was being adjourned from time to time and when the matter had been listed in B" group as on 28-9-2005, learned Counsel for the petitioners submitted that he would like to retire from the proceedings. This Court permitted Counsel to file a memo in the registry and that memo was ordered by this Court as on 11-11-2005. Thereafter when the matter had come up before the Court on 27-7-2006 this Court noticing there was no representation for the petitioners directed issue of Court notice to the petitioners again on 22-8-2006 and directed the registry to comply with the earlier order and directed that the matter may be listed immediately after service of Court notice on the petitioners.

5. Matter is now listed before the Court and the Court notice sent to the petitioners appears to have been returned unserved for the reason that 2nd petitioner is now residing at Bangalore and the learned District Judge and Sessions Judge at Gulbarga opining that service is not held to be sufficient as it could not be effected in terms of a communication dated 27-7-2006/22-8-2006.

6. Even today there is no representation for the petitioners nor any one appears in person.

7. Sri N.K Gupta, learned Counsel for the respondents submits that as the writ petitioners did not even comply with the conditional interim order passed by this Court, power supply has been disconnected about an year ago and the respondents are now finding it difficult to recover the arrears.

8. Writ petitioner is a company having its registered office at Calcutta. It chose to file the writ petition through its original Commercial Manager of the Factory at Shahabad and the 2nd petitioner one Sri H. Rama Krishna claiming to be a share holder of the 1st petitioner-company. If the Counsel engaged by the petitioner chose to retire from the case, it is for the petitioner-company to make such arrangements to represent it or to appear in person to represent the company. This Court only as a matter of grace had issued notices to the petitioners merely to enable the petitioners to avail of the opportunity and to prosecute the petition, if the petitioners are interested.

9. Notices sent through the Court and sought to be served through serving officials at the District Court, Gulbarga has been returned with the endorsement that the persons in-charge of the factory at Gulbarga intimated that the said Regional Commercial Manager-Smt. Meera K Murthy, now resides at Bangalore etc. It is not the personal interest of the said Smt. Meera K Murthy that is being prosecuted in the writ petition, but the writ petition is on behalf of a Limited Company. Obviously the 1st petitioner-company is not keen on prosecuting the petition nor keen on availing the continued benefit of an interim order passed by this Court as on 2-3-2001 and which ensured to the petitioners the benefit for a period of more than 3 to 4 years.

10. The manner in which the petitioner-company has not even complied with the conditional interim order only shows the lack of bona fides or diligence on the part of the petitioners. Writ petition is not a bona fide ventilation of the grievance of the petitioners, but the process of this Court, is misused and abused.

11. Sri N.K Gupta, learned Counsel appearing for respondent-Electricity Company submits that the electricity company is put to huge losses because of non-payment of arrears to a huge extent of Rs. 14,69,32,704/- and such huge amount having not been realised all these years. It is a fact that the public sector undertaking like the respondent-company is taken for a ride by the petitioner-company and that too by misusing the process of this Court.

12. It is open to the respondents to recover the arrears of electricity charges in any manner provided for in law.

13. This writ petition is dismissed levying exemplary costs of Rs. 50,000/- on the petitioner for misusing the process of this Court. Registry to issue a certificate to this effect on the applications filed by the respondents if the amount is not paid by the petitioners, within a period of one month from today.