

(2012) 01 DEL CK 0596

In the Delhi High Court

Case No : Writ Petition (C) No. 1111 of 2008

Indian Water Meter Manufacturers Association

APPELLANT

Vs

Delhi Jal Board

RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Delhi Water Board Act, 1998 — Section 109, 15, 17, 17(2)

Citation : (2012) 01 DEL CK 0596

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Sanjay Sharawat, for the Appellant; Sumeet Pushkarna, for the Respondent

Judgement

Hima Kohli, J.—The present petition was filed by the petitioner in February, 2008 praying inter alia for the following reliefs :

(i) Pass an appropriate writ of mandamus or any other appropriate writ, order or direction and direct the respondent to frame regulations as mandated by Section 17 read with Section 109 of the Delhi Water Board Act, 1998 for exercising the power contained therein for supply of water meters and until and unless the requisite regulations are framed for the said purpose, the respondent be restrained from exercising the power of purchase, supply and installation of water meters by merely issuing administrative instructions;

(ii) pass an appropriate writ, order or directions in the nature of mandamus and direct the respondent to take appropriate punitive action against M/s Actaris Industries (India) Pvt. Ltd. for gross breach of terms and conditions of the Agreement of Contract No.133 [2006-2007] EE[E&M]W&S South-I executed pursuant to NIT No.8/2006-2007 dated 28.2.2007 including claiming damages and cancellation of the contract, etc.;

(iii) pass an appropriate writ of mandamus or any other appropriate writ or direction and direct the respondent to frame and formulate a long terms policy

consistent with the interest of the consumers as well as manufacturers in respect of supply and installation of domestic water meters in Delhi.

2. Notice was issued on the present petition, vide order dated 12.2.2008. After appearance was entered on behalf of respondent/DJB, a counter affidavit was filed by it on 4.12.2008. In view of the submission made by the counsel for respondent/DJB that the petitioner had not impleaded M/s Actaris Industries (India) Pvt. Ltd. as a co-respondent in the present proceedings, whereas relief had been sought against the said party in prayer (b) of the writ petition, on 20.03.2009, counsel for the petitioner had submitted that the petitioner did not wish to press relief (b) and proposed to confine the present writ petition to the reliefs (a) & (c) alone. The aforesaid permission was granted to the petitioner and the writ petition was confined to reliefs (a) and (b) as made in the writ petition.

3. Today, it is submitted by the counsel for respondent/DJB that no further orders are required to be passed in the present writ petition in view of a recent decision of a Division Bench of this Court in WP(C)No.5918/2010 entitled *Rajinder Nagar Welfare Assn. Vs. Delhi Water Board and Others*, which was a Public Interest Litigation filed by the Resident Welfare Association of Rajender Nagar, wherein a grievance had been raised that the respondent/DJB had not been performing its statutory duties of installing water meters and had taken a decision on 29.10.2009, permitting consumers to purchase water meters for installation from the open market.

4. It is stated by the counsel for respondent/DJB that the Division Bench took notice of the factual matrix of the case and thereafter proceeded to examine the statutory scheme under which the DJB is required to supply water to the consumer. In the course of the said examination, the Court considered the provisions of Sections 15 and 17 of the Delhi Water Board Act, 1998 (in short "the Act") and after adverting to the stand of the petitioner/Association, observed as below :

17. Relying on the said provision it is urged by Mr. Rakesh Kumar Singh, learned counsel for the petitioner, that it is obligatory on the part of the Board to provide water meter to measure the consumption of water and the consumer has no role to play. Per contra, Mr. Pushkarna would submit that the Board can grant permission to the consumer to use his own meter and in the present factual scenario the Board is prepared to notify to the consumers to buy their own meters. It is urged by him that in any case the consumer has to pay for the meters.

18. xxxxx

19. The core issue, which we are inclined to think is whether the citizens should consume more water and not pay for the same simply on the ground that the water meters are not installed or to install the meters and pay the charges. Mr.Pushkarna, learned counsel for the Board, submitted that if the Board is not

able to provide meters from the stores, the citizens can buy their own meters of specific brands and standards as notified by the Board. We have already noted that if the Board supplies the same, the consumer has to pay. It is also contended that the water consumption of an average family may go much higher than what is being charged. It has also been contended, in certain cases, the average charges fixed at 20 Kiloliters per month may go down. Learned counsel for the respondent submitted that it is the tendency of the people to consume more and pay less because there is non-installation of meters.

20. Availability of the water is a primary requirement in any human habitation. The need of the same cannot be marginalized. Paucity of the water cannot be countenanced. Similarly consumption of more water by the citizens on less payment is also deplorable. It is the duty of the collective to see that the economic growth of a country rises when the members of the society pay their charges and taxes and any kind of evasion or any subterfuge or any sort of refusal is not acceptable. In this context, we may refer with profit to Article 51A1. The Article 51A(j) deals with fundamentals which reads as follows:

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

21. The term "achievement" has to be understood in a broader and larger context including achievement in the field of understanding of the morality of economic and political growth of a nation. The collective cannot only think of its fundamental rights totally brushing aside the conception of duty. A nation constantly rises to a higher level if the citizens act with responsibility as per the existing law. If the citizens take recourse to same maladroitness efforts to have something without payment, it is the betrayal of the national value. On certain occasions, it has been noticed that when the State has given one line connection or one "batti" connection, the consumers have abused the same and put the institution to loss. Every institution has a collective character and the Board is no exception. Thus, the consumers are expected to cooperate with the Board and put the meters so that the appropriate charges are collected.

5. After discussing the responsibility of DJB to supply water for domestic or any other purpose on certain conditions and the obligation cast on the consumers to maintain, repair and replace the pipelines, the Division Bench concluded as below:-

22. In view of the aforesaid, we proceed to issue the following directions:

(a) The Board shall first endeavour to install the meters and replace the defective meters.

(b) In case the Board is not in a position to do so, it shall notify the brands and standards available in such shops so that citizens can buy the meter.

(c) The Board shall publish the same widely in the newspapers so that the consumers are made aware of the changed scenario.

(d) If any consumer purchases meter from the notified shop, the Board shall not compel him to purchase the meter from the Board and the meter shall be installed by the Board. It shall be the duty of the Board to send a licensed plumber.

(e) If the meter is installed, the Board shall do 100 per cent billing as per the meter reading.

(f) The installation fee and the maintenance of the meter shall be paid in accordance with the regulations framed u/s 17(2) of the Act.

6. Counsel for the respondent/DJB states that in view of the aforesaid directions that have been issued by the Division Bench in the aforesaid case, nothing further survives in the present writ petition as the grievance of the petitioner/ Association has been satisfactorily addressed.

7. Counsel for the petitioner accepts the fact that the guidelines laid down in the aforesaid decision substantially takes care of the grievance of the petitioner/ Association. He further states that the respondent/DJB be called upon to clarify as to whether the regulations required to be framed by it u/s 17(2) of the Act have been framed.

8. This aspect can be addressed by directing the respondent/DJB to place on record a copy of the regulations/Schemes framed u/s 17(2) of the Act relating to installation fee and rent to be paid for use, maintenance and testing of meters. Accordingly, while disposing of the present writ petition, in the light of the observations made by the Division Bench in the case of Rajinder Nagar Welfare Association (Supra), the respondent/DJB is directed to place on record copies of the regulations/schemes, if any, framed by it u/s 17(2) of the Act and if such regulations/schemes have not been framed so far, the same shall be framed by the respondent/DJB within a period of eight weeks from today and placed on record, with an advance copy to the other side.

9. In the facts of the case, the parties are left to bear their own costs.

10. A copy of this order be given dasti to the counsel for the respondent/DJB.