

(2008) 01 JH CK 0020
In the Jharkhand High Court

Jharkhand Ispat Pvt. Ltd.

APPELLANT

Vs

Damodar Valley Corporation and Others

RESPONDENT

Date of Decision : 28-01-2008

Acts Referred:

Citation : (2008) 1 JCR 617

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this I.A., the petitioner has prayed for restoration of electricity connection, which was disconnected on 1.1.2008.

2. It has been stated that the petitioner is an Industry and has been running Induction Furnace and Sponge Iron Plant. About 300 workers are engaged for the purpose of carrying out manufacturing activity in the said ventures. The electricity of the said concerns was disconnected on 1.1.2008 without assigning any reason to the petitioner.

3. It has been stated that the petitioner has been paying electricity bill regularly and has cleared all bills till November, 2007. The respondents have recovered the bill of December, 2007 by encashing the guarantee. No amount of bill is due and the petitioner has never defaulted payment of any bill. The petitioner's electricity has been disconnected on the allegation of theft of electricity allegedly found by the inspection team. The petitioner has disputed and denied the allegations. It has been submitted that petitioner-Industry has been put to suffer recurring loss as the said industries have come to halt for want of electricity. If the electricity line is not restored, the petitioner shall be highly prejudiced and the fate of 300 employees' family shall be at stake.

4. A rejoinder to I.A. No. 138 of 2008 has been filed on behalf of the respondents contesting the petitioner's prayer. It has been stated that during the pendency of the writ petition, a provisional bill amounting to Rs. 17,80,09,576/- has been served on 24th January, 2008. The petitioner's electricity can be restored on

payment of the full amount of the said provisional bill. If the amount of provisional bill is paid, the electricity line shall be restored within 48 hours.

5. Learned Counsel for the petitioner submitted that the respondents have served the provisional bill putting an arbitrary amount without any basis. The amount is yet to be assessed in accordance with the prescribed provisions of law. Before due assessment, an arbitrary amount has been demanded only to put the petitioner to loss and harassment. The petitioner has cleared all the bills served so far and nothing is due for payment. However, if the assessment is made in accordance with law, the petitioner shall abide by the lawful decision and make payment of the amount legally assessed. The petitioner is an old consumer. There is no allegation of any default in the past. The petitioner is not liable for payment of arbitrary amount of the bill, served on the petitioner during the pendency of the writ petition.

Learned Counsel for the respondents disputed the contention that the bill is arbitrary or has been raised with malicious intention.

6. I have heard learned Counsel for the parties and considered the facts, material on record and the submissions made by the learned Counsel for the parties.

7. Section 126 of the Indian Electricity Act provides for assessment of electricity charges payable by the person or by any other person benefited by such use, including provisional assessment to the best of his judgment, if on an inspection of any place or premises, person is found indulging in unauthorized use of electricity. The assessing officer has been defined as an officer of the State Government or Board or licensee, as the case may be, designated as such by the State Government. No document has been produced by the respondents to show that the impugned assessment has been made by a competent assessing authority and as provided under law.

8. Mr. Jerath, learned Counsel for the respondents tried to justify the impugned assessment, but could not point out any other provision of law providing for such power to the person other than the assessing authority to make such provisional assessment. He only emphasized for at least 50% deposit of the said amount of provisional bill for restoration of the petitioner's electricity.

9. Considering the facts and circumstances that the petitioner is an old consumer and there has been no complain of earlier default on their part and that due to disconnection of electricity, the aforesaid factories are closed and livelihood and fate of families of hundreds of the workers are at stake, I direct, that pending final hearing and decision of the writ petition, the petitioner's electricity shall be restored subject to deposit of Rs. 1.5 crores (one crore fifty lakhs) by the petitioner against the provisional bill issued by the respondents. The said deposit of the petitioner shall be without prejudice to the respective rights of the parties and shall be subject to the adjustment towards the duly assessed amount or towards the future bill of the petitioner. It is made clear that on deposit of the said amount by the petitioner their electricity shall be restored within 48 hours.

10. I.A. No. 138 of 2008 stands disposed of.

Let a copy of this order be handed over to the learned Counsel for the parties.