

**(2002) 03 MAD CK 0114**

**In the Madras High Court**

**Case No : Writ Petition No. 20177 of 1994**

Kabini Poly Bags (P) Ltd.

APPELLANT

Vs

Tamil Nadu Electricity Board

RESPONDENT

**Date of Decision : 04-03-2002**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (2002) 03 MAD CK 0114**

**Hon'ble Judges : A.K. Rajan, J**

**Bench : Single Bench**

**Advocate : R.Mohan, for the Appellant; N. Muthusamy, for EB, for the Respondent**

**Final Decision : Dismissed**

## Judgement

A.K. Rajan, J.—The petitioner/factory has filed the above writ petition seeking to issue a writ of certiorarified mandamus, calling for the records in the impugned notice of the third respondent bearing Lr. No.AEE/O&M/AB5/F.NPC/Doc.No.A.29/D.892/94, dated 20-10-1994, quash the same and direct the respondents to refund a sum of Rs.23,948/- paid by the petitioner under threat of disconnection and protest, involuntarily, without prejudice to the petitioner's claim to refund together with interest and compensation.

2. The petitioner/factory has electricity service connection in S.C. No.32:06:500, at its premises at No.86, P.K. Mohammed Road (Off: Vanagaram Road), Athipet, Ambattur, Chennai-600 053. On 22-9-1994, two capacitors were removed as they have become defective and could not be rectified and re-fixed, as the electrician was on leave. On 23-9-1994, the Anti-power Theft Squad headed by the Assistant Executive Engineer/Anti-power Theft Squad (Central) inspected the service connection of the petitioner/factory and found that the capacitors were not provided. It was brought to the notice of the Squad that the capacitors became defective and hence were removed and placed separately, and the same could not be rectified and re-fixed as the electrician was on leave on that day.

The Assistant Executive Engineer (O & M), Madras Electricity Distribution Circle West, Ambattur, Chennai-600 053 sent a letter bearing No.AEE/O&M/AB5/F.NPC/Doc.No.A.29/D.892/94, dated 20-10-1994, stating that the petitioner/factory must pay compensation for not providing capacitors, that the compensation charges work out to Rs.23,948/- and that the petitioner/factory was requested to pay the amount within 15 days from the date of receipt of that letter, failing which, the service connection would be disconnected without any further notice. The petitioner/factory, in order to avoid disconnection, paid the compensation charges as sought for by the Board. Thereafter, the writ petition has been filed to cancel the impugned notice dated 20-10-1994 and direct the respondents to refund the amount of compensation thus paid by the petitioner/factory.

3. No counter has been filed by the respondents.

4. Learned counsel for the petitioner/factory submitted that the capacitors became defective only on the previous day of inspection by the Squad and since the electrician was not there on duty previous day to the date of inspection, the capacitors could not be rectified and re-fixed. There was no intention to commit theft of electricity, nor was there any theft of electricity in fact. Therefore, the amount of compensation demanded and paid under compulsion by the petitioner/factory is not legal and valid and hence, the same has to be refunded. Further, learned counsel contended that there are no particulars given in the impugned notice to show as to how the amount of compensation of Rs.23,948/- has been arrived at. Therefore, the impugned notice is liable to be set aside.

5. Learned Standing Counsel for the respondents has submitted that the compensation has been calculated in accordance with the rules and since the amount is validly calculated, no refund of the amount of compensation is necessary as sought for by the petitioner/factory.

6. It is true that the Electricity Board has got right under the relevant rules to demand compensation in case there is violation of the terms and conditions of the supply of electricity and under such circumstances, it has got a right to be compensated for the loss sustained by it in accordance with the rules. But, at the same time, it is duty bound to specify in the impugned notice as to how the amount of compensation has been arrived at when they demand the same from the consumer. Normally, as per the rules, the calculation sheet has to be attached whenever such demands are made. In this case, admittedly, no such calculation sheet was attached and therefore, on that ground, the impugned notice is bad. Presently, the amount has already been paid by the petitioner/factory under fear of disconnection. Therefore, the impugned notice need not be set aside at this point of time. Instead, there will be a direction to the respondents to give a calculation sheet/memo as to how they arrive at the amount of compensation as Rs.23,948/- in the impugned notice. If and when such a calculation sheet/memo is given, if the petitioner is aggrieved by the same, the petitioner/factory has got a right of appeal against that and it is for the petitioner/factory to satisfy the appellate authority that the petitioner/factory

has not committed any theft of electricity and that the appellate authority would be entitled to pass orders accordingly on merits and in accordance with law.

7. With the above direction, the writ petition is dismissed. No costs.