
(2014) 10 KAR CK 0162

In the Karnataka High Court

Case No : Writ Petition Nos. 46279-280/2014 (GM-KEB)

Lourdes Mary

APPELLANT

Vs

The Asst. Executive Engineer

RESPONDENT

Date of Decision : 07-10-2014

Acts Referred:

Citation : (2014) 10 KAR CK 0162

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Chikkanagoudar L.S., Advocate for the Appellant; B. Rudragowda, Advocate for the Respondent

Judgement

B.S. Patil, J.—Petitioner is the owner of the building constructed at No. 8, 2nd Main Road, Chinnappa Garden, Benson Town Post, Bangalore 560046. According to the petitioner, the building was constructed during the lifetime her husband and upon his death she has succeeded to the same. Power supply was given to the building on 26.03.2013 under MSD Category. Petitioner made available the required space inside her property for installing a transformer so as to cater to the needs of the petitioner to the tune of 61.5 KV sanctioned load. According to the petitioner, the transformer installed is exclusively for the purpose of supplying electricity to the petitioner's premises and nobody else can be given any electricity supply on the basis of the said transformer which has been installed at her cost exclusively for the benefit of the petitioner.

2. It is the grievance of the petitioner that one electrical contractor of the respondent-Company trespassed into the area where the transformer has been installed to tap electricity and supply it to other applicants from the petitioner's distribution scheme. This made the petitioner to file a complaint before the jurisdictional police and also to the Executive Engineer (Electrical), Shivajinagar, BESCOM and the Assistant Executive Engineer concerned informing them of the illegal attempt made by the electrical contractor. However, instead of redressing the grievance of the petitioner, the Assistant Executive Engineer issued a

communication dated 27.08.2014 produced at Annexure-G informing the petitioner that as per the relevant regulations and the agreement entered into between the BESCO., and the petitioner, after completion of the work, the entire distribution system along with transformer would vest with BESCO and the ownership of the lines and other allied equipment would continue to lie with the BESCO for further maintenance and that the Corporation will have right to tap the supply to the other applicants from the same distribution system. Aggrieved by this communication, the present writ petition is filed.

3. I have heard the learned counsel for the petitioner-Sri L.S. Chikkanagoudar and the learned counsel appearing for the respondent Sri B. Rudragowda.

4. As per Clause 9.11(4)(e) of the KERC (Electricity Supply and Distribution) Code, 2000-01, the entire service line along with the transformer shall be taken over by the Licensee without payment of any charges and the ownership of the lines and other equipment would thereafter vest with the Licensee who shall maintain it. It is thus clear that though the space is provided by the petitioner for installation of the transformer and although the entire cost has been borne by the petitioner including the cost of the transformer, for the purpose of maintenance, the entire service lines along with transformer would be taken over by the Licensee without paying any charges. The ownership of the lines and other equipments would vest with the Licensee and it is the Licensee who shall maintain it.

5. Controversy now presented is, whether the contractor duly licensed by the BESCO can meddle with the transformer and the electrical lines attached to it for the purpose of tapping of electricity and supply it to others based on the same transformer. In the agreement entered into between the petitioner and the BESCO, Clause 12 makes it clear that the Corporation reserves right to tap the supply to the other applicants from the same distribution system. This right, no doubt, is not expressly mentioned in Clause 9.11(4)(e). But," fact remains that the clause clearly states that the electrical lines and other equipments would vest with the Company. It is in this background only, such a right is reserved under the agreement to tap the supply to other applicants from the same distribution system.

6. The question, then, would be whether the transformer which has been installed exclusively for the benefit of the petitioner at her cost and in her place for the sanctioned load of 61.5 KV could be subjected to any further load for supplying electricity to other applicants. It is in this area that the counsel for the petitioner very rightly submits that if other applicants are given electricity supply subjecting the transformer installed in the petitioner's land, then the very purpose of having an exclusive transformer for the sanctioned load of 61.5 KV to feed the requirement in the premises in question would be defeated. This apprehension of the petitioner has been, according to me, fully and completely addressed by the submission made by Sri Rudragowda, learned counsel for the respondent who categorically contends that tap of electricity from the distribution

system will not in any manner place any load or subject the existing transformer meant for the petitioner to any additional load. Tapping is only for the purpose of connecting lines and not so as to subject the transformer to any additional load. In the light of this submission made by Sri B. Rudragowda, the learned counsel for the BESCOM, it becomes clear that the transformer installed for the purpose of petitioner's premises cannot be subjected to additional load so as to supply electricity to other applicants and to this extent, grievance of the petitioner gets addressed.

7. Therefore, making it clear that the transformer of the petitioner which is exclusively meant for supply of electricity to the petitioner and to take the load of the sanctioned quantum of electricity cannot be subjected to bear the burden of supplying electricity to other applicants and that the petitioner cannot object any other legitimate and permissible use of this distribution system, this writ petition is disposed of.