
(2005) 08 NCDRC CK 0038

In the National Consumer Disputes Redressal Commission

MADHU MALTELSH RANGARAO JOSHI

APPELLANT

Vs

EXECUTIVE ENGINEER, KPTCL

RESPONDENT

Date of Decision : 10-08-2005

Acts Referred:

Citation : 2005 2 CPC 693 : 2006 1 CLT 573 : 2006 1 CPJ 293

Hon'ble Judges : Chandrashekhar , Rama Ananth , J.N.Srinivasa Murthy J.

Final Decision : Complaint partly allowed

Judgement

1. THE complainants have filed this complaint for a direction to the opposite parties (for short, the "O.Ps.") to pay compensation of Rs. 5,72,500 with interest at 24% per annum.

2. THE facts in this case are as follows : THE complainants are the owners of the premises bearing No. 106, Manjunatha Screen Printers, High School Road, Haveri. In the said premises, they have been running a Printing Press with the help of electricity. THE Electricity Meters bears RR MP No. 217. THE supply of electricity to the premises of the complainant was disconnected by the O.Ps. on 13.8.2000. According to the O.Ps. the disconnection is not on 13.8.2000 and it is on 14.8.2000 for non-payment of arrears in respect of another Electricity Meter bearing AEH No. 114. Challenging this disconnection, the first complainant approached the High Court of Karnataka by filing a Writ Petition in W.P. No. 137/2002. THE said Writ Petition was disposed of by the High Court of Karnataka by an order dated 5.2.2002 directing the O.Ps. to restore the electricity supply. Pursuant to the said direction, we are told that the O.Ps. have restored supply of electricity to the premises of the complainants on 22.2.2002. The case of the complainants is that the disconnection of supply of electricity by the O.Ps. is illegal, as no notice was issued to the complainants before disconnecting the supply of electricity and due to this disconnection, the complainants were made to suffer substantial injury as they were prevented from running the Printing Press, which is their only source of living, for about 18 months.

The O.Ps. have filed their version stating that the disconnection of electricity was

due to the non-payment of dues in respect of another installation bearing AEH No. 114. It is further stated that under Regulation No. 4.1 of Part-V of the K.E.R.C. (E.S. & D). Regulations, 2000-2001, the O.Ps. are conferred with power to disconnect electricity if the consumer fails to clear the arrears in respect of another installation standing in the name of the same consumer in the same premises and, therefore, there is no "Deficiency in service" on the part of the O.Ps., so as to pay any compensation in favour of the complainants.

3. SO far as the disconnection of supply of electricity in respect of RR MP No. 217 by the O.Ps. on 13.8.2000 or on 14.8.2000 is concerned, the O.Ps. have not disputed the disconnection. The O.Ps. have also not disputed that the supply of electricity was restored pursuant to the Order of the High Court on 22.2.2002. Mr. Deepak, learned Counsel for the complainants, submits that the disconnection of supply of electricity was without any notice and if any notice had been issued to the complainants, in all probability, the complainants could have cleared the arrears, if any, in order to avoid any such disconnection. He further submitted that the Installation bearing AEH No. 114 was surrendered by the complainants in the year 1992 and, therefore, no arrears are due by the complainants. The O.Ps. have not produced copy of any notice issued to the complainants. From 1992 onwards the O.Ps. have not issued any notice demanding arrears of electricity charges in respect of Installation bearing AEH No. 114 till 11.7.2000. For the first time, it appears the O.Ps. issued a Notice dated 11.7.2000 informing the first complainant about the arrears of electricity charges. It was stated in the said Notice that because of non-payment of arrears of electricity charges in respect of Installation bearing AEH No. 114, supply of electricity in respect of Installation bearing RR No. MP 217 will be disconnected. The learned Counsel appearing for the complainants does not admit receipt of the said Notice. The O.Ps. have not produced any material to show that the said Notice was served on the complainants. In the absence of Production of Notice, we are of the view that no notice was served on the complainants before disconnecting the supply of electricity in respect of Installation bearing RR No. MP 217.

4. IN this regard, it is relevant to quote the provisions of Regulation 30.08 of the Karnataka Electricity Board Electricity Supply Regulations, 1988: "30.08. Disconnection of power supply for non-payment of power supply charges-(a) If the consumer fails to pay the bill amount within the period indicated below, from the date of presentation of the bill, the Board will serve on the Consumer 7 clear days" notice for disconnection and if the payment is not made on or before the expiry of the period of notice, the installation will be disconnected."

But, in the instant case, as observed earlier, the O.Ps. have not produced any material to show that the Notice dated 11.7.2000 was served on the complainants. IN the absence of such service of Notice, the O.Ps. ought not to have resorted to disconnect the supply of electricity, that too when the complainants are entirely depending upon the Printing Press which they are

running with the help of electricity for their livelihood. Non-service of Notice and the disconnection of the supply of electricity contrary to the aforesaid Regulations, in our opinion, is a "deficiency in service" on the part of the O.Ps. The complainants have no doubt claimed Rs. 6,72,500 as compensation. But they have not produced any evidence to show how they are entitled for compensation of Rs. 6,72,500. In the absence of such material, we are of the view that awarding a sum of Rs. 20,000 as compensation would meet the ends of justice. In the result, we pass the following order: (1) The complaint is allowed in part. (2) O.Ps. are directed to pay Rs. 20,000 as compensation to the complainants within four weeks from today. (3) In the event if the O.Ps. fail to pay the said amount within four weeks as directed above, the O.Ps. are liable to pay interest at 6% per annum on the said sum of Rs. 20,000 from the date of the complaint till realisation. (4) O.Ps. are also directed to pay a sum of Rs. 2,000 as costs of these proceedings to the complainants.

Complaint partly allowed.