

(2003) 04 JH CK 0036

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3385 of 2002

Md. Tauquir Alam

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 09-04-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 2

Citation : (2003) 2 JCR 640

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Ajit Kumar, for the Appellant; A.K. Mehta, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Petitioner filed this writ application seeking direction upon the respondents, Jharkhand State Electricity Board and its officers to accept the application of the petitioner for giving him new electric connection in the premises bearing plot No, 1092, Ward No. 8 (Mango, Jamshedpur) which has been taken on lease from one Md. Pervez Akhtar, S/o Late Moizul Haque resident of Muhalla Jamshedpur.

2. Petitioner's case is that after taking shop premises on lease he approached respondent No. 5 Assistant Electrical Engineer, Electric Supply Sub Division, Mango for grant of new connection and the later refused to accept his application for new connection on the ground that there is some dues lying against the owner of the premises namely, Pervez Akhtar. The respondents appeared and filed counter affidavit stating that there was industrial connection in the plot in question in the name of Pervez Akhtar who had arrear of Rs. 61.000/- and for non payment of that arrear line was disconnected, hence fresh connection cannot be given without payment of the dues. It is further stated that before the petitioner one Rashid Akhtar filed writ petition before this Court for grant of fresh electric connection in the said plot on the basis of tenancy documents executed by Pervez Akhtar.

3. After the counter affidavit was filed, the matter was taken up on 5.3.2002 and this Court passed the following order :

"The respondent-Board is directed to disclose the number of the writ petition filed by one Mr. Rashid. Akhtar as stated in para 6 of the counter affidavit. If the statement made in para 6 of the counter affidavit is found correct then the petitioner shall be prosecuted and if it is found false, then the Law Officer who has made this statement on oath, shall be prosecuted.

Put up this case on 10.3.2003."

4. In compliance of the aforesaid order, petitioner filed reply to the said counter affidavit and denied and disputed the averments made in the said counter affidavit. It is stated that there had never been any industrial connection in the name of Pervez Akhtar or Rashid Akhtar and so-called Rashid Akhtar never filed writ petition. It is stated that on the contrary respondent Board has given electric connection in the house standing on portion of the same plot in the name of Pervez Akhtar without insisting payment of alleged dues against him.

5. On 10.3.2003, the matter was again taken up and the Law Officer of the Electricity Board admitted that statement made in para 6 of counter affidavit was not correct. He further stated that he-sworn affidavit on the basis of statement of fact drafted by the Executive Engineer. This Court therefore passed the following order on 10.3.2003 :

"Reference may be made to the order dated 5.3.2003. Today Mr. A.K. Mishra, the Law Officer of the Electricity Board admitted that the statements made in para 6 of the affidavit sworn by him is not correct. He, however, says that he made those statements on the basis of the statement of fact drafted by the Executive Engineer, Mr. B. Singh. Fortunately Mr. B. Singh, Executive Engineer who is present in Court, when called upon, submitted that the said statement of facts was prepared by Mr. A.K.P. Sinha, Assistant Electrical Engineer.

In these circumstances, all the aforesaid three officers are directed to appear before this Court on 14.3.2003. On that date this Court shall consider to pass appropriate order either for lodging F.I.R. or for initiating a proceeding against the said officers for swearing false affidavit.

Put up this case on 14th March, 2003."

6. The matter was again taken up on 20.3.2003 and thereafter on 28.3.2003 when the matter was heard at length.

7. It is therefore clear from the aforesaid fact that the electric connection in the premises of petitioner was denied by the respondent Board on the false and frivolous ground that firstly there was dues lying against Pervez Akhtar and one Mr. Rashid Akhtar earlier moved this Court for the same relief. When this fact was seriously disputed by the petitioner by filing rejoinder, these officers were called upon to file affidavit. The Law Officer in his affidavit stated that he tendered his

unqualified apology for the statement made in the counter affidavit. Para 4 and 5 of the affidavit is reproduced herein below :

"Para 4.--That the Deponent states that the counter affidavit filed in this writ application was based on the parawise comments forwarded by the concerned office and he, in the capacity of Law Officer, had sworn the affidavit.

Para 5.--That the Deponent states and submits that he has no intention either to willfully or deliberately mislead this Hon"ble Court or to bring incorrect facts before this Hon"ble Court. The Deponent once again tenders unqualified apology to this Hon"ble Court."

8. The Junior Electrical Engineer Mr. Rajendra Ram also tendered his unqualified apology. Para 4 and 5 of the his affidavit is reproduced herein below :

Para 4.--That the Deponent states that the parawise comments dated 16.7.2002 was signed by him also after, the same was prepared by the office. It is stated that he joined the office of Junior Electrical Engineer, Electric Supply Section, and Mango-II only on 10.5.2002.

Para 5.--That the Deponent states and submits that this Hon"ble Court may accept the apology tendered by him and pardon him for the lapses if any which are neither intentional nor to mis-lead the Hon"ble Court."

9. Mr. Basgit Singh, Executive Engineer also filed affidavit wherein he stated that he only forwarded parawise comment. Para 5 of the Affidavit is reproduced herein below :

Para 5.--That the Deponent states that by a letter bearing No. 959 dated 20.2.2003, Parawise comments were forwarded by the Deponent to the Law Officer, Legal Cell, J.S.E.B., Ranchi. It is stated that this Deponent only forwarded the parawise comments prepared by the Assistant Electrical Engineer, Electric Supply Sub-Division Mango and the Junior Electric Engineer."

10. From the aforesaid affidavits, it is clear that the deponents have made false statement in the counter affidavit and when this was brought into light they tendered unqualified apology, stating that they never intended to mislead the Court.

11. It is well settled that interfering with the administration of justice can also take place when recourse is had to objectionable means to get favourable verdict in the Court. In the case of "Chandra Shashi v. Anil Kumar Verma (1995) 1 UJ 242 their Lordship held that filing of fabricated documents in the Court to defeat just claim of the adversary amounts to contempt of Court as the said act was done with intent to deceive the Court and would mean interference with the administration of justice. Their Lordship further held that on proof of such act mere tendering of apology to protect himself against rigours of law is not acceptable.

12. In the case of Dhananjay Sharma Vs. State of Haryana and Others, the

Supreme Court held that swearing false affidavit or making false statement on oath in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceeding but has also the tendency to impede, obstruct and interfere with the administration of justice amounted to a criminal contempt. In that case respondents-Police officers falsely denied in their affidavit that detenu and the taxi driver had been whisked away and detained illegally in their custody. The apology of the contemnor respondents was rejected by the Supreme Court and were sentenced to imprisonment and fine.

13. Coming back to the instant case it is manifest that by filing false affidavit the respondents intended to mislead the Court and also deprive the petitioner from his statutory right to get electrical connection in his premises. The officers namely the Law Officer, Assistant Electrical Engineer and the Executive Engineer of the respondent-Electricity Board holding such a responsible post are not supposed to make statement on oath in a Judicial proceeding which has no basis and which are false. Although they are liable for criminal contempt but I am not taking such a harsh action against them. But certainly they must be penalized for filing false affidavit thereby interfering in the administration of justice. Those officers namely, A.K. Mishra, Law Officer, Electricity Board, A.K.P. Sinha, Assistant Electrical Engineer and B.S. Singh. Executive Engineer, are saddled with cost of Rs. 5,000/ (Rupees Five thousand) each, which shall be paid to the petitioner by way of compensation for being unnecessary harassed and deprived of from getting the electrical connection.

14. This writ application is therefore allowed and the respondent/Electricity Board is directed to immediately and forthwith grant sanction for the supply of electricity in the premises of the petitioner after completing the formalities. In the facts of the case, as stated above, petitioner will be entitled to get the cost of Rs. 15.000/-(Rupees fifteen thousand).