

(2007) 07 AHC CK 0259
In the Allahabad High Court
Case No : C.M.W.P. No. 31901 of 2007

Mohamdabad Cold Storage Private Ltd. and Another	APPELLANT
Vs	
Dakshinanchal Vidut Vitran Nigam Ltd. and Others	RESPONDENT

Date of Decision : 18-07-2007

Acts Referred:

Constitution of India, 1950 — Article 14
Electricity Act, 2003 — Section 162

Citation : (2007) 6 AWC 5977

Hon'ble Judges : Shishir Kumar, J; Amitava Lala, J

Bench : Division Bench

Advocate : Mayank Agrawal and Seema Agrawal, for the Appellant; H.P. Dube and Pramod Bharadwaj, for the Respondent

Final Decision : Dismissed

Judgement

Amitava Lala, J.—Heard learned Counsel appearing for the Petitioners and Sri Pramod Bharadwaj, learned Counsel appearing for the Respondents.

2. The contention of the writ Petitioners is that a supplementary bill has been raised upon them for a sum of Rs. 2,54,033 with a notice that in case this amount is not paid, the supply line will be disconnected. On protest, the writ Petitioners have deposited the amount of the supplementary bill. According to the writ Petitioners, the admitted position is that the transformer is defective. According to the learned Counsel appearing for the Respondents, if there is any complaint about the bill, it can be raised under Clause 6.5 (b) of the Electricity Supply Code 2005. Although the heading of this clause shows as "Disputed Bills and Arrears" but there is no doubt that the supplementary bills, if any, can also be treated as disputed bills. If the dispute exists amongst the parties in respect of any claim arising out of any bill, no other inference can be drawn from the word "supplementary". In any event, it has been contended before this Court by the learned Counsel appearing for the Petitioners that in view of the judgment in *Bombay Electric Supply and Transport Undertaking v. Laffans (India) Pvt. Ltd.*

and Anr. 2005 (3) AWC 2133 (SC), the Electrical Inspector is an appropriate person to adjudicate the dispute with regard to meter, which is the basis of raising any bill, if any. Such judgment is arising out of Indian Electricity Act, 1910. The first part of the referred portion of the judgment is "For the period for which, according to the Appellant, the meter was not correct, none of the parties has referred the dispute to the Electrical Inspector". Therefore, it was open to go before the Electrical Inspector for the purpose of appropriate adjudication independently by such independent authority in the form of statutory arbitration under the old Act i.e., Indian Electricity Act, 1910. Under the new Act i.e., Electricity Act 2003, Section 162 prescribes that the Chief Electrical Inspector/Electrical Inspector can be appointed by notification. If we go by Clauses 5.5 and 5.6 of the Electricity Supply Code 2005, we can be able to find that there can be a test in respect of the defective meters. So far as Clause 5.6 is concerned, the consumer may request the licensee to test the meter installed on his premises if he doubts the accuracy of the meter reading in commensurate with the consumption of electricity, stoppage of meter, damage of seal, by applying to the licensee in the prescribed format alongwith requisite testing fee. So far as Clause 5.6 (c) (iii) is concerned, if the consumer disputes the results of testing, or testing at consumer's premises is difficult, the defective meter shall be replaced by a new tested meter by the licensee, and, the defective meter after sealing in presence of the consumer, shall be tested at licensee's lab/independent lab/Electrical Inspector, as agreed by the consumer.

3. Therefore, there is a process of proceeding for the purpose of appropriate adjudication if there is any defect in the meter, which gives a wrong supplementary bill, as has been disputed by the Petitioners. It is obvious that the bill cannot be raised unless there is a reading. Although the scope and ambit of the bill may not be adjudicated by the Chief Electrical Inspector or Electrical Inspector but, since the dispute is with regard to meter reading, which is the basis of the bill, the same can be adjudicated, which ultimately give relief towards the claim under the bill. It is admitted position that the dispute has been raised with regard to supplementary bill by paying lump sum amount more than 50% on protest. Therefore, in respect of the balance amount alongwith Ors. there should not have been a difficulty in approaching the authority concerned under Clause 5.6 of the Electricity Supply Code 2005 for the purpose of test of meter or other instrument including transformer in connection thereto to come to the appropriate finding. In case of failure, the consumer can go before the Chief Electrical Inspector and in such case of apprehension of the disconnection, the electricity supply is automatic. There is no need to invoke jurisdiction of the writ court to interfere at this stage on the basis of alleged violation of Article 14 of Constitution of India. So far as the dispute raised by the Petitioners before writ court is concerned, the stage is premature. Thus, we cannot pass any affirmative order in favour of the Petitioners. Hence, the writ petition is dismissed.

4. No order is passed as to costs.

5. However, passing of this order will no way affect the right of the writ Petitioners to raise their grievance before the authority concerned or Chief Electrical Inspector/Electrical Inspector independently. If the authority concerned is called upon, he is also not prohibited from considering the case independently in view of the situation, as referred hereinabove.

Shishir Kumar, J.

I agree.