

(2001) 08 KAR CK 0067
In the Karnataka High Court
Case No : Writ Petition No. 7988 of 2001

Mohammed Ibrahim

APPELLANT

Vs

Dist. Consumer Disputes Redressal Forum, Kolar and Others

RESPONDENT

Date of Decision : 09-08-2001

Acts Referred:

Citation : AIR 2002 Kar 176 : (2001) 4 KCCR 447 SN

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : S. Shivaswamy, for the Appellant; N.K. Guptha, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J

1. Petitioner is running a paddy husking industry. A back billing demand notice as per Annexure-E dated 21-6-1999 was issued to the petitioner for a sum of Rs. 82,128/- in respect of the electricity consumed. Against the said demand, the petitioner filed appeal as per Annexure-F. As there was threat of disconnection of electricity, the petitioner filed a complaint be-fore the District Consumer Forum. The same was rejected by the impugned order at Annexure-K dated 16-2-2001 with liberty to the petitioner to approach the appropriate forum. Thereafter, a revised demand notice was issued to the petitioner as per Annexure-N dated 31-8-1999 calling upon the petitioner to pay a sum of Rs. 2,06,141/- in place of the earlier demand as the same was not in accordance with the Rules of the Board. This writ petition is filed seeking to quash the aforesaid demand notices and to direct the 4th respondent to dispose of the appeal filed by the petitioner as per Annexure-K.

2. At the out-set it is to be observed that the prayer to quash the notice at Annexure-E is conflict with the prayer to dispose of the appeal at Annexure-K as the said appeal is filed against Annexure-E. If Annexure-E is quashed as sought for by the petitioner, question of directing the 4th respondent to consider and

dispose of the appeal does not arise as the appeal itself does not survive for consideration. Thus, the prayers in this regard are conflicting.

3. The assertion of the petitioner is that once the appeal is filed against the demand notice at Annexure-E, respondents have no authority to demand back-billing charges. Further, once there is back-billing demand, there is no power conferred to revise the same raising the demand as per Annexure-N.

4. Mr. N. K. Gupta, learned counsel for the respondents placed reliance upon Regulation 46.01 of Karnataka Electricity Supply Regulations, 1988 justifying the impugned demands.

5. The correctness of the order of Consumer Forum at Annexure-K need not be gone into for two reasons. In the first place, the petitioner has alternative remedy under Regulation 46.01 against the back-billing charges. The petitioner has not availed the same. In the second place, the complaint filed before the Consumer Forum questioning the correctness of the back-billing charges was without jurisdiction. Even otherwise also, the impugned order at Annexure-K is a well considered order with valid and cogent reasons. The same does not invite interference by this Court.

6. In so far as demand notice at Annexure-E is concerned, the petitioner has already filed appeal against the same as per Annexure-F and the same is pending. Hence, Annexure-E cannot be quashed since it is the subject matter of appeal.

7. As regards the revised back-billing charges as per the demand notice at Annexure-N is concerned, the same was issued by applying the correct tariff after noticing the mistake in the earlier bill at Annexure-E. The same shall be treated as a notice and petitioner is at liberty to file objections to the same before the 2nd respondent within two weeks, from the date of receipt of the copy of this order. If such objections are filed, the 2nd respondent shall consider and pass appropriate orders on the same. Until then, the same shall not be enforced against the petitioner.

8. So far as the direction sought for to the 4th respondent to dispose of the appeal at Annexure-F is concerned, if the appeal is filed in accordance with the Regulations by depositing the amount, the 4th respondent shall consider the appeal and dispose of the same at the earliest.

9. Writ Petition is dismissed with the above observations and directions.