

(1996) 08 KAR CK 0037

In the Karnataka High Court

Case No : Writ Petition Nos. 13953 and 13954 of 1996

M/s. Basaveshwara Oil Mill, Gangavati, Raichur District and
Another

APPELLANT

Vs

Chief Electrical Inspector, Government of Karnataka and
Another

RESPONDENT

Date of Decision : 20-08-1996

Acts Referred:

Electricity Act, 1910 — Section 26(6)

Citation : (1997) 1 KarLJ 207

Hon'ble Judges : R. V. Raveendran, J

Judgement

1. The electrical installation in the Mills of petitioners 1 and 2 at Gangavathi and Karatagi bear R.R. No. P-258 and KRP-20. On the ground that the said meters were recording slow, the Board raised back billing demands. Petitioners challenged the said demands in Writ Petition Nos. 308 of 1992 and 17820 of 1989. This Court allowed the petitions by orders dated 8-11-1993 and 4-11-1993 and directed that disputes be referred to the first respondent under Section 26(6) of the Indian Electricity Act, 1910 for decision. The matters were accordingly referred to the first respondent and he has passed orders dated 8-5-1996 and 25-4-1996 (Annexures-B and C) respectively in the case of petitioners 1 and 2. In the case of the first petitioner, the first respondent has directed that a sum of Rs. 26,882.70 should be paid to K.E.B. and K.E.B. in turn should withdraw Rs. 19,571/- from the consumer's ledger account. In regard to second petitioner, first respondent directed him to pay Rs. 13,601.20 for the disputed period from 3 of 1989 to 8 of 1989 and K.E.B. shall withdraw a sum of Rs. 37,039/- from the consumer's ledger account and adjust the same towards future consumption charges. Feeling aggrieved, petitioners have filed these petitions and sought quashing of Annexures-B and C and seeking a direction to second respondent to refund or adjust the 25% amount deposited by them in pursuance of the interim orders of this Court, towards future bills.

2. Petitioners state that having regard to Section 26(6) of the Act, the Electrical

Inspector should test the meter and only if he comes to the conclusion that it is faulty or recording slow, he gets the jurisdiction to estimate the energy supply utilised to the consumer, in the manner prescribed under Section 26(6). They contend that where meters were not tested by the Electrical Inspector, he could not determine the quantity of energy consumed by the petitioners not determine the amount payable by the petitioners. They relied on the decision of this Court in *Topasa v Karnataka Electricity Board and Another*, 1989(1) Kar. L.J. 81, wherein, this Court held that if the Board wants to raise a bill in regard to the actual consumption of energy not correctly recorded by the meter, it has to approach the Electrical Inspector and get the same tested and settled.

3. In this case, admittedly, meters in question have not been tested by the Electrical Inspector. In the case of the first petitioner, the order of the Electrical Inspector states that the meter which was recording slow, when checked on 27-11-1991, was found to be beyond repairs and it was replaced by a new meter and the old meter is not available for testing. He therefore states that only course open to him was to compute the consumption of energy on an average basis as the installation is a seasonal industry. In the case of the second petitioner, first respondent has held that defects were observed during testing i.e., 71.5% slow recording and meter has been rectified on the date of testing itself and therefore, defective meter was not available for testing by the Electrical Inspector. Thus, in both the cases, the Electrical Inspector has proceeded to determine the liability of the petitioners without testing or inspecting the meters. Hence, it is necessary to consider the question whether the Electrical Inspector can estimate the consumption, where he does not get an opportunity to test the meter.

4. At this stage, learned Counsel for the Board submitted that the Board may be given opportunity to produce mahazars and inspection reports wherein slow recording has been noted and counter-signed by the consumers accepting such slow recording. The said material was not made available before the Electrical Inspector and at all events, the same were not the basis for deciding the liability of the petitioners.

5. In view of the above, these petitions are allowed. The orders of the Electrical Inspector, Annexures-B and C are quashed and the matters are remitted to the Electrical Inspector for fresh disposal according to law, within three months from the date of receipt of this order. It is open to both the parties to produce additional material before him in support of their respective contentions. All contentions of the parties are left open.