
(1989) 07 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11155 of 1985

M/s Hyderabad Asbestos Cement Products Ltd., Santanagar	APPELLANT
Vs	
Andhra Pradesh State Electricity Board, Hyderabad	RESPONDENT

Date of Decision : 10-07-1989

Acts Referred:

Electricity (Supply) Act, 1948 — Section 18, 49

Citation : AIR 1990 AP 278

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : K. Srinivasa Murthy, for the Appellant; V.R. Reddy, for APSEB, for the Respondent

Judgement

1. The petitioner is calling in question a direction issued by the Andhra Pradesh State Electricity Board for release of additional supplies of 1000 K.V.A. of power though a letter dated November 14, 1983 on condition of their agreeing to receive the power supply at 33 K.V.

2. The contention of Sri K. Srinivasa Murthy, the learned counsel for the petitioner is that either under the Indian Electricity supply Act, 1948 or Indian Electricity Act, 1910 or under the terms and conditions under which the petitioner had contracted to the supply of high-tension voltage, the respondent Board is not empowered to impose such a condition and therefore, they have no jurisdiction to unilaterally call upon the petitioner to receive supply of electrical energy on their agreeing to receiving the supply at 33 K.V. This contention is resisted by Sri V. R. Reddy the learned standing counsel for the Board contending that the point raised in this writ petition is no longer res integra as it is covered by the ratio laid down by the Supreme Court in Hyderabad Engineering Industries Ltd. and Others Vs. A.P. State Electricity Board and Others, .

3. The question, therefore, is whether the Board is empowered under law to call upon the petitioner to agree for receiving the high-tension electrical energy at 33 K.V.A.

4. The petitioner is admittedly a high-tension consumer. They are having 3000 K.V.A. getting power at 11 K.V. They had applied for additional power of 1000 K.V.A. Thereon, the impugned proceedings dated November 14, 1983 were issued by the Board which read :

Lr. No. CMT14/F2233/556/83dt. 14-11-1983.

Sir,

Sub : Extension of supply to 1000 KVA additional demand over and above the existing demand of 3000 KVA making a total demand of 4000 KVA to M/s Hyderabad Asbestos Ltd. Reg.

Ref : Your Lr. No. ACD/SRM/APSER/ 187/dt. 7-10-1983.

with reference to the above, you are requested to change over to stipulate voltage for releasing 1000 KVA additional demand as requested by you.

Yours faithfully, Sd/- for Chief Engineer Electricity, (Operation).

5. The petitioner in their letter dated November 22, 1982 addressed to the Board stating that they were informed that for the supply of additional 1000 KVA the substation equipment should be changed over to 33 KV in terms of B.P.Ms. No. 607 dated March, 21, 1981 and the High Court had quashed the aforesaid proceedings as invalid and that the respondent-Board had no right to insist upon conversion of the equipment and that therefore, action may be taken accordingly.

6. One of the contentions raised in the Hyderabad Engineering Industries Ltd. and Others Vs. A.P. State Electricity Board and Others, has been extracted in para 3 of the judgment, which reads thus :

"3. This notification stated that the industries will be supplied the power for the contracted demands between 1501 KVA to 5000 KVA, at 33 KV whereas industries whose contracted demand is above 5000 KVA shall avail supply at 132 KV or 220 KV. To comply with this requirement high tension consumers i.e. the present appellants before this court will either have to replace the existing transformers and high tension control gears or to install transformers with control gears to step down supply from the new proposed voltage to the existing voltage and these modifications have to be made by the industries concerned within a period of 6 months from the date of this notification. It was further provided that after the lapse of six months if the consumers. i.e. appellants have not made arrangements for receiving the supply at the proposed voltage and continue to receive supply at the voltage at which they were receiving on the date of the notification they will have to pay additional surcharge ranging between 2.5% to 13% on their power bills.

The notification was questioned in the writ petition. In paragraph 8, the contention raised on behalf of the appellant was that Section 49 of the Indian Electricity Supply Act confers power on the Board only to revise the tariff and it does not confer any power on the Board to alter unilaterally the supply at a

particular voltage. The main contention urged was that Section 49 only empowered the Board to fix uniform tariff. In support of this contention, reliance was placed by the appellant on the several decisions mentioned therein. Considering that question, it was held :

"Sub-Clause (1) of this Section clearly provided that the Board could lay down condition of supply and for purposes of such supply it may also frame uniform tariffs. Sub-Section (1) therefore clearly authorises the Board to lay down the conditions of supply and have to fix uniform tariffs as provide in sub-clause (2). If there is any doubt sub-clause (4) makes it clear that in exercise of powers under this Section Board could fix the conditions of supply and also fix the tariffs and it was therefore contended on behalf of the respondent-Board that although the Division Bench referred to S. 18(c) still the Board had enough power u/s 49 itself to lay down the conditions of supply"

Dealing with this contention in paragraph 11, their Lordships of the Supreme Court held :

"It is no doubt true that under these provisions the Board exercises control in relation to generation, distribution and utilisation of electricity and the learned Judges of the Division Bench felt that although specific power is not there under S. 18(c) but it is wide enough to authorise the Board to alter the conditions of supply. It is no doubt true that S. 18(c) confers power of control on the Board but as indicated above, in our opinion, the specific power under S. 49 clause 1 is clear enough wherein Board has been authorised to lay down the conditions of supply."

When the Board is insisting upon the change over to 33 K.V. if the petitioner intended to avail of 1000 K.V. A; the power is traceable to Section 49 of the Indian Electricity Supply Act. Therefore, the Board is within its power to issue the impugned proceedings.

7. The learned counsel relies upon a statement in B.P.Ms. No. 671 dated June 10, 1987. On a reading thereof, it is clear that it gives the Board only power to charge unilaterally instead of percentage for H.T. consumers whose demand of an existing consumer in K.V.A. is 1501 to 5000. The monthly supply would be at 33000 in voltage and 11000 voltage at which consumer is availing. Demand would be Rs. 45/- per K.V.A. per month. For energy charges it would be Rs. 00-87 Ps. This paragraph relates only to the charges to be made on the demand of electrical energy consumed by high-tension consumers at the rates prescribed therein. But the power directing the consumer to replace us equipment and agree to receive the supply at 33 K. V. is traceable, as held by the Supreme Court in the decision referred to above, to Section 49. Therefore, the impugned proceedings are clearly within the power of the Board.

8. Accordingly, I find no grounds warranting interference. The Writ Petition is accordingly dismissed, but in the circumstances without costs.

9. Petition dismissed.