
(2020) 01 JH CK 0170

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6504 Of 2016

M/s Manish Metal Processor

APPELLANT

Vs

Jharkhand Urja Vikas Nigam And Ors

RESPONDENT

Date of Decision : 14-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0170

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Saket Upadhyay, Zaid Imam, Navin Kumar, Dhiraj Kumar

Final Decision : Allowed

Judgement

1. The present writ petition has been filed for quashing letter no. 1763/ESE/Jamshedpur dated 23.06.2014 (Annexure-3 to the writ petition) issued by the respondent no. 4 "Electrical Superintending Engineer, Electric Supply Circle, Jamshedpur against the petitioner-company by which a demand of Rs. 33,75,000/- (after adjusting Rs. 6,75,000/- deposited by it as security amount) has been raised on account of 50% of monthly minimum charges levied for 3 years agreemental period. Further prayer has been made for issuance of direction upon the respondent nos. 3 and 4 to refund the security amount of Rs. 6,75,000/- deposited by the petitioner-company vide receipt no. 68711 dated 26.03.2007 with suitable interest which the respondents have illegally withheld.
2. The facts of the case as stated in the writ petition is that the petitioner-company for establishing an industry in the State of Jharkhand at Jamshedpur applied for grant of fresh electrical connection on 29.05.2006 for a load of 900 KVA from the then Jharkhand State Electricity Board.

The area in which the petitioner-company was supposed to establish its industry in the name and style of M/s Manish Metal Processor (P) Ltd. falls

under the jurisdiction of the then Singhbhum Electricity Supply Area of Jharkhand State Electricity Board (now Jharkhand Urja Vikas Nigam Ltd. and

its subsidiaries companies). As per the regulations framed by the Jharkhand State Electricity Regulatory Commission, any consumer desirous of

seeking fresh electrical connection under High Tension category is required to obtain no objection certificate from the Chief Electrical Inspector,

Jharkhand and accordingly the petitioner applied for the same along with relevant documents. In the meantime, vide letter no. 376 dated 02.03.2007, a

load of 900 KVA was sanctioned by the office of the respondent no. 4. The petitioner accordingly deposited an amount of Rs. 6,75,000/- by way of

security deposit for grant of electrical connection vide receipt no. 68711 dated 26.03.2007. According to the petitioner, it did not proceed further in the

matter and thus, did not pursue its application either before the Jharkhand Bijali Vitran Nigam Ltd. for grant of electrical connection or before the

Chief Electrical Inspector, Jharkhand, Ranchi for getting the no objection certificate in this regard. Under the said circumstance, the petitioner

requested the respondent no. 4 for refund of the security amount along with statutory interest. Thereafter, the respondent no. 4 issued impugned letter

dated 23.06.2014 making a demand of Rs. 33,75,000/- on account of 50% of the monthly minimum charges payable for 3 years agreemental period

after adjusting the security amount of Rs. 6,75,000/- deposited by the petitioner.

3. The learned counsel for the petitioner-company while assailing the impugned order dated 23.06.2014 issued by the respondent no. 4 submits that the

said demand is completely arbitrary and illegal as the petitioner has not entered into any agreement with the competent authority of the Jharkhand Bijli

Vitran Nigam Ltd. for supply of electricity and hence, there is no question of payment of 50% of the monthly minimum charges for 3 years

agreemental period. Moreover, Rs. 6,75,000/- deposited by the petitioner as security amount has also illegally been withheld by the respondent no. 4 as

no supply of electricity was ever commenced and, therefore, the petitioner is entitled for refund of the said amount along with suitable interest.

4. A counter affidavit has been filed on behalf of the respondents stating inter alia that admittedly, sanction letter was issued by the office of the

respondent no. 4 to the petitioner for grant of electrical connection for a load of 900 KVA vide letter no. 376 dated 02.03.2007 as per the

petitioner's application dated 29.05.2006. The petitioner-company deposited a sum of Rs. 6,75,000/- as security amount for taking electricity

connection vide receipt no. 68711 dated 26.03.2007. However, the petitioner neither obtained permission/no objection certificate of the Chief Electrical

Inspector so as to submit the same before the competent authority of the Jharkhand Bijali Vitran Nigam Ltd. nor any agreement was executed to

energize the said electrical connection and as such, the impugned letter no. 1763/ESE/Jamshedpur dated 23.06.2014 has been issued by the respondent

no. 4 calling upon the petitioner to deposit a sum of Rs. 33,75,000/- (after adjusting the security deposit) towards 50% of monthly minimum charges for

3 years agreemental period particularly in view of the fact that the infrastructure of the JUVNL remained unutilized due to the fault on the part of the

petitioner-company.

5. Heard the learned counsel for the parties and perused the materials available on record. In pursuance of the petitioner's application for grant of

electrical connection for a load of 900 KVA, the same was sanctioned by the respondent no. 4 on 02.03.2007 and in pursuance thereof, the petitioner

deposited the security amount of Rs. 6,75,000/-vide receipt no. 68711 dated 26.03.2007. The petitioner was also required to obtain no objection

certificate from the office of the Chief Electrical Inspector, Jharkhand, Ranchi. Though the petitioner applied for issuance of said no objection

certificate which led to issuance of letter no. 326 dated 09.04.2007 by the Chief Electrical Inspector, Jharkhand, Ranchi, yet subsequently, the

petitioner did not find it appropriate to establish its industry and, therefore, according to it, the said matter was not pursued further. Thereafter, the

petitioner made an application in the year 2014 for refund of the amount of security deposit which led to issuance of the impugned letter dated

23.06.2014 by the respondent no. 4, whereby a calculation of Rs. 40,50,000/- was made on account of 50% of the monthly minimum charges for 3

years agreemental period and after adjusting the security amount of Rs. 6,75,000/-, a demand of Rs. 33,75,000/- was raised.

6. In my considered view, charging of 50% of the monthly minimum charges for 3 years agreemental period in terms with Clause 1 (b) of the H.T.

Agreement (a Proforma copy of which has been annexed as Annexure-4 to the writ petition) is completely illegal and arbitrary. After all, the condition on the basis of which the respondent no. 4 has raised a demand of 50% of monthly minimum charges for 3 years is part of such agreement which was admittedly never executed between the petitioner and the JBVNL. It is surprising as to how the respondent no. 4 while raising the impugned demand could have referred to the clause of agreement which was never executed between the parties. Further contention of the respondent-JBVNL made in the counter affidavit that the petitioner was at fault in not utilizing the infrastructure and, therefore, the charging of 50% of the M.M.C. for 3 years agreemental period is justified. The said contention is also completely outplaced as the respondent-JBVNL has not brought on record any document so as to show that the JUVNL/JBVNL was ready with the infrastructure to be provided to the petitioner. Even on perusal of the materials available on record, it appears that the matter did not proceed further after mere sanctioning of the electrical load of 900 KVA. In fact, further step was required to be taken by the JBVNL in this regard only after receipt of the no objection certificate issued from the Chief Electrical Inspector, Jharkhand, Ranchi which never happened.

7. Thus, the impugned letter no. 1763/ESE/Jamshedpur dated 23.06.2014 (Annexure-3 to the writ petition) issued by the respondent no. 4 â?

Electrical Superintending Engineer, Electric Supply Circle, Jamshedpur cannot be sustained in law and the same is accordingly quashed/set-aside. The

respondent no. 4 is directed to refund an amount of Rs. 6,75,000/- paid by the petitioner as security deposit vide receipt no. 68711 dated 26.03.2007

along with simple interest @ 6% per annum from the date of deposit of the said amount till actual payment.

8. The writ petition is accordingly allowed.