(2017) 02 JH CK 0001

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1098 of 2017

M/s Rani Sati Rice Mills APPELLANT

Vs

Jharkhand Urja Vikas Nigam Limited RESPONDENT

Date of Decision : 28-02-2017

Acts Referred:

Citation : (2017) 2 JBCJ 329

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : M/s. M.S. Mittal, Rahul Lamba, Saket Upadhayay & Naveen Kumar, Advocates, for the Petitioner; M/s. Ajit Kumar, Amit Sinha and Aprajita Bhardwaj, Advocates, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.—Heard learned senior counsel for the petitioner and the Respondent Company.

2. Petitioner has made a number of prayers inter alia :-

(a) seeking restoration of its electricity connection

(b) quashing of illegal assessment of Rs.69,09,786/- in Jamtara P.S. Case No. 13/2017.

(c) for issuance of show cause upon the Respondents as to how the L.T.I.S connection of the petitioner has been unilaterally converted into H.T.Tariff without following the due procedure.

(d) directing the Respondents to revise the bill from March 2014 under the L.T.I.S. Tariff.

(e) for quashing the load inspection report dated 8.2.2014 where under it has been determined as 220 H.P. instead of 103 H.P.

(f) for allowing the petitioner to use diesel generator set and steam power engine to run the rice mill till the electrical line of the petitioner is restored.

3. Prima facie it appears that petitioner has been aggrieved on account of institution of F.I.R (Annexure-15) bearing Jamtara P.S. Case No. 13/2017 dated 27.1.2017 and levy of liability of Rs.69 lakhs and odd to approach this Court immediately by way of this writ petition. The F.I.R has been lodged pursuant to the inspection carried out on the same date by the team of Officials of Respondent Company. Learned Senior Counsel for the petitioner has questioned the computation of the amount enclosed with the F.I.R as not conforming to the provisions of JSERC (Electricity Supply Code) Regulations, 2015. It is also urged that the procedure in case of a theft of electricity has not been followed in the matter of raising the liability in question.

4. Apparently, the other grievance of the petitioner in relation to conversion to HT tariff relates back to March 2014 when on the basis of an inspection conducted on 08.02.2014 by a team of officials of the Respondent Company, petitioner was found to be consuming a load of 220 HP (193 KVA). Petitioner does not seem to have challenged the issuance of Bills on the basis of HT tariffs on such load any time thereafter, rather Annexure-11 representation dated 16.12.2016 of the petitioner to the Respondent No. 3 shows a request to adjust the outstanding liability in respect of his JMT -10 HT (DR. LTIS-940) out of security deposit lying with the Respondents. Petitioner does not seem to have made any application earlier also to seek conversion of its connection to HT tariff. In the absence of any specific request or application in the aforesaid background for conversion to HT tariff or new HT connection, this Court is not required to observe anything on that prayer leaving it to the petitioner to approach the competent authority under the Company with such an application, which may be considered on its own merits, in accordance with law.

5. The grievance of the petitioner relating to raising of a liability of Rs. 69,09,786/- is based upon the contention that provisions of Electricity Supply Code Regulations, 2015, specially Chapter A11 relating to "Theft and Unauthorized Use of Electricity" has not been followed. The provisions indicate that after finding sufficient evidence to establish direct theft of electricity, the Licensee or Supplier is entitled to disconnect the supply and seize all material evidence including the wires / cables, meter, service line, etc from the premises and shall lodge a complaint in writing relating to the commission of such offence in the police station having jurisdiction within 24 hours from the time of such disconnection. Petitioner''s electricity admittedly is under disconnection since February 2015.

6. Learned counsel for the petitioner submits that the provisions preceding Clause-11.8 such as 11.4, 11.5 have not been followed, neither has been any assessment in terms of Clause 11.9 made by the authorised officer before saddling the liability, as indicated in the FIR. No such demand or supplementary bill has either been raised in respect of Clause 11.8.

7. Learned counsel for the Respondent Company has however tried to support the computation of the amount on the basis of the document enclosed to the FIR (Annexure-15) to submit that it is in the nature of assessment. This however does not sound convincing, as apparently, no supplementary Bill has either been raised pursuant to the institution of FIR against the petitioner.

8. In such circumstances, at this stage, this Court is of the view that the Respondent should serve upon the petitioner the assessment order and the supplementary Bill within a period of two weeks in terms of Clause 11.9.

9. The consequence which follow in case of institution of an FIR on allegation of theft of electricity, have been laid down in the judgment rendered by the Learned Division Bench of this Court in the case of M/s Shyamlal Iron and Steel v. Jharkhand State Electricity Board reported in 2013(3) JLJR 435. It is up to the petitioner to liquidate the liability arising out of such assessment or to wait for the outcome of the criminal case pending before the Special Court.

10. With these observations, writ petition stands disposed of.

