

(2005) 03 DEL CK 0177
In the Delhi High Court
Case No : WPC 6432 of 1998

NZPH Railway Employees Coop. G.H. Socy. Ltd.	APPELLANT
Vs	
Delhi Vidyut Board	RESPONDENT

Date of Decision : 10-03-2005

Acts Referred:

Citation : AIR 2005 Delhi 289 : (2005) 118 DLT 732

Hon'ble Judges : Gita Mittal, J

Bench : Single Bench

Advocate : B.T. Singh, for the Appellant; Ajay Jha, for the Respondent

Final Decision : Allowed

Judgement

Gita Mittal, J.—In this writ petition a cooperative group housing society has sought directions to the respondent to provide individual meters and permanent electricity connection to members of the petitioner society.

2. The petitioner is a registered cooperative group housing society which was registered in 1977. The very name itself shows that the petitioner society is largely composed of physically handicapped employees of the railway. According to the averments in the writ petition, 60% of the members of the society are physically handicapped persons who belong to class III and class IV of the Northern Zone Railways.

3. It appears that the petitioner society had constructed flats at Geeta Colony near Shastri Nagar. Apart from the petitioner society, there were several other societies in the neighborhood including the KAYMES Cooperative Group Housing Society, SANMANYA CGHS Taj Sartaj CGHS and the Wakf Board which had also raised construction in the neighborhood. After construction of flats, these societies had approached the then Delhi Electricity Supply Undertaking (the predecessor in interest of the erstwhile Delhi Vidyut Board).

The petitioner contends that it had requested for electrification as back as in the

year 1988. The electrification scheme of the petitioner society was duly cleared and a demand of Rs.11,19,714/- was raised upon the petitioner for the purposes of construction of an electric sub-station. This amount was deposited as demanded on the 4th September, 1995. It is submitted that the area earmarked for construction of the electric sub-station was duly handed over and the sub-station constructed thereon soon thereafter. Despite the huge amount having been deposited by the petitioner society, no follow up action, either by the Delhi Electric Supply Undertaking or by its successor in interest i.e. the Delhi Vidyut Board was taken.

4. In view of the non-action by the respondents, writ petitions seeking appropriate reliefs were filed by the different societies. It is necessary to notice certain order passed by the Benches of this court in the petitions filed by the KAYMAS CGHS and the SANMANYA CGHS before this court.

5. An order dated 22nd March, 1993 was passed in civil writ petition 41/1993 to the following effect :-

"We direct the DESU to erect switching station at the site in question within five months from today. We further direct DESU to give to the petitioner and other societies in the neighborhood, who would have served from the Switching Station, when erected, temporary connection. This temporary connection shall be given within one week from today. Sub meters will be installed at the cost of the petitioner within one week thereafter because the electricity has not been supplied to the petitioner and the other societies due to the fault of the DESU. Even though we are ordering of the temporary connection to be given the DESU shall charge from the consumers the rate as if permanent connections have been given to them."

Perusal of this order shows that the Delhi Electric Supply Undertaking was given clear directions to give to the petitioner in the writ petition and also to the other societies in the neighborhood temporary electricity connections. The respondents were directed to install sub-meters and the court recorded a finding that electricity had not been supplied to the petitioner and the other societies due to the fault of the Delhi Electricity Supply Undertaking. In these circumstances, it was specifically directed that even though the court was directing grant of temporary connection, however the charges which could be charged by Delhi Electricity Supply Undertaking from the consumer were to be at the rate as if permanent connection had been given to them.

The Division Bench had clearly prohibited the respondents from levying temporary electric connection charges upon the consumers.

6. It appears that matters did not end here. The respondents duly noted the entitlement of the present petitioner to the benefits granted by the court in the order dated 22nd March, 1993 when Sh. M.N. Bali, Executive Engineer(PLG East) recorded a noting on 2nd April, 1993 to the following effect :-

" XEN(D) KRN :

Sub : CW 41/93

Kaymes Coop. Group Housing Society v. DESU Enclosed please find a copy of the Court Order as received from ALO vide his letter No. LO/4059 dt. 26.3.93 under the covering note of Shri Anil Kumar Pathak, Advocate dated 24.3.93.

The contents of the Court Order has already been conveyed from this office vide this office letter No. XEN(PLG.)E/812(125)/1818-23 DT. 22.3.93. As per the decision of the Court, DESU is required to give temporary connections to M/s Kaymes CGHS and other societies in the neighborhood who would have served from the Switching Station when erected. In this respect, the names of the Coop Group Housing Societies to be served from Geeta Colony Switching Station CGHS are as under:-

1. Kaymes CGHS
2. SANMANYA CGHS
3. Taj Sartaj CGHS
4. Northern Railway Employees CGHS
5. Waqf Board.

You are requested to take further necessary action at your end, please.

Sd/-

(ER. M.L. BALI)

EXECUTIVEENGINEER(PLG.)EAST

Encl : As above

NO: XEN(PLG.) EAST/812(125)/1934

DT: 2.4.93"

Despite the aforesaid, the authorities failed to act in terms of the order dated 22nd March, 1993.

7. Even the electric sub-station was not constructed and matter again had to be placed before the court. On 7th September 1993, the Division Bench passed the following order in civil writ 2681/1992 :-

" 7.9.1993

Present : Mr. S.K. Aggarwal, Sr. Adv. with

Mr. Sandeep Aggarwal for the petitioner.

Mr. Vinod Kumar for DESU

Mr. Usha Kumar for DDA

CM 2155/93 in CW 2681/92

A new site has been allotted to the petitioner for construction of the sub-station. According to Mr. Aggarwal, there are water and sewage lines beneath the surface and, Therefore, it is not possible to construct a sub-station there.

Counsel for the respondent states that if plans are filed, the same will be inspected by the DDA and permission may be granted for changing the water and sewage lines with the result that the requisite sub-station can be constructed at the additional site which has been allotted. The site plans(revised) should be filed within a week and the same shall be examined and if in order, permission be granted within two weeks thereafter. Along with the said site plans, the proposed building plans should also be furnished to DDA and DESU. DESU should also give their comments on the building plans.

Separate meters should be affixed even with respect to the temporary connection, which meters will again be used when permanent connection is there. In respect of new meters, applications may be made by all the flat owners within two weeks and the meters shall thereupon be installed, on the requisite charges being paid, within four weeks thereafter. All formalities in regard thereto will be completed by the petitioners.

To come up on 26th October, 1993.

Sd/- B.N. Kirpal, Judge

Sd/- Arun Madan, Judge

September 7, 1993"

The court was once again reiterating its earlier directions to install the sub-meters against the respondents. This order is dated 7th September, 1993.

8. Again directions to energise the electricity to the premises as well as installment of individual meters were made on 17th December, 1996 and 28th December, 1997 in civil writ 4207/1995 and it was directed as under :-

" 17.12.1996: Present : Mr. B.T. Singh for the petitioner

Mr. B.C. Pandey for DESU

C.W. 4207 and C.M. 7071/95

Mr. Pandey states that the area has been electrified in as much as the transformer has been installed but the same cannot be energised on account of non removal of deficiency by the petitioner. Mr. Pandey further submits that vide letters dated 6th November, 1996 and 3rd December, 1996 the petitioner society has been asked to do the needful. Mr. B.T. Singh prays for short adjournment to look into the matter. If any deficiencies are required to be removed by the

petitioner it shall be done expeditiously so that the electricity can be energised. The DESU shall in the meantime ensure that individual meters are installed in the flats. The members of the society would, of course, complete all the formalities.xxxx"

"28.2.1997 Present : Mr. B.T. Singh for the petitioner Mr. Jayant Bhushan for the respondent.

C.W. 4207 and C.M. 7071/95

On 17th December, 1996 this Court had directed DESU to install individual meters in the flats. Learned counsel for the parties submit that only 18 individual meters remain to be installed. Mr. Nath states that the same would be installed within a period of one week. Regarding the grant of permanent connection and energisation of the transformer as noticed in the order dated 17 December, 1996. Mr. Nath states that the only deficiency which now remains is about the size of the meter boards. From the letters of DESU dated 6 November, 1996 and December, 1996 it appears that the Board installed is marginally smaller than the one required as per DESU specifications.

Having regard to the facts and circumstances of the case and regarding the marginal deficiency in the specifications we direct that on the boards of the specification already installed, the DESU shall go ahead and energise the transformer and grant permanent connection within a period of two weeks.

Regarding excess payment said to have been made by the petitioner in respect of which the stand in the reply affidavit is that the petitioner shall approach the concerned department for refund, we direct that on petitioners filing the applications/on writing a letter for the refund the same shall be refunded, within four weeks of the request for refund/application in accordance with the rules and regulations of DESU.

Writ petition is disposed of accordingly.

Sd/- Y.K. Sabharwal Judge

Sd/- D.K. Jain, Judge.

28 February, 1997"

The petitioner has submitted that despite the orders dated 2nd April, 1993 of the Executive Engineer and despite deposit of full amount and completion of all formalities, the petitioner was not given the benefit of the electric connection or the permanent electric tariff.

9. Reliance has been placed on the Office Order no. 2 dated 24th April, 1995 of the respondents in order to support the submission that the petitioner society was entitled to the benefit of the tariff and the slab system of computations of the dues of the flat owners. The petitioner has pointed out that it was granted the temporary electric connection of 15 KW through meter no. 76177 with effect

from 1st October, 1994. It has been pointed out that between January, 1995 to October, 1996, there was consumption of about 1,44,280 units of electricity and an amount of Rs.3,89,416/- was demanded for the same and deposited by the society. If the tariff was applied as was applicable for permanent connection as per the declared policy of the respondents, it could have been required to deposit at the most a sum of Rs.1.6 lacs only.

10. Again it has been pointed out that the respondents had raised a bill in November, 1998 against the petitioner society claiming dues of Rs.8,50,676.83 upon the petitioner society for a consumption of 14720 units of electricity. In this way, an amount of Rs.2,17,148/- has been claimed on account of the surcharge on account of the temporary connection alone. The petitioner has submitted that it has made full payment for grant of the permanent electric connection. There are findings of the Division Benches of this court that the delay and the fault is attributable to the respondents who have failed to act in accordance with law and there are directions existing as to why the charges payable for temporary connection should not be levied upon consumers of the societies. The petitioner has also pointed out that apart from the policy letter dated 2nd April, 1995, the Delhi Vidyut Board in its letter dated 17th August, 1995 had categorically informed the petitioner that permanent tariff rate in respect of temporary connection in the domestic category will be made applicable one year after the receipt of full payments demanded. The demanded payment of Rs.11,19,174/- was deposited by the society immediately on 7th September, 1995. Vide a letter dated 9th November, 1995, the society also notified the respondents that out of a total of 74 flats, 62 flats had been duly occupied by individual allottee. A list of the occupants along with the dates of occupancy was duly furnished to the respondents. Copy of this letter has been placed on record as Annexure "P". The respondent was repeatedly requested to supply forms for applying for individual meter connections for the 52 flats to enable these occupants to have benefit of the slab rates. Revision of the bill to be raised by the respondent on 25th September, 1995 for the period from December, 1994 to September, 1995 in accordance with the orders made by the court on 22nd March, 1993 was requested but no action was taken by the respondent.

11. In these circumstances, the occupants installed individual meters. The respondent commenced raising bills on permanent tariff basis with effect from October, 1995 but refused to give benefit of the slab system to the occupants and allottees of the petitioner. On the contrary threat to disconnect electricity to the society was held out. The petitioner made request for individual connection vide letters dated 8th/9th September, 1996, 29th January, 1996. Again details of 47 members with possession slips, applicant details, inspection reports etc were furnished vide letter dated 24th March, 1996, 23rd May, 1996, 17th June, 1996, 9th September, 1996, 13th September, 1996, 9th October, 1996, 19th March, 1996, 18th March, 1996 but the respondent failed to do justice to the petitioner and the occupants of the flat.

12. It is submitted that despite deposit of full amounts, orders of the Division Bench with regard to construction and electrification of the sub-station, and also grant of individual connections, the respondents have delayed the matter and no delay is attributable to the petitioners or the occupants and that from September, 1995 onwards, 52 residents had occupied the flat and are entitled to the benefit of the slab system.

13. On these submissions, the petitioners have prayed for the following reliefs in the writ petition.

"a- to provide permanent electric connection to the society and occupants of flats on individual basis and provide electric connection in respect of each flat within one month from the date of the order.

b-direct the respondent to work out the dues payable by the society from January 1995 onwards on account of electricity consumed in terms of office order no. 2 of 24.4.95 and give adjustment to the petitioners in respect of excess amount charged towards the demand for the future period;

c- to direct the respondent Board to work out the demand for the period subsequent to October 1996 on the basis of individual meter connection and on the basis of permanent tariff and then raise the bill.

d-to direct the respondent to write off the amount of Rs.2,17,148/- being claimed by way of levy of surcharge in view of the fact that there has been no delay in payment of bill by the petitioners since the bills were not being accepted by the respondent board in spite of the repeated requests which are born out of the record of the respondent Board or its predecessor D.E.S.U."

14. The writ petition has been opposed by the respondent on the ground that so far prayers "a" is concerned, the petitioner society has been provided permanent electric connection to occupants of flats on individual basis and electric connections to each flat. It is further submitted that so far prayer "d" is concerned, vide orders dated 10th September, 2001 passed in the present writ petition, the respondents were directed to work out the dues payable by the society from January, 1995 onwards on account of electricity consumed in terms of office order no. 2 dated 24th April, 1995 and adjustments were given to the petitioner in respect of the excess amount charged towards the demand for the future period. It is further submitted that so far as the demand for the period subsequent October, 1996 is concerned, it is only such persons who satisfy the requirement of the ration cards under office order dated 24th April, 1995 that can be granted the benefit of the permanent tariff and bills raised on such terms. The respondents further contend that the amount levied as surcharge to the extent of Rs.2,17,148/- cannot be impugned inasmuch as there was no demand on the part of the society from 1996 except under orders of this court. It is contended that late payment surcharge is livable under the tariff, is statutory in nature and the petitioners are bound to make payment thereof as per the counter affidavit filed. According to the respondent the petitioner has submitted

only 29 copies of ration cards on 28th November, 1998 for levying the slab benefit and accordingly the slab benefit has been allowed to the society with effect from 28th November, 1998. A bill in this respect is stated to have been served on the society on 5th February, 2000. Learned counsel appearing for the respondent also placed strong reliance on its letter dated 11th June, 1996 and 15th November, 1996 to contend that the permanent electric connection could not be granted because of the fault of the petitioner and that the petitioner society had failed to remove the defects which were pointed out to it.

15. I have considered the rival contentions. The points and issues raised by the parties have been considered by the court in the orders noticed hereinabove. So far as the defects stated to have been pointed out on 11th June, 1996 and 5th November, 1996 are concerned, the same were considered by this court on the 17th December, 1996 and 28th February, 1997. This court directed the Delhi Electricity Supply Undertaking vide order dated 28th February, 1997 to energise and grant permanent connection within the period of two weeks including the marginal deficiencies in the specifications. The court also noticed the failure of the DESU to install individual meters despite orders of this court in this behalf. It is evident from the various orders set out hereinabove that the respondent had failed to take steps for energizing the permanent electric connection to the petitioner society despite receipt of heavy payment and completion of formalities.

16. Both parties have placed heavy reliance on the office order no. 2 dated 24th April, 1995 of the respondent. The material terms thereof read as under :-

"1. DATE OF APPLICABILITY:

The date of applicability of benefit of permanent domestic rate on temporary connection for bona fide residential use will be w.e.f. 28.1.94 (i.e. the date of issue of Office Order) and will be effective after one year of deposit of full society's payable share i.e. in case where the full payment has been deposited on/up to 29.1.93, the benefit will be available only w.e.f. 28.1.94.

2. HOW TO ALLOW SLAB SYSTEM OF PERMANENT DOMESTIC RATES:

The number of ration cards of the occupants with the address of flat under electrification scheme shall form the basis for allowing the benefit of slab system. One ration card per flat shall only be considered. This slab system will be reviewed after every two months of the release of connection. The society will submit the copy of ration cards of the additional/new occupants to AE (PS) concerned, who shall further intimate AFO (D) for increase in number of slabs equal to total number of ration cards received. The society shall certify about continuing of residents of which ration cards had been submitted earlier.

3. DELAY IN EXECUTION OF ELECTRIFICATION SCHEME, AUTHORITY TO ISSUE CERTIFICATE :

The cases where the delay in execution is attributed to the society/DDA, registered show-cause notice will be issued by XEN (Construction) concerned to

the society/DDA for removal of deficiencies within two weeks. In case of non-compliances, the benefit of applicability of permanent tariff rate will be deferred/suspended till such time the deficiencies are removed. ACE (TandD) concerned will be the nodal officer to decide in case of dispute between the society and Constn. Division regarding rectification in of deficiencies etc.

After completion of electrification works, AE (PS) will inform the society/DDA for advising its members to avail the permanent connections. After a period of two months of this intimation, the temporary connection(s) shall be disconnected."

17. The respondent's main submission is that the applicability of the benefit of the permanent domestic rate on temporary connection was applicable after one year of deposit of the societies entire share. It is further submitted that in view of the fact that the payment was made only in November, 1995, the society was entitled to the benefit of permanent domestic rate only one year thereafter. It is further submitted that the requirement of submission of ration cards was essential for computation on the slab system of permanent domestic rates. Therefore, it is submitted that inasmuch as ration cards of 29 persons was given, Therefore, the slab benefit was given to only them on 28th November, 1998. But the petitioner's society again claimed the benefit of the slab system in respect of all the occupants.

18. In this behalf, the petitioner has pointed out a letter dated 26th February, 1997. List of all the persons and the date of occupation of the flat was communicated therein. As per this list of persons, 39 persons occupied their flats before 1st October, 1995. The first occupant in this behalf had occupied the flat on 1st November, 1994. Some of the submissions made by the petitioner society to the respondent in this behalf in its letter of 26th February, 1997 are extremely material which reads as hereunder :-

"3. The Honourable judge also directed DESU to install individual meters and charge the bill as under :

"Even though we are ordering of temporary connection to be given, the DESU will charge from the consumers the rate as if permanent connections have been given to them."

The Hon-Judge also directed DESU to give this facility to the neighbouring societies also. Our society is nearby to Keymas(Geeta Apartment) and Sanmaya (Kanchan Apartment).

We have deposited our share of Rs.11,19,714/- towards our share towards the cost of construction of ESS and Electrification of our site on 4.9.95. The construction of Electric Sub-Station has since been completed by DESU.

4. The society has been requesting XEN/KRN for installation of individual temporary meters in of High Court judgment since 8.1.96 despite reminders 29.1.96, 24.3.96, 23.5.96, 17..96, 9.8.96, 30.9.96 and 9.10.96. It is regretted no response is coming in writing.

5. At present 52 flats have been occupied the date of occupation is shown in the attached Annexure.

In view of the position explained above it is requested that you may use your good office to help the handicapped society as under :

1. Installation of individual meters.
2. Revision of Electric Bills.
3. Early completion of ESS and Electrification scheme."

19. Despite the above communication, the petitioner received no justice and was constrained to address repeated communications in this behalf including letters dated 13th March, 1997. Perusal of this communication shows the manner in which the respondent have treated the society of physically handicapped persons. Some of the material pleaded for mercy in this connection reads as under :

"1. That our society was registered as Northern Zone Physically Handicapped Railway Employees Co-operative Group Housing Society in 1977 and even now is consisting of more than 60% handicapped members of belonging to Category Class-III and IV.

2. As a gesture of goodwill shown by members all the 14 Ground Floor flats have been allotted to handicapped members (lower limbs for which special permission was granted by RCS and DDA.

3. On the basis of High Court Judgment given in case no. CWPN 41/93 and CM 59/93 on 23.3.93 between Kaymes Society (Geeta Apartments v. DESU) (copy of judgment attached at Annexure "A"), our Society was allowed two temporary connections of 15 KV for domestic light and 10 HP for domestic power for boosting water on 12.10.94. The extract of High Court Judgment is reproduced below :-

"We direct the DESU to erect Switching Station at the site in question within five months from today. We further direct DESU to give the petitioner and other Societies in the neighborhood, who would have served from the Switching Station, when erected, temporary connection. This temporary connection shall be given within one week from today. Sub-meters will be installed at the cost of the petitioner within one week thereafter because the electricity has not been supplied to the Petitioner and the other societies due to the fault of the DESU. Even though we are ordering of the temporary connection to be given the DESU shall charge from the consumers the rate as if permanent connection have been given to them".

4. On the basis of High Court judgment, individual temporary meters for each flat has been installed by DESU in Kaymes Society (Geeta Apartment and Sanmaya (Kanchan Apartment), whereas this facility is being ignored and step motherly treatment has been given to our Society. It is pointed out that our society has approached XEN/KRN on 9.11.95, 8/9.1.96, 29.1.96, 24.3.96, 23.5.96, 17.6.96,

9.8.96, 30.9.96, 9.10.06 and 26.2.97 to provide individual meters. It is regretted that no communication from XEN/KRN has been received so far to our letter cited above even after lapse of one and a half year.

5. It is pointed out that being a handicapped member, myself, I had personally visited XEN/KRN's office so many times and our application forms have not been entertained due to the reasons best known to them.

6. The scheme for electrification of our society site and construction of Electric Sub-Station was released on 17.8.95 and society has already deposited its share of Rs.11,19,714/- on 4.9.95 as demanded by DESU.

This communication also did not deserve even a reply let alone any favorable consideration. Yet further communications and reminders were issued but of no avail.

20. I may notice the pleas on behalf of the petitioner society as were addressed to the chairman of the respondent on 21st July, 1987 which reads as under :-

" 224/96-97/NZPH Dated 21.7.1997

To,

The Chairman,

Delhi Vidyut Board,

Nehru Place,

New Delhi.

Dear Sir,

Sub: i. Installation of individual meters at EKTA Apartment, Northern Zone Physically Handicapped Rly. Employee Coop. Group Housing Society at Plot No. 7, Geeta Colony.

ii. Revision of Electric Bills.

iii. Completion of Electric Sub-Station and Electrification scheme.

Ref: Society's letter dt. 8/9-1-96 and 13.3.97(copies enclosed).

I want to draw your kind attention to the Society's letter cited above and request your personal intervention to through out the above long pending issues and hardships being faced by the handicapped society.

Myself being an handicapped from lower limbs, have tired up from going one office to other, in person. The Society has not received any communication from any office(Delhi Vidyut Board) to our representations so far.

Society's representatives wants to see you in person to explain their difficulties. Kindly advise us time and date as convenient to you, Sir, so that detailed

discussions can be held with the concerned officers in your kind presence to sort out the pending issues on the spot. I assure you that we will cooperate in this regard.

Hoping for a favorable reply.

Thanking you,

Yours faithfully,

Sd/-

(KULBHUSHAN LAL)

HONY. SECY."

Simultaneously the petitioner was pleading with the respondent to revise the bills and raise the correct bills keeping in view the orders passed by the court in this behalf as well as the delays caused by the respondent. Letters dated 4th September, 1997, 10th October, 1997 and 28th November, 1997 in this behalf have been placed on record. The letter dated 28th November, 1997 sets out in detail as to the request of the petitioner for revision of the electricity bills as well as installation of individual meters for each flat in the society as per the directive of this court which are being set out above.

21. On the other hand, I notice that the first communication placed on record whereby the respondent have sought ration cards is dated 1st June, 1998. It is shocking, to say the least, that despite court directives and repeated communications, the respondent failed to take any action in the matter.

22. The issues with regard to the submission of ration cards came up for consideration in the present matter on the 10th September, 2001. On this issue the court has held as under :-

"In my view, the stand of the respondent that though the members of the petitioner society were entitled to the benefit of the slab system but that benefit can be given only to those persons who had submitted their ration cards, is wholly unjustified.

Copy of the ration card is required only to verify the genuineness of the members and since the members were allotted flats after their entitlement was verified not only by the Delhi Development authority but also by the Registrar, Co-operative Societies the respondent could not insist upon the production of ration card by the members. No flat could have been allotted to the members of the society in case they were not bona fide members of the society and since 52 members had already occupied the flats after they were held entitled to be allotted the flats, in my opinion, the respondent ought to have given benefit of the slab system to all these 52 persons without insisting upon the production of ration cards by the occupants of the flats.

I, accordingly, direct the respondent to provide permanent electric connection to

the members and occupants of the flats of the society and submit a revised bill working out the benefit of slab system to 52 flat holders whose names were forwarded by the society on 9th November, 1995. The respondent will bring the revised bill in court on the next date of hearing for each flat giving benefit of the slab system. The respondent will separately calculate late surcharge fee, if any, payable after benefit of slab system is given to the flat holders and bring the same also in court on the next date of hearing. The question as to whether or not the petitioner society would be entitled to the relief claimed in Para D of the prayer clause or whether they are not liable to pay late surcharges fee, if any, will be considered on the next date of hearing. In the meantime, the petitioner society is directed to make payment of an amount of Rs.2,00,000/- to the respondent within two weeks from today. This order is without prejudice to the rights and contentions of the parties."

23. Apart from the observations made in this order, it is to be noticed that the petitioner society had informed the respondent with regard to the occupancy of the flat, the dates on which the flats were occupied and also given proof of occupation in terms of possession letters etc. It is the admitted case of the respondent that individual meters were installed by it during the pendency of the writ petition and after repeated court orders. Therefore, the fact of occupation would have been physically verified by the respondent when these meters were installed. Admittedly, there has been gross dereliction of statutory duty and violation of the rights of the society and its occupants to get the electricity connections. Contributions made by members of the petitioner society who were even physically handicapped persons were deposited with the respondent who failed to take action necessitating filing of writ petitions and running from pillar to post. Communications from the petitioner do not seem to have even deserved acknowledgment and answer, let alone consideration in accordance with applicable rules. Court orders received scant attention.

24. It is also necessary to notice that procurement of ration cards also requires completion of formalities. It was also not necessarily contemporaneous with occupancy of the flat and could be time consuming.

25. It is noteworthy that after approval of the site of electric sub-station on 24th November, 1992, the respondent took 20 months in taking physical possession of the site from the petitioner society in spite of several verbal and written requests. Finally, a plot was taken over by the respondent on 1st August, 1994. After taking possession of the land for construction of the electric sub-station, the respondent again slept over the matter and did not bother to submit the estimate to the petitioner. Vide a letter of 22nd/27th March, 1995, the petitioner called upon the respondent to give their estimate for construction of the electric sub-station. The respondent took five months to provide the estimate of Rs.11,19,174/- which was supplied only on 17th August, 1995. Without any delay, the petitioner society deposited even this huge amount on the 7th September, 1995. Despite receipt of the said amount, the respondent has acted

in the aforestated callous manner.

26. I may also note herein the communication addressed by the respondent to the petitioner and the representation made in its letter of 17th August, 1995 to the following effect.

"1. Atleast 50% of the cost chargeable to you at first instance and in such case the scheme shall be released for tendering purpose only. The society can, however, avail the facility of two temporary connections; one for bonafide residential use and the other for common services i.e. water pump, st. lgt. Etc. The applicability of permanent tariff rate to temporary connection in domestic category will be one year after the receipt of full payment and as per provisions of C.E. (Comml.)'s O.O. No. CO.II/om.26/93-94/18 dated 28.1.94"

27. It is noteworthy that the Division Bench had already directed that the respondent would levy permanent domestic tariff upon the flat owners for the faults of the respondent in respect of the societies in question.

28. In my view, Therefore, the insistence on the ration cards was unwarranted. The petitioner has orally submitted before me that despite the orders of 10th September, 2001 as noticed hereinabove, the respondents have till date not raised correct bills.

In this view of the matter, the members of the petitioner society cannot be faulted for non-payment of bills raised in violation of court orders and directives. The default of the respondent was noticed by the court as back as on 22nd March, 1993, 7th September, 1996 and 28th February, 1997. I find that the stand of the respondent is not only contrary to law but is fully unreasonable in the facts and circumstances of the afore detailed.

29. The petitioner have placed on record the computation of the bills against them at pages 8 and 9 of the civil writ petition and the rejoinder. The variation in the bill is computed on permanent domestic tariff and the slab basis.

30. It is, accordingly, directed that the respondent shall raise bill upon the 52 flat holders whose names were forwarded by the society on 9th November, 1995 giving the benefit of the slab system. Such bills shall be raised in respect of the dues of the flats within a period of four weeks from today. The respondent shall also give the credit of the amounts directed to be paid and paid by the petitioner society during the pendency of the writ petition in respect of the bills raised.

31. In view of my finding with regard to the default by the respondent it is held that the petitioner and its members shall not be made liable to pay late payment surcharge on the billed amount.

32. The writ petition is allowed in the above terms. The petitioner shall be entitled to costs of the petition which are quantified at Rs.11,000/-