

(2008) 02 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

PASHCHIM GUJARAT VIJ CO LTD

APPELLANT

Vs

KAMLESH BACHUBHAI VADHER

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Citation : 2008 2 CPJ 348

Hon'ble Judges : N.G.Nandi , Leenaben P.Desai J.

Final Decision : Revision Petition disposed of

Judgement

1. HEARD learned advocate Mr. P. D. Dave for Ms. L. K. Bhaya learned Advocate for the applicant (original opponent) and Mr. Kamlesh Bachubhai Vadher-opponent (original complainant) in person.

2. THIS revision application under Section 17 of the Consumer Protection Act, 1986 seeks to revise the order dated 8. 1. 2007 below application Exh. 5 in complaint No. 354/2006 by the learned Junagadh District Consumer Disputes Redressal Forum directing the opponent (present applicant) to restore the electric supply/connection of the original complainant (present opponent) on the original complainant depositing 1/3rd amount of the disputed bill (Rs. 17,105) on the ground that the electricity facility is a basic requirement. The applicant prays that the aforesaid order be revised contending that this is a case of theft under Section 135 of the Indian Electricity Act and that the remedy for the complainant would be to approach a Special Court constituted under the Indian Electricity Act.

It is suggested from the impugned order that the complainant is a consumer of the electric connection granted by the opponent Electricity Board having consumer No. 34102/07650/6; that on 12. 10. 2006 the complainant was found to have been indulging in irregularly taking electricity directly from pole thereby committing theft of the electric power which he was alleged by taking directly from the main switch by applying plug. According to the opponent Electricity Board as the complainant committed theft of the electric power the complainant was served with a bill of Rs. 9,150 for the theft of power and Rs. 8,000 by way of compounding charge, in all for Rs. 17,105 and that the electric connection of the

complainant/consumer came to be disconnected as he did not pay the amount demanded by the present applicant (opponent).

3. THE learned District Forum passed the order as aforesaid. It is stated by the original complainant (present opponent) Kamlesh Bachubhai Vadher that he has deposited Rs. 5,645 in the office of the opponent electricity board pursuant to the order passed by the learned District Forum on 8. 1. 2007. It is further submitted by the complainant that he has not committed theft of the electric power; that the opponent Board is not entitled to serve the bill of Rs. 17,105 which include Rs. 8,000 by way of compounding charges. It is further stated that he has not to pay any amount including Rs. 8,000 the compounding charges alleging offence of theft since he has not committed the theft alleged by the opponent and therefore there is no question of requiring him to pay any amount. It need hardly be said that compounding charges can be recovered only if the allegation of theft is proved. The question of paying compounding charges would arise if applicant requests that he be not prosecuted and offence be compounded. The applicant has not requested for compounding the offence by offering to pay compounding charges. Here it is otherwise, it is the opponent board which demanded Rs. 8,000 by way of compounding charges. We do not express any opinion as regards any of the demands made in the impugned bill. However, we find it necessary to direct the complainant to pay only Rs. 9,150 which is said to be the amount demanded by the opponent for the alleged theft of electric power.

4. WITH a view to see that the complainant gets electric power by restoring the electric service/supply also protecting the interest of the opponent board the complainant shall make up the deficit by depositing additional amount of Rs. 3,505 in the office of the opponent Electricity Board, since in our opinion at this stage the demand of Rs. 8,000 by way of compounding charges is not taken into consideration for the reasons that contentions of both the parties are to be adjudicated before the learned District Forum in the complaint proceedings. In view of the above, the order dated 8. 1. 2007 passed by the learned Junagadh District Forum in complaint proceedings/complaint No 354/2006 is revised/modified to read as Rs. 9,150 instead of 1/3rd amount of the disputed bill as observed by the learned District Forum. It is made clear that on depositing of the remaining amount i. e. Rs. 3,505 the opponent Electricity Board shall restore the electric connection/power in the service allotted to the complainant. The deposit of the amount by the complainant shall be without prejudice to the rights and contentions of both the parties. It is, therefore, directed that the complainant will deposit the further amount of Rs. 3,505 in the office of the opponent Electricity Board at Junagadh within 10 days from today and on depositing of the aforesaid amount the opponent Electricity Board shall restore the electric connection/power supply in the service of the complainant within 3 days of depositing of Rs. 3,505 by the complainant. The complainant shall pay the bill served by the opponent for the consumption of electricity, after restoration of supply as aforesaid.

5. IT is stated by the complainant that over and above Rs. 5,645 he has also paid/deposited Rs. 200 by way of reconnection charges by money order to the opponent Electricity Board. The opponent Electricity Board shall verify the said amount and if the same is found to have been deposited by way of reconnection charges then the service/electric power shall be restored as above. This revision application/petition is disposed of as above. Revision Petition disposed of.