

(2014) 12 JH CK 0039

In the Jharkhand High Court

Case No : Writ Petition (Civil) No. 1439 of 2012

Prasad Explosives and Chemicals

APPELLANT

Vs

Jharkhand Urja Vikas Nigam Ltd.

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Electricity Act, 2003 — Section 126

Citation : (2015) 1 JLJR 772

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : N.K. Pasari and Chandrakant Singhania, Advocate for the Appellant;
Rahul Kumar, Advocate for the Respondent

Judgement

S. Chandrashekhar, J.—Seeking quashing of inspection report dated 29.06.2011 and quashing of energy bills for the month of November, 2011 and onwards, the present writ petition has been filed.

2. The brief facts stated in the writ petition are that, the petitioner, a partnership firm duly registered under the Partnership Act, 1932, is engaged in manufacturing of explosives, for which a licence has been granted by the Central Government. The petitioner took electrical connection from the Electricity Board for a total load of 30 HP. The petitioner made an application for expansion of its unit which was duly approved by the Central Government and in pursuance thereof the petitioner installed machineries and carried civil construction for the expansion of its unit. Vide letter dated 14.02.2011, the Central Government informed the petitioner that the addition made for expansion of unit was not sufficient. Another letter dated 16.06.2011 was served upon the petitioner whereby the petitioner's unit was required to be inspected by the Deputy Chief Controller of Explosive and for that purpose the petitioner was directed to approach the office of the Deputy Chief Controller of Explosives. However, before further steps could be taken by the petitioner, the existing electric connection of the petitioner went defective due to burning of the meter. The petitioner on

28.06.2011 informed the same to the Board's official. On 29.06.2011, an inspection was carried out in the factory premises of the petitioner where the machinery was kept idle however, the same has been included for the purpose of load assessment and the total load was assessed to be 134 H P. The petitioner was not asked to put his signature on the inspection report and the inspection report has been signed by a person who is not a working staff of the petitioner's firm. The inspection report was sent to the petitioner through post and certain demands were raised. The petitioner vide letter dated 07.07.2011 communicated the Board that the expanded unit of the petitioner was not commissioned and even after the commissioning it would have been operating on the diesel generator set. For several months no action was taken by the Board and bills were raised on the basis of actual load of the petitioner till September, 2011. However, for the month of November, 2011 the petitioner was served energy bill with the load of 134 HP indicating an arrear to the tune of Rs. 50,917/-. The petitioner vide letter dated 27.12.2011 made representation to the Board pointing out infirmities in the bill which was raised on the basis of load of 134 H P. When threatened with electric disconnection, the petitioner approached the Electrical Superintending Engineer and it was allowed to deposit a sum of Rs. 30,000/- against the demand of Rs. 80,000/- approximately.

3. A counter-affidavit has been filed on behalf of the respondent-Jharkhand State Electricity Board stating that in course of inspection it was found that the petitioner's unit was availing load of 134 H P, that is, 104 HP more than the sanctioned load. The representative of the petitioner was present at the time of inspection and he put his signature on the inspection report. Action for regularisation of enhanced load has been taken, after due notice to the petitioner. Since the petitioner was found involved in unauthorised use of electricity, in excess of its sanctioned load, the action for assessment under Section 126 of the Electricity Act, 2003 would be taken and due opportunity would be given to the petitioner. In view of the inspection report and excess load found in the premises, a notice has been issued to the petitioner on 13.07.2011 for load of 134 H P. After the inspection report, the load in the premises of the petitioner's unit has been calculated only on the basis of the machineries which were fitted with the system of JSEB and not on the basis of the idle machineries. Vide notice dated 13.07.2011, the petitioner has been directed to regularise the enhanced load within one month. The said notice has been issued to the petitioner in terms of Clause 15.7(iii) of the Electric Supply Code (Amendment), 2010. At the time of inspection, the meter was found in running condition and therefore, monthly energy bill has been levied on the basis of the load assessed during the inspection. The petitioner is a LTIS consumer which is not permitted to use or connect excess load to the system more than the sanctioned load and therefore, KVA reading is not considered in case of LTIS consumers like the petitioner.

4. I have carefully considered the submissions of the learned counsel for the parties and perused the documents on record.

5. From the materials on record, it appears that on 29.06.2011 when an inspection was conducted at the petitioner's unit, the electric meter was found in running condition. It was found that the petitioner's unit was availing load of 134 H P. The respondent-Jharkhand State Electricity Board has categorically asserted that when the proceeding under Section 126 of the Electricity Act, 2003 initiated, the petitioner would be afforded due opportunity. In view of the stand taken by the respondent-J.S.E.B., the petitioner cannot object to energy bills raised on the basis of electric load of 134 H P. The Bill issued by the respondent-J.S.E.B. is only provisional bill, subject to adjustment on conclusion of proceeding under Section 126 of the Electricity Act, 2003. Moreover, I find that the partner of the petitioner-firm has not denied his presence at the time of the inspection. Though, in the writ petition, it is stated that the petitioner vide letter dated 07.07.2011 represented to the Board that its expanded unit has yet not been commissioned, it has denied receipt of the notice dated 13.07.2011. The plea of the petitioner cannot be accepted. Except denying the signature of its representative on the inspection report, the petitioner has not disputed the genuineness of the inspection report. The plea taken by the petitioner is liable to be rejected.

6. In the result, I find no merit in the writ petition and accordingly, it is dismissed.