

(1984) 12 RAJ CK 0014
In the Rajasthan High Court
Case No : Civil Spl. Appeal No. 463 of 1972

Rajasthan State Electricity Board

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-12-1984

Acts Referred:

Electricity Act, 1910 — Section 24(2)

Citation : AIR 1986 Raj 38 : (1985) RLW 194 : (1985) 1 WLN 61

Hon'ble Judges : N.M. Kasliwal, J; Dwarka Prasad, J

Bench : Division Bench

Advocate : R.R.L. Gupta, for the Appellant; G.S. Singhvi, for the Respondent

Final Decision : Allowed

Judgement

Dwarka Prasad, J.—This appeal has been filed against the order passed by a learned single Judge of this Court dated Nov. 24, 1971 (reported in AIR 1972 Raj 1431 dismissing the Writ petition filed by the Rajasthan State Electricity Board, Jaipur I hereinafter referred to as "the Board").

2. The only question, which was canvassed before us in this special appeal was as to whether the dispute between the Board and Govind Singh Mehta, Proprietor, Chitra Cinema, Jodhpur (hereinafter called as "the consumer") could lawfully be referred to the Electrical Inspector. The Board has challenged the validity of the award given by the Electrical Inspector and the order passed by the State Government in appeal and has urged that the award and the appellate order of the State Government are nullity in the eye of law because the dispute between the consumer and the Board could not have been referred to the Electrical Inspector for determination.

3. It appears that the Board with the concurrence of the Government of Rajasthan brought into force the revised tariff for the supply of electric energy to its consumers by notification dt. Mar. 18, 1964. Even after the introduction of the new tariff the Board continued to charge the consumers at the old rates until

June 1966. In the month of July 1966, the Board decided to charge the consumers according to the revised tariff at the rate of 29 paise per unit for the consumption recorded for both light as well as for power consumption. The consumer felt aggrieved; raised a dispute and the matter was referred to the Electrical Inspector. The Electrical Inspector after hearing both the parties gave an award on Aug. 14, 1967. The Board being dissatisfied with the award given by the Electrical Inspector, filed an appeal before the State Government u/s 36(2) of the Indian Electricity Act, 1910 (hereinafter referred to as "the Act"). The appeal filed by the Board was dismissed by the State Government on the ground that it was barred by time. Thereafter, the Board Filed the present writ petition in this Court challenging the jurisdiction of the Electrical Inspector to entertain the dispute raised by the consumer before him.

4. Learned counsel for the appellant submitted that the provisions of Section 24(2) of the Act under which the dispute is said to have been referred by the consumer to the Electrical Inspector was amended in the year 1959 by the Amending Act No. 32 of 1959. The amended provisions of Section 24 read as under :

"24. Discontinuance of supply to consumer neglecting to pay charge- 1) Where any person neglects to pay any charge for energy or any sum, other than a charge for energy, due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days" notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply line or other works, being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

(2) Where any difference or dispute which by or under this Act is required to be determined by an Electrical Inspector has been referred to the Inspector before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision :

Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electrical Inspector of the amount of the licensee's charges or other sum in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request."

5. Learned single Judge took the view that under Sub-section (2) of Section 24 the consumer can raise a dispute regarding the charges which are required to be paid by him and such a dispute could be determined by an Electrical Inspector. It was observed by him that when a dispute is raised by the consumer that the charges demanded from him regarding the consumption of electrical energy were not due from him on the basis of a wrong tariff which was not applicable to him,

it is covered by the provisions of Sub-section (2) of Section 24: With great respect to the learned single Judge we are unable to agree with the view taken by him. On a plain reading of the amended provisions of Sub-section (2) of Section 24 not only a dispute should be referred to the Electrical Inspector but the difference or dispute between the Board and the other party should be of such a nature as was required by or under the provisions of the Act to be determined by an Electrical Inspector. Learned counsel for the respondent was unable to point out any provision of the Act under which the dispute between the consumer and the Board relating to payment of charges for electricity consumed by him was required to be determined by an Electrical Inspector. Wherever the dispute or differences between the Board and other parties are required to be referred to the Electrical Inspector and decided by him, specific provisions in that respect have been made in the Act. We may refer to Sections 21(4), 26(4), 26(6) and 33(2) of the Act. The dispute in the instant case is not covered by any of the provisions referred to above. It may be observed that for the application of Sub-section (2) of Section 24 it is a condition precedent that the difference or dispute must be of such a nature which is required to be determined by an Electrical Inspector by or under any provisions of the Act. As the dispute in the present case is not required to be determined by the Electrical Inspector under any provision of the Act, it was not covered under the provisions of Sub-section (2) of Section 24 and the Electrical Inspector has consequently no jurisdiction to deal with the dispute between the Board and the consumer in respect of the charges to be paid by the consumer for consumption of electrical energy by him.

6. The view which we have taken above has also been taken by a bench of the Gujarat High Court in *Shantilal R. Desai Vs. P.N. Vyas and Another*, wherein it was observed that a dispute between a consumer about the payment of the licensee's charges for electricity supply to him has not been made referable by or under any provision of the Act. The Electrical Inspector has no right to stop the licensee from exercising his right u/s 24(1) to cut off the supply of electrical energy to the consumer.

7. Mr. Singhvi submitted that the consumer could take recourse to other remedies if the remedy of approaching the Electrical Inspector was not available to him. We do not wish to express any opinion as to whether any remedy is open to the consumer or not and if any other remedy is available to him in accordance with law he would be free to avail the same.

8. In this view of the matter, we allow the appeal, set aside the judgment passed by the learned single Judge dt. Nov. 24, 1971 and quash the order passed by the Electrical Inspector dt. Aug. 14, 1967 and the State Government dt. Nov. 13, 1968. The parties are left to bear their own costs of this appeal.