

(1994) 07 RAJ CK 0036

In the Rajasthan High Court

Case No : Civil Special Appeal No. 41 of 1994

Rajasthan State Electricity Board, Jaipur and Others

APPELLANT

Vs

Karan Steels Pvt. Ltd.

RESPONDENT

Date of Decision : 04-07-1994

Acts Referred:

Constitution of India, 1950 — Article 14
Electricity Act, 1910 — Section 22

Citation : AIR 1994 Raj 211 : (1994) 2 WLC 549

Hon'ble Judges : V.S. Kokje, J;R.R. Yadav, J

Bench : Division Bench

Advocate : D.S. Shishodia and Ravi Bhansali, for the Appellant; Rajendra Mehta, for the Respondent

Final Decision : Allowed

Judgement

Kokje, J.—This is an appeal preferred by the Rajasthan State Electricity Board, Jaipur (for short "the RSEB" hereinafter), challenging the direction issued by the learned single Judge of this Court to the effect that the respondent be given extension of load on complying with all necessary formalities including payment of all dues.

2. Actually, the direction is not about supply of electricity from 11 KV line or 33 KV line which was the main controversy between the parties before the learned single Judge as also in this appeal. However, it appears that the appellants have taken to be direction for supply of electricity on 11 KV line and have therefore, preferred this appeal.

3. The contention of the respondents before the learned single Judge was that though it is feasible to supply electricity for the required load of the respondent on 11 KV line, the RSEB is arbitrarily refusing the supply of electricity on 11 KV line and instead was insisting on supply of electricity on 33 KV line.

4. The respondent-original petitioner had contended before the learned single

Judge that it had complied with all the formalities and have paid all dues required to be paid for getting extension of the load and have also purchased machinery with the financial aid of Rajathan Financial Corporation for running of its Unit. It is also contended that the machinery purchased by the respondent-original petitioner was fit to be used on 11 K V line and such machinery was purchased under a legitimate expectation that connection for the extended load will be given on 11 K V line. It was further pointed out that it was feasible for the RSEB to supply electricity from 11 K V line and actually the Superintending Engineer of the RSEB at Alwar had made an endorsement on the application dated February 28, 1991 addressed by the respondent-original petitioner to him requesting him to supply electricity on 11 KV line directing the Executive Engineer, as under:

"Please go through the case and as 11 KV system is now has spare capacity so there is no harm in giving connection on 11 KV line for the existing consumer."

5. Banking heavily on the aforesaid remarks of the Superintending Engineer, the respondent-original petitioner contended before the learned single Judge that though it was feasible for giving supply of electricity on 11 KV line, the RSEB was arbitrarily asking the respondent-original petitioner to take supply from 33 KV line.

6. It appears that the appellant did not file the detailed reply before the learned single Judge and therefore, the case had to be decided by the learned single Judge on whatever material which was made available to him.

7. In this appeal several affidavits have been filed by both the parties along with certain documents.

8. We have heard the parties finally with their consent.

9. It was contended on behalf of the appellants that it is not for this Court to decide the question of feasibility of grant of electric supply on a particular line or a particular voltage. This has to be left to the supplier of the electricity who has to decide it on consideration of several factors. Technical feasibility or having a spare load on 11 KV line on a particular feeder is not the sole criterion for determining whether the supply should be given to the consumer on that line or not.

10. According to the learned counsel for the appellants on this particular feeder spare capacity has to be reserved as a stand by arrangement for emergency supply of power to Police Station, Water Works and Telephone Exchange etc. and only because spare capacity is available, the respondent-original petitioner cannot claim supply of electricity on 11 K V line as of right.

11. On the material produced in the petition as well as in this appeal, we are not satisfied that the charge of arbitrarily refusing to supply electricity from 11 K V line has been proved in this case. The appellants have supplied proper reasons for not supplying electricity from 11 KV line and we have no reason to disbelieve their version.

12. We are of the view that whether supply should be given from 11 KV line or 33 KV line, has to be primarily left to the RSEB and this court should interfere only in case in which arbitrariness of the decision it, writ large on the facts and circumstances brought on record. This is not one of those cases.

13. Even assuming that spare capacity was available on 11 KV line when the RSEB has come out with a case that the extra load available has to be reserved for emergency supply of electricity like Police Station, Water Works, Telephone Exchange etc., this Court should be slow in interfering with the decision of the RSEB.

14. It was also argued on behalf of the respondent-original petitioner that the RSEB have discriminated against it and when electricity was in a similar situation was supplied on 11 KV line to other similarly situated Units, the same treatment has been refused to be given to the respondent. Instances of such units were pointed out but we are not satisfied that concerned Units are similarly situated to the respondent. Some of the Units are not located at the place where the respondent's unit is situated and therefore, the cases of such Units can hardly be said to be comparable to the respondent-original petitioner's Unit. Moreover there is no instance that on the concerned feeder of 11 KV line supply has been given to any other similarly situated Unit which had applied after the respondent had applied for supply from 11 KV line. The case of the appellant is that spare capacity on 11 KV line on the feeder is needed for the emergency services. Unless an applicant for 11 KV line on the same feeder who has applied subsequently to the respondent, and has been given the supply then only charge of discrimination can be said to be brought home.

15. In such circumstances, we do not find any force in the argument of the respondent that they are discriminately treated.

16. The respondent - original petitioner has also submitted that it had incurred huge investment in purchasing and installing machinery which is only fit for use on 11 K V line and therefore, electricity should be supplied to them on 11 KV line.

17. It has not been shown that such an investment in machinery fit for use on 11 K.V line was made on some representation or promise by the RSEB or on a legitimate expectation that the power on 11 KV line would be supplied. The RSEB was therefore, under no obligation to supply electricity because of the huge investment made by the respondent expecting grant of supply through 11 KV line.

18. For the aforesaid reasons, we find that the decision of the learned single Judge deserves to be set aside.

19. The appeal is, therefore, allowed. The decision of the learned single Judge is set aside and the writ petition is dismissed. As the appellants had not put in the entire material before the learned single Judge in the first instance, we deny costs of this appeal to the appellant.