
(2001) 04 JH CK 0021
In the Jharkhand High Court
Case No : CWJC No. 1109 of 2001

Santosh Kumar Bedi

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 10-04-2001

Acts Referred:

Electricity (Supply) Act, 1948 — Section 49

Citation : (2001) 04 JH CK 0021

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Advocate : M.S. Mittal, for the Appellant; P. Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.N. Mishra, J.—After having heard the learned counsel for the parties and going through the pleadings, filed on their behalf, this writ application is being disposed of at the time of admission itself. In this writ application, the prayer of the petitioner is for a direction to the respondents to restore the electric connection of the petitioner, having Consumer No. PL-2624, which was disconnected on 13.12.2000, on the basis of the inspection report, which has already been reviewed by a subsequent inspection report dated 26.2.2001. Further prayer is for quashing of the electric bill for the month of December 2000, issued under clause 16.9 of the tariff, raised on the earlier inspection report of 13th December, 2000. Lastly, for a direction to the respondent-Board to revise the bills of consumer on the basis of the domestic service tariff for common area of the apartment, in question, namely, City Complex. Further for quashing of the electric bill, raised on account of fuel surcharge on the ground that no fuel surcharge can be raised with respect of domestic connection. The petitioner, namely, Santosh Kumar Bedi, is the Director of M/s. Smart Home Construction Company Private Limited and the said Company is engaged in construction and sale of the flats in multi-storeyed buildings. The petitioner has constructed a building at Lalpur Chowk in the town of Ranchi, known as City Complex. It is

alleged that the building consists of 28 flats, having seven floors, each floor having four flats. The said building is still under construction, which will take at least six months further time for constructions to be completed. It is alleged that the petitioner proposed to instal a lift in the building. According to the petitioner, the staff and workers of the petitioner are residing in two flats, where a couple of bulbs are being used. According to the petitioner, the electric bills with respect to the Instant building are being issued on the basis of tariff, provided for Commercial Services-III, whereas the bills should have been raised on the basis of Domestic Services-III. The question falls for consideration in this writ application, is as to whether the bill can be raised on the basis of tariff of Commercial Services-III in respect of any area of multi-storeyed building or on the basis of the tariff, provided for Domestic Services-III. The question, involved in this writ application, is no longer res-integra inasmuch as the similar question has been answered by the Patna High Court vide its judgment and order dated 18.4.1994. In the case of Council for Protection of Public Rights and Welfare Vs. The State of Bihar and Others , in the following terms :

"It has not been and could not have been disputed that the nature and the purpose of supply to the domestic consumers or private residential premises or multi-storeyed building is same. Classification sought to be made for levy of higher charges in respect of common area, in our opinion, is not based on reasonable differentia, therefore, it must be held that the rates applicable to domestic tariff shall also apply for consumptions of electrical energy in common area of a multi-storeyed building."

2. Being aggrieved by the said judgment and order, the respondent-Electricity Board had filed the SLP before the Apex Court, which was dismissed and thereby, the order of the High Court was confirmed. The respondent-Electricity Board, thereafter, issued a tariff notification, amending the tariff. The relevant portion of the notification reads thus :

"Nature of Supply to Multi-Storeyed Buildings.--The rates applicable to domestic category of tariff shall also apply for consumption of electric energy in common area of multi-storeyed building."

3. A copy of the amended tariff is made Annexure 1 to this writ application. In the case of Narmada Apartment Owner's Association and Others Vs. Bihar State Electricity Board and Others, , it has been held that in terms of the amending tariff notification, the domestic rates of tariff are invariably applicable for consumption of the electric energy in common area of the multi-storeyed building, irrespective of the fact whether such building is a residential in nature or not. It has further been held that the respondent-Electricity Board was not justified in raising bill for the common area of the multi-storeyed building on commercial rates. In the premises, therefore, I am of the view that the electric bill, raised for the: common area of the building, in question on the basis of the commercial tariff, is wholly misconceived and uncalled for and consequently, imposing fuel surcharge, which is leviable only on commercial connection is

equally uncalled for. As such, the respondent-Electricity Board is directed to revise the bill on the basis of the domestic consumption. If, the amount has already been realised in terms of the earlier unrevised tariff, the said amount shall be either adjusted against the future bill or refunded to the consumer. This writ application is, accordingly, allowed to the extent, indicated above.

4. Writ application allowed.