

(2001) 06 JH CK 0023
In the Jharkhand High Court
Case No : CWJC No. 1380 of 2000

Sheo Shakti Cement Industries-I	Vs	APPELLANT
Bihar State Electricity Board and Others		RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Electricity (Supply) Act, 1948 — Section 49

Citation : (2001) 06 JH CK 0023

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : L.K. Bajla and M.S. Mittal, for the Appellant; V.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for quashing the order dated 12.5.2000 passed by the General-cum-Ghief Engineer, Dhanbad Area Electricity Board by which he has disposed of the representation filed by the petitioner in terms of the order dated 2.9.1999 passed in CWJC No. 2290/99(R) and further prayed for quashing the bill of Rs. 1,18,39.891/- which has been raised pursuant to the impugned order.

2. The petitioner is a High Tension consumer having contract demand of 1067 KVA. Petitioner's case is that it is a Small Scale Industry and it had earlier a contract demand of 900 KVA but because of the reason that the capacity of the transformer installed in the factory premises of the petitioner was 1600 KVA and as such beyond 150% of its contract demand in view of 1993 tariff the contract demand was increased so as to bring the transformer capacity in the purview of 150% of the contract demand. On 17.9.1999 a routine inspection was made in the factory premises of the petitioner but no adverse remark of any nature was made in the inspection report. However, one week thereafter on 23.7.1999 second inspection was made and total reading for these six days was found to be 54,602 units. The respondent- Board, therefore, lodged FIR on 25.7.1999

making allegation that for the period from 17.7.1999 to 23.7.1999 the meter reading has been taken and it has been found that during these period of six days petitioner-Company has consumed 54,602 units which is highly excessive and therefore, the Company is indulging the theft of electricity. The electric line of the petitioner was, accordingly, disconnected and a bill of Rs. 1.38.28.593/- was raised under clause 16.9 of the tariff. The petitioner challenged the action of the Board and also the bill by filing CWJC No. 2290/99 (R). This Court, by order dated 2.9.1999, quashed the bill on the ground that before raising such bill under clause 16.9 of the tariff, the consumer ought to have been given opportunity of hearing. The matter was., accordingly, remanded to the General Manager-cum-Chief Engineer to afford opportunity of hearing to the petitioner before raising the bill. In the meantime the petitioner filed another writ application being CWJC No. 3062/99 (R) praying restoration of electric line as the electric line of the petitioner was not restored even after quashing of the aforesaid bill. The said writ application was disposed of on 11.10.1999 with a direction to the respondent- Board to restore the supply of energy if there is no other dues lying against the petitioner in respect of the meter in question. The said order was challenged by the Board by filing LPA No. 476/99. (R). The said appeal was heard on 12.5.2000 and it was directed that the petitioner's electric line would be reconnected on payment of Rs. 3 lacs. The said appeal was finally heard on 17.5.2000 and was dismissed by the Division Bench. The respondent-Board, in terms of the direction of this Court in CWJC No. 2290/99 (R). disposed of the representation by passing the impugned order on 12.5.2000 and in terms of the said impugned order a fresh impugned bill was raised for Rs. 1.18.39.891/-.

3. Mr. L.K. Bajla learned counsel for the petitioner assailed the impugned order passed by the General Manager-cum-Chief Engineer (respondent No. 2) on the ground, inter alia, that the said order suffers from irregularity and is contrary to the provisions of the tariff. Learned counsel submitted that merely because the consumption of electricity was higher for the period of six days, it cannot be a reason to raise a penal bill of Rs. 1.28 crores on the presumption that the petitioner was indulging in theft of electricity. Learned counsel drew my attention to annexure 16 to the writ application which is a chart showing average consumption of units for the years 1999-2000 and submitted that, as a matter of fact, during July, 1999 when there was allegation of high consumption is the lowest for the entire period. Learned counsel further submitted that while raising bill the respondent-Board has not strictly followed the method of calculation as provided under clause 16.9 of the tariff. According to the learned counsel clause 16.9 of the tariff is applicable when energy is being used through artificial means or adopting any appliance or by using energy by creating obstruction in running of the meter or interfering with the system of supply or dishonest extraction of electrical energy.

4. The General Manager-cum-Chief Engineer, on the basis of the consumption of electricity in the preceding months, and also on the basis of the materials

available on record, recorded a finding of strong presumption of theft of electricity. He has also found that the petitioner was abstracting electric energy by illegal means. However, in view of the fact that the actual hours of supply were lesser than those incorporated in the bill for Rs. 1.38.28.593/-, the electrical Superintending Engineer was directed to find out the actual number of hours of supply that remained on distribution mains feeding during the period of the bill and on that basis to raise a fresh bill.

5. As would appear from the chart of consumption of electricity, the petitioner was consuming energy of 1,50,825 units per month during the period, January to June, 1999. For better appreciation, the figures showing the chart by the petitioner as contained in annexure 16 to the writ application is quoted hereinbelow :--

6. Admittedly on 17.7.1999 when a routine inspection was made in the factory premises of the petitioner no irregularity was found and the seal was also found intact. However, immediately, after six days. i.e. on 23.7.1999 when a second inspection was made, the total reading for those six days was found to be 54,602 units. Curiously enough when inspection was made on 17.7.1999 the meter was properly sealed in order to assess the actual energy consumption without giving any opportunity to the consumer to disturb the meter. Immediately after six days the consumption of electricity for six days was found to be 54,602 units meaning thereby that the monthly consumption of energy in the premises of the petitioner was average 2,73,010 units whereas the energy consumption from January, 1999 as shown in the chart quoted above, was about 1,50,000 units. The General Manager-cum- Chief Engineer, in the impugned order, therefore, came to a finding that the petitioner adopted some device for non-reading of part of the energy consumed during the period from January, 1999 to June, 1999. I do not find any reason to disbelieve the finding recorded by the General Manager that the petitioner was dishonestly extracting electricity and is, therefore, liable to pay compensation and other charges as per clause 16.9 of the tariff.

7. For the reasons aforesaid I do not find any merit in this writ application which is, accordingly, dismissed.

8. Writ application dismissed.