

(2002) 08 OHC CK 0017

In the Orissa High Court

Case No : Original Jurisdiction Case No. 6536 of 2002

S.K. Industries Private Limited

APPELLANT

Vs

Superintending Engineer, Electrical Circle, Cental Electricity
Supply Company of Orissa Limited and Another

RESPONDENT

Date of Decision : 01-08-2002

Acts Referred:

Citation : (2002) 08 OHC CK 0017

Hon'ble Judges : R.K. Patra, J;Pradip Mohanty, J

Bench : Division Bench

Advocate : A. Mohapatra, J.M. Rout and S. Mallick, for the Appellant; S.C. Dash, for the Respondent

Final Decision : Allowed

Judgement

R.K. Patra, J.—We have heard Shri A. Mohapatra for the petitioner and Shri S.C. Dash for the opposite parties.

2. In this writ petition, the petitioner, a company registered under the Companies Act seeks to assail the validity of the demand made by the Superintending Engineer, Electrical. B.C.D.D. No. II, Bhubaneswar in his letter No. 6749 dated 17.6.2992 (Annexure-4). In the impugned letter, the petitioner has been called upon to pay a sum of Rs. 11,340/- towards the cost of the meter on the ground that the same was tampered with.

3. Briefly stated, the case of the petitioner is that it entered into a contract demand for 176 KVA with the Executive Engineer for running its cold storage unit. As potatoes and vegetables are stored in the storage, the petitioner's unit runs practically only for three months from March to June and for the rest of-the year it remains inoperative. Since the petitioner is to pay the minimum charges as per the contract demand, it has been paying the same regularly.

It is alleged by the petitioner that the Meter Relay Testing Squad came for routine test of the meter installed in the petitioner's premises. The said squad

came without notice and it is alleged that the seals of the outer board and inner board of the meter box were broken and the insulation of the C.T. secondary wire was found removed. On the basis of the so-called inspection made in absence of the petitioner by the M.R.T. squad, the Superintending Engineer issued notice to show cause as to why he would not disconnect the power supply and realise the cost of the meter. The petitioner in response to the said notice, in letter dated 5.6.2002 (Annexure-2) denied the allegation. The petitioner in its reply claimed that the Chief Electrical inspector should be requested to examine the meter. Despite the denial and in absence of any proof that the petitioner tampered with the meter and its equipments, the Superintending Engineer rejected the reply saying it is not satisfactory and demanded the cost of the meter assessing at Rs. 11,340/-.

4. The opposite parties have filed counter affidavit indicating, inter alia, that the seals of the outer and inner doors of the meter box installed in the premises were found broken and the insulation of the C.T. Secondary wire was also found removed and in view of this, there was every possibility of short-circuiting the C.T. terminals and illegal abstraction of electrical energy. In view of this, according to the opposite parties, it was the petitioner who meddled with the meter for which it was damaged and accordingly its cost has rightly been assessed which the petitioner has to pay.

5. Upon hearing counsel for parties were are satisfied that the demand raised in the impugned letter asking the petitioner to pay a sum of Rs. 11,340/- towards the cost of the meter is not legally sustainable. The opposite parties had installed the meter in the premises of the petitioner. They themselves, as asserted by them, got it inspected by M.R.T. squad which found the same to have been tampered with. The opposite parties themselves have accordingly without affording any opportunity to the petitioner to test the meter have assessed the cost ex parte. The aforesaid circumstances indicate that the Superintending Engineer was the prosecutor and arbiter. In other words, the Superintending Engineer himself was prosecutor and Judge. The impugned letter does not indicate as to on what" basis the cost of the meter was determined. In all fairness, when the petitioner in its reply denied to have meddled with that meter, the Superintending Engineer ought to have got it tested/inspected by an independent agency like the Chief Electrical Inspector.

6. For the reasons aforesaid, we are inclined to hold that the impugned demand is arbitrary and without any legal bias. We, accordingly, quash the demand raised in the impugned letter at Annexure-4.

If the Superintending Engineer is interested to find out if the meter was tampered with or meddled, it is open to him to refer the same to the Chief Electrical Inspector. In case any such steps are taken, the petitioner ought to be noticed before the meter is referred to the Chief Electrical Inspector, so that the petitioner can appear before him and can establish his innocence. The Superintending Engineer is free to install a properly tested and sealed meter in

the premises of the petitioner in presence of its representative on 6th August, 2002.

The writ petition is accordingly allowed.

Pradip Mohanty, J.

7. I agree.