

(1988) 09 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 14537 of 1987

Topasa Ramasa Patil

APPELLANT

Vs

Karnataka Electricity Board, Bangalore and Others

RESPONDENT

Date of Decision : 23-09-1988

Acts Referred:

Electricity Act, 1910 — Section 26, 26 (6)

Citation : AIR 1989 Kar 279

Hon'ble Judges : S. Rajendra Babu, J

Bench : Single Bench

Advocate : Jayakumar S. Patil, for the Appellant; N.K. Gupta, for the Respondent

Judgement

1. The petitioner in this writ petition is an owner of a hotel. He has two installations of electric meters in his business premises, namely, R. R. No. CH. 13.5 MPI B.24 and 16711, 7B26. While the one is a power meter, the other is a light meter. The respondents have raised two bills as per Annexure F and G filed in the petition. A perusal of those two bills discloses that back billing has been done due to slow recording of the above meters. The petitioner has challenged the action of the respondents under Annexure F and G on the ground that the Electricity Board had no jurisdiction to conclude that a particular meter is functioning correctly or not or whether the same is not recording the actual energy consumed or is recording slowly. According to the petitioner, such a dispute squarely falls within the provisions of S. 26(6) of the Electricity Act. Per contra, the learned counsel for the respondents submitted that this petition should not be entertained inasmuch as the petitioner has an alternative remedy as provided under Electricity Supply Regulations and the petitioner could also raise a dispute before the Electrical Inspector as provided under S. 26 of the Electricity Act.

2. The points that arise for consideration in this petition are as follows:

1. Whether the Karnataka Electricity Board has the necessary jurisdiction to

decide that the electric meters installed in the premises of the petitioner are correct or faulty?

2. Whether it is proper for this Court, in the facts and circumstances of this case, to entertain this petition in view of the alternative remedy available to the petitioner under Regulation 35(2) of the Electricity Supply Regulations and under S. 26 of the Electricity Act?

3. It is the contention of the petitioner that the Electricity Board had no jurisdiction to decide that a meter for an electrical installation is not recording the electrical energy consumed correctly and resort to back billing on that ground. I am of the view that it is not proper to relegate the parties to the alternative remedy as the question involved in this petition goes to the root of the matter. In the circumstances, I consider it necessary to go into first question, as I am not inclined to dispose of the matter on the second question that the petitioner has an alternative remedy. At this stage, the learned counsel for the respondents, sought for time to file his objections. Since the matter is one relating to interpretation of the relevant statute and its applicability and the facts involved in the case are fairly simple and do not require detailed traversal, it is unnecessary to grant any adjournment for the purpose of filing statement of objections.

4. The respondents have resorted to back billing in respect of the meters installed in the business premises of the petitioner on account of slow recording. The Supreme Court in Madhya Pradesh Electricity Board and Others Vs. Smt. Basantibai, held as under :

"..... In our view, the views taken about the scope of S. 26(6) of the Electricity Act in the decision cited above are correct. In the instant case the dispute relates to whether the meter is correct one or it is faulty not recording the actual energy consumed in running the oil mill of the respondent. So this dispute squarely falls within the provisions the said Act and as such it has been right found by the High Court that it is the Electrical Inspector who alone is empowered to decide the dispute. If the Electrical Inspector comes to the finding that the meter is faulty and due to some defect it has not registered the actual consumption of electrical energy, then the Inspector will estimate the amount of energy consumed and will fix the amount to be paid in respect of such energy consumed within a period not exceeding six months. The appellant 1 is not competent pending the determination of this dispute by the Electrical Inspector to issue the impugned notice threatening disconnection of supply of electricity for non-payment of supplementary bill prepared and sent by it. The Board is also not competent to prepare and send a supplementary bill in respect of energy consumed by the respondent....."

(Underlining by me)

This categorical statement of law made by the Supreme Court is applicable to the facts of this case and whatever be the grounds upon which the respondents have

found that the meters were not working correctly it is not open to the Electricity Board to have raised an additional bill and threatened the petitioner with disconnection. The contention that it is only when a dispute is pending before the Electrical Inspector that the Board will have no jurisdiction to raise the supplementary bill is not correct. The clear effect of the aforesaid decision of the Supreme Court is that in matters of slow or faulty recording of the meter it is only the Electrical Inspector who is authorised to decide the dispute. If the meter is not working properly that is undoubtedly a dispute and this dispute has to be decided by the Electrical Inspector. Therefore, if the Electricity Board wants to raise a bill in regard to the actual consumption of energy not correctly recorded by the meter, it has to approach the Electrical Inspector and get the same tested and settled. It cannot unilaterally raise a bill without reference to the Electrical Inspector as provided under S. 26(6) of the Electricity Act. For the reasons aforesaid, I hold that the Electricity Board does not have the jurisdiction to decide the functioning or otherwise of a meter. In the result, I allow this petition and quash the Annexure impugned. Rule issued and made absolute.

5. Petition allowed.