
(1996) 08 KAR CK 0046

In the Karnataka High Court

Case No : Writ Petition Nos. 20780 to 20789 of 1989

V.B. Daragashetti and Others

APPELLANT

Vs

Chairman, Karnataka Electricity Board, Bangalore and
Another

RESPONDENT

Date of Decision : 06-08-1996

Acts Referred:

Electricity (Supply) Act, 1948 — Section 49(5)

Citation : (1997) 2 KarLJ 121

Hon'ble Judges : Tirath S. Thakur, J

Judgement

1. The challenge in these writ petitions is directed against certain bills issued by the respondent-Board demanding payment of electricity charges consumed by the petitioners.

2. The petitioners are engaged in the business of manufacturing ice-cream and retail sale of cold drinks. The electricity consumed by them for their respective units was in terms of the tariff schedules of the Board for the year 1983 covered by entry L.T-3. Electric charges appear to have been realised from the petitioners in accordance with the said tariff entry till the year 1985. In 1985, however, the tariff schedule was modified, so that the supply of energy to the petitioners fell more appropriately under tariff entry L.T-3(a). Based on the aforesaid change in the tariff schedule, respondent-Board appears to have raised the impugned bills against the petitioners calling upon each one of them to pay electricity charges for the energy consumed by them as per tariff schedule entry L.T-3(a) with effect from 27-9-1985 when the said schedule became operative. Aggrieved, the petitioners have come up with the present writ petitions assailing the bills issued to them and for such other directions as this Court may deem fit in the circumstances.

3. The challenge to the bills is primarily two-fold. Firstly it is urged that since the supply made to the petitioners was originally covered by tariff entry L.T-5(b), a contract had come into existence between the petitioners on the one hand and

the Board on the other, according to which the petitioners would be liable to pay for the energy consumed by them only at the rates prescribed by the said tariff entry. Alternatively it is submitted that before the issue of the bills in question or promulgation of the new tariff schedule, the petitioners were not served with any show-cause notice or given any opportunity of being heard, thereby rendering the bills invalid by reason of the violation of the principles of natural justice.

4. The energy supplied by the respondent-Board has to be paid for by the consumers as per the tariff prescribed by the Board from time to time in exercise of the powers vested in it under Section 49 of the Electricity (Supply) (Karnataka Amendment) Act, 1981. According to the said provisions notwithstanding any agreement or other arrangement entered into between the Board and a consumer the latter is bound to pay for electricity so supplied the price (by whatever name called), calculated in accordance with the uniform tariff framed or modified from time to time and applicable to the category to which the consumer belongs. The argument that the Board could not have altered the tariff rate as prescribed under L.T-5(b) of 1983 tariff schedule or that there was a contract specific or implied for supply of electricity for the said rates therefore has no substance and is accordingly rejected.

5. Equally untenable is the other submission made in support of the petition viz., that the respondent-Board was bound to issue a notice to the petitioners before either modifying the tariff schedule or raising a bill against the petitioners on the basis of any such modified schedule. The power to frame a tariff or modify the same in terms of Section 49 as amended by the Karnataka Amendment Act mentioned earlier is clearly legislative. The question of issuing any notice or providing any hearing to a person likely to be affected by any such legislative act did not arise. It is well-settled that the doctrine of *audi alteram partem* has no application to legislative measures unless the enactment itself provides for any such notice. The provisions of the Acts mentioned above do not however make the issue of a notice necessary before the tariff schedule can be modified. In the circumstances, therefore, the absence of a notice to the petitioners before the promulgation of a modified tariff schedule does not, in the least, affect the validity of the said schedule. A similar argument was advanced before a Division Bench of this Court in W.A. No. 2676 of 1986 disposed of on 12th of June, 1990. Repelling the argument, the Court observed thus:-

"7. There is no necessity of putting the appellant on notice before changing the tariff because as a consumer of electricity whatever tariff is charged from time to time the appellant is bound to pay. It is entirely within the discretion of the Electricity Board to change the categorisation from time to time and no notice at all is necessary even for categorisation in one way or other".

6. This is true even in regard to the bills that have been raised by the respondents against the petitioners on the basis of the modified tariff schedule. It is not the case of the petitioners that the supply being made to them does not actually fall under entry L.T-3(a) of 1985 tariff schedule nor is it their case that

the bills are not correctly drawn according to the said entry.

Tariff entry L.T-3 of 1985 Tariff Schedule reads thus:-

"Electric Power Tariff, 1985

Tariff Schedule L.T-3 (Commercial-Non-Industrial Lights, Fans, Heating, Motive Power)

(a) Applicable to power supply for Lights, Fans, Radio/TV Receivers, Airconditioners, Refrigerators, Xerox/Photocopiers and Commercial Motive Power etc., for Commercial and non-Industrial purposes".

7. It is therefore apparent that the petitioners' units engaged in manufacturing of ice-cream using refrigeration facility were clearly covered by the aforementioned tariff entry. A demand raised against them based on the said entry with effect from the date the schedule became operative cannot, therefore, be found fault with.

8. The writ petitions accordingly fail and are hereby dismissed, but in the circumstances, without any orders as to cost.