

Techno Engineering Vs. Jharkhand State Electricity Board and ors.

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Court : Jharkhand

Decided On : Jul-23-2009

Reported in : 2009(57)BLJR2703

Judge : D.N. Patel, J.

Acts : [Electricity Act, 2003](#) - Sections 126 and 127; Indian Penal Code (IPC) - Sections 379

Appeal No. : W.P. (C) No. 1168 of 2008 and I.A. No. 3082 of 2008

Appellant : Techno Engineering

Respondent : Jharkhand State Electricity Board and ors.

Advocate for Def. : Rajesh Shankar, Adv.

Advocate for Pet/Ap. : Ajit Kumar, Adv.

Judgement :

D.N. Patel, J.

1. Learned Counsel for the petitioner submitted that despite the earlier order, passed by this Court dated 18th January, 2007 in a writ petition bearing W.P.(C) No. 7510 of 2006, no order has been passed under Section 126 of the [Electricity Act, 2003](#) (in short 'the Act, 2003') and straightway a consequential effect has

been given, namely, directly a bill has been issued for an amount of Rs. 5,98,860/- . It is further submitted that though the bill, which has been issued, ought to have been based upon an order under Section 126 of the Act, 2003, never such detailed speaking order has been passed and no opportunity of being heard has been given to the petitioner, as envisaged under Section 126 of the Act, 2003, and, therefore, let this Court direct the concerned respondent authority to hear the petitioner or its representative and then to pass a speaking order under Section 126 of the Act, 2003 and till then, no effect may be given to any supplementary bill, which has been issued by the respondents, pursuant to the raid carried out by the respondents in the month of March, 2006.

2. This fair submission is made by the learned Counsel for the petitioner, keeping in mind the continuation of the electricity by the respondents. Nonetheless, all the emphasizes are given to a breach of the provisions of Section 126 of the Act, 2003, by the respondents, to be read with the provisions of Supply Code Regulations.

3. I have heard learned Counsel for the respondents, who has submitted that there is a due compliance of the order, passed by this Court in the earlier writ petition i.e. W.P.(C) No. 7510 of 2006 and an order has been passed by the Electrical Executive Engineer dated 14th July, 2008, which is at Annexure 9 to the memo of interlocutory application, bearing I.A. No. 3082 of 2008 in the present writ petition i.e. W.P.(C) No. 1168 of 2008. It is also submitted by the learned Counsel for the respondents that the aforesaid order is based upon an order, passed by General Manager-cum-Chief Engineer dated 29th January, 2008, which is at Annexure 8 to the memo of the present petition and, thus, there is no breach of Section 126 of the Act, 2003, and the petitioner can prefer an appeal under Section 127 of the Act, 2003 and, therefore, this petition deserves to be dismissed.

4. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case:

(i) It appears that initially, a raid was carried out by the officers of the respondent-Board in the month of March, 2006, upon the factory premises of the present petitioner, whereby, certain irregularities/illegalities were found with regard to the

meter. The meter was found tampered by the officers of the respondent-Board and, therefore, a civil complaint has also been filed, which is pending before the competent civil court and a First Information Report has also been lodged under Section 379 of the Indian Penal Code (Now under the provisions of the Supply Code Regulations);

(ii) It also appears from the facts of the case that initially a bill was issued for approximately Rs. 19,00,000/- and odd, as a supplementary bill, keeping in mind the theft of electricity, alleged to have been committed by the present petitioner, which was challenged in a writ petition bearing W.P.(C) No. 7510 of 2006, wherein, this Court, while finally disposing of the said writ petition, it was directed by this Court vide order dated 18th January, 2007 (Annexure 6 to the memo of present petition) that the General Manager-cum-Chief Engineer, Singhbhum Supply Area, Jamshedpur, of the respondent-Board will decide the representation of the petitioner.

(iii) It appears that the said officer has already decided the representation vide order dated 29th January, 2008 and the gist of the decision reads as under:

I heard both the parties and found that the bill raised by the Board's authority should have been as per the provisions made out in Section 126 of Electricity Act 2003. (iv) Thus, it appears that the said officer has not decided anything. No order has been passed under Section 126 of the Act, 2003 and on the basis of the aforesaid order, the Electrical Executive Engineer, Electric Supply Division, Jamshedpur, has further written a letter to the present petitioner dated 14th July, 2008, which is at Annexure 9 to I.A. No. 3082 of 2008, filed in the present writ petition.

(v) Looking to this letter also, it appears that this officer has directed the present petitioner to deposit a sum of Rs. 5,98,860/-, without passing any order under Section 126 of the Act, 2003 and, thus, in the eyes of law, none of these two decisions; one at Annexure 8 to the writ petition dated 29th January, 2008, delivered by the General Manager-cum-Chief Engineer, and another at Annexure 9 to I.A. No. 3082 of 2008, filed in the present writ petition, delivered by the Electrical Executive Engineer, can be said to be an order under Section 126 of the

Act, 2003. Thus, in the eyes of law, no order under Section 126 of the Act, 2003 has been, so far, passed by the respondents.

5. As a cumulative effect of the aforesaid facts and circumstances, I hereby direct the concerned respondent authorities to pass a speaking order under Section 126 of the Act, 2003, after giving an adequate opportunity of being heard to the petitioner or to its representative, in accordance with law, rules, regulations, policies and the provisions of Electricity Supply Code etc., within a period of four weeks from the date of receipt of a copy of the order, passed by this Court and if the petitioner is aggrieved by the said order provision for appeal is already there under Section 127 of the Act, 2003.

6. Meanwhile, no coercive action will be initiated against the petitioner, in pursuance of the supplementary bill, which has been issued for Rs. 5,98,860/-.

7. The writ petition stands disposed of in view of the aforesaid directions/observations.

8. I.A. No. 3082 of 2008 also stands disposed of, in view of final decision, taken in the present writ petition.