

S.B. CIVIL WRIT PETITION NO.3014/2006

(Om Prakash Vs. J.N.V.L. Jodhpur & Ors.)

Date :: 13.06.2006

HON'BLE MR.JUSTICE DINESH MAHESHWARI, VJ.

Mr.Rakesh Ramawat, for the petitioner.

The petitioner has submitted this writ petition seeking to challenge the vigilance checking report Annexure-1 and has prayed for the following reliefs:-

“(i) By an appropriate Writ or Order the Annexure-1 that is the inspection report may kindly be set aside and electricity connection of the petitioner may be restored.

(ii) The exemplary cost should be awarded to the petitioner for the loss resulted by the illegal act of the respondents.

(iii) That any other relief which this court deems proper should be passed in favour of petitioner.”

Learned counsel for the petitioner submitted that no case for theft under Section 135 of the Electricity Act, 2003 is made out against the petitioner and it is not the case that the meter was not recording correct consumption of electricity and merely on the basis of certain observations about tempering or re-punching it cannot be said that the petitioner has committed a theft of electricity within the meaning of Section 135 of the Electricity Act, 2003 or has dishonestly consumed the

electricity.

Learned counsel has further submitted with reference to para 7 in report Annexure-1 that the connection was found OK and no fault was found and service line was also found OK and, therefore, it cannot be said that the petitioner has derived any illegal advantage. Learned counsel has further submitted that the proceedings of inspection and seizure has not been in accordance with law and even proper list of articles has not been prepared.

When being pointed out about the allegations of the petitioner having employed excess load than the sanctioned one, learned counsel submitted that for such excess load even if employed, the meter would be recording the consumption of electricity and even if it be assumed that some extra load was employed, at the most some reasonable penalty could be imposed, but for that purpose, the electricity supply cannot be disconnected.

Having heard learned counsel for the petitioner at length and having perused the material placed on record, this Court is clearly of opinion that this writ petition remains absolutely bereft of substance and deserves to be dismissed.

So far the submissions regarding Section 135 of the Act are concerned, a bare look at phraseology of Section 135 about the theft of electricity makes out clear that whoever

dishonestly tempers with the meter in any manner or method which interferes with correct, accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted or where he causes damage to or destroys an electric meter, apparatus, equipment, or wire or causes damage to them so as to interfere with the proper or accurate metering of electricity, could be said to be guilty of the theft of electricity.

The observations as made in the report Annexure-1 are as under:-

“Bill में MF 12 आना चाहिये परन्तु MF नहीं लिया जा रहा है । रिकार्ड देखकर MF का difference लेंवें । मीटर की सील नक्शे अनुसार, R1, R2 व C tempered व re-punch है, जो कि मीटर से छेड़ छाड़ का मामला है । जो कि विद्युत चोरी का मामला है । यह IEA 2003 की धारा 135 के तहत दण्डनीय अपराध है। नियमानुसार यदि प्रथम अपराध हो तो Compound की जावे । अन्यथा पुलिस FIR किया जावे । मौके की तीन फोटो ली गई । मौके पर कनेक्शन काटा एवं मीटर मय CTS बतौर सबूत जब्त की गई । अनाधिकृत भार विस्तार की कार्यवाही करावें ।”

It has clearly been recorded that R1, R2 and C were tempered and re-punched. It is clear that the electricity meter in the premises of petitioner has been tempered with and no fault can be found by the respondents in making the observations. Reference to para 7 of the report Annexure-1 is entirely misconceived so far the allegations against the

petitioner are concerned. Correct position of the electricity connection has got nothing to do with tempering of the meter and the metering equipments. Other objections about irregularity of seizure proceedings are more formal than of any substance.

Apart from the aforesaid, the fundamental fact in the case remains that the petitioner had a sanctioned load of 35 HP as is evident from the report Annexure-1 and so also the last bill Annexure-2 of the Month of May, 2006. It appears that prior to it he had the sanctioned load of 30 HP as is evident from the other bills placed on record as Annexures 3 to 5. The petitioner has been found to have put load of 45.45 HP as is reported in the inspection report Annexure-1. It is apparent that the petitioner has not only tempered with the metering equipments but has also put excess load and the cumulative effect of all the circumstances is that the petitioner does not turn out to be a bona fide consumer.

In the aforesaid view of the matter the relief as prayed for in the writ petition for quashing of the inspection report Annexure-1 cannot be granted. The petitioner is not entitled for any relief in the extra-ordinary writ jurisdiction of this Court.

The writ petition fails and is, therefore, dismissed summarily.

[DINESH MAHESHWARI],VJ.

Ashwini/-