

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 7th day of November, 2003

Present

- | | | |
|---------------------------|---|----------|
| 1. Sri. Philipose Matthai | - | Chairman |
| 2. Sri. H.S. Subramanya | - | Member |
| 3. Sri. S.D.Ukkali | - | Member |

CaseNo.OP- 28/2003

Between

M/s Attire Incorporated,
1, Raghavendra Layout,
'C' Block, Yashavanthpur,
Tumkur Road,
Bangalore

Petitioner

(By Kumar & Bhat, Adv.)

and

1. Managing Director,
BESCOM,
K.R.Circle,
Bangalore - 1.
2. The Chief Engineer (Elec),
BMAZ,
Bangalore.
3. Asst. Exe. Engineer (Elec)
Vigilance Squad,
Bescom,
Bangalore
4. Asst. Executive Engineer, (Elec)
N5, O&M Sub Division,
Peenya, Bangalore.

Respondents

(By Sri Sriranga, Adv.)

The essential facts leading to the filing of this petition are as follows:

The petitioner is a garment factory, represented by one Sri Balaiah Choudari, and is a registered consumer bearing RR No. PNP 2101 with a sanctioned load of 30 HP. The installation was commissioned on 31.10.1997. Respondent - 3 inspected the installation on 18.8.1998 and found an unauthorized excess load of 99 HP. The petitioner was back billed for Rs. 3, 53,054/-. The petitioner paid 25% of the back bill and appealed to the First Appellate Authority. The first appeal was dismissed. The petitioner filed the second appeal before the Second Appellate Authority, which upheld the decision of the first authority. The petitioner alleges that the inspection was done behind his back and no notice was given prior to the said inspection. The Petitioner claims that no mahazar was drawn on the spot at the time of inspection. The petitioner also claims that there is another installation in the same premises having RR No. 3100 and the power supplied by the second installation was not taken into account during the inspection. He further states that the Second Appellate Authority reduced the back bill to Rs. 1, 46,360/-. The petitioner further contends that the installation was again inspected on 16.5.2000, and at this time, the excess load was 81.93 HP. The petitioner states that he has challenged the findings of this inspection before the appropriate authority and it is still pending for adjudication.

2. The respondents have put in appearance and have resisted the petition. In the statement of objections filed by the respondents, the following points are urged:

- i) There is no mention of provision of law under which the petition is filed.
- ii) There is no appeal provision against the order of the Second Appellate Authority.
- iii) The inspection was carried on in the presence of an employee by name Hemavathi, who has signed the mahazar.

The respondents have denied all the averments of the petitioner and state that there was a connected load of 125 HP at the time of inspection and hence

the excess unauthorized load of 95 HP, beyond the sanctioned load is charged at double the rate, as per 1997 tariff, for a period of six months. The respondents urge that there is neither any provision to approach the Commission by way of an appeal nor there is any merit and substance in the petition for consideration. They have requested to dismiss the petition with costs.

3. We have heard the Counsels for petitioner and respondents in full. The learned Counsel for the petitioner maintained that there was no inspection and that the mahazar is a got up record, and that there is no employee by name Hemavathi working in his factory. The learned Counsel for Respondents argued that they have taken the signature of an employee present at the time of inspection and that the petitioner is making false statements before the Commission.

4. We have carefully considered the various issues urged before us. Both the Petitioner and Respondents have not produced any evidence to show that Smt Hemavathi was an employee or otherwise of the Petitioner and that she could represent and sign a document, or otherwise, on behalf of the Petitioner. The mahazar, which is the basis for levying penal charges on the petitioner, suffers from technical defects. However, we notice that there was one more inspection conducted on the same installation on 16.5.2000, which revealed that there was an unauthorized connected load of 81.93 HP. The petitioner himself in para 18 of his petition has stated this. He further states that he has challenged this inspection also before appropriate forum. Notwithstanding the fact that the second inspection is also challenged, one important fact stands out clearly that this installation is having a perennial excess connected load to the tune of 3 times the sanctioned load. We do not understand why this consumer-petitioner does not get it regularized by getting extra load sanctioned if he requires that much of energy to run his factory. At any rate, there is reason to believe that the installation has excess connected load and the petitioner is trying to hide behind the technical defects of the inspection report to escape the penalty. We cannot

allow such attempts by the petitioner, since it will result in pecuniary loss to the licensee and is an unethical and deplorable practice by the petitioner.

5. Therefore, we hold that there is no merit in the petition, in spite of the fact that the mahazar has some technical defects. Under these circumstances, we dismiss the petition.

6. The petition is **dismissed**. So ordered.

(Philipose Matthai)

(H.S.Subramanya)

(S.D.Ukkali)