

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 27th day of May, 2004

Present

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

CaseNo.OP- 24/2003

Between

Sri Sharad Chandrakant Kharade,
Partner, M/s. S.K.Motors, P.B.Road,
Near Check Post,
NIPANI - 591 237.
Chikodi Taluk, Belgaum Dist.

Petitioner

(By Sri.P.S.Manjunath, Adv.)

and

1. The Managing Director,
HESCOM
II floor, Eureka Junction,
T.B.Road,
HUBLI - 580 029.
2. Asst.Exe.Engineer (Ele)
O & M Sub-Division,
NIPANI - 591 237.
3. Asst.Exe. Engineer (Ele),
Vigilance Squad, KPTCL,
Shrinagar, Malamaruthi Extn.,
BELGAUM.
4. Superintending Engineer (Ele),
and Appellate Authority,
KPTCL, BELGAUM.
5. Chief Engineer (Ele),
and Appellate Authority, KPTCL,
Hubli Zone, HUBLI.

Respondents

(By Sri S. Sriranga, Adv.)

The Petitioner, through this petition, has sought invocation by the Commission of its *suo motu* powers under Section 44.10 of KERC (Electricity Supply and Distribution) Code 2000-01.

2. The facts of this case, in nutshell, are as follows:

The Petitioner is a partner of a firm, which is engaged in automobile engineering, and manufacture of agricultural equipments and tools. The firm has not commenced its business for want of power. It is stated that the Respondents have sanctioned 10 HP power to this SSI unit and have laid a new branch-line of five poles for supply of power to this unit. It is stated that this branch line was charged after 26.7.1998. Respondent-3 had inspected the premises of the Petitioner on 21.3.1998 and found that the petitioner was illegally drawing power from the near-by LT line and therefore a theft case was lodged against the petitioner in crime No.5/98 dated 21.3.98 under Section 39 and 44 of I.E. Act 1910 read with 379 IPC. The Respondents raised a back bill of Rs.66, 118 against the Petitioner in regard to the stolen energy. The petitioner filed two appeal cases against this back billing. Both the 1st Appellate Authority and 2nd Appellate Authority dismissed the appeals of the Petitioner. Therefore the Petitioner has sought intervention of the Commission by invoking *suo motu* Powers.

3. The Petitioner contends that it was not possible for him to draw the energy since the branch-line needed to supply sanctioned power was not erected and was not charged on the date of the alleged incident. He further contends that the line was completed much later than the alleged inspection by the vigilance squad. He states that there was no inspection by the vigilance squad at 10 p.m. since there was scheduled power cut at 10 p.m. on the said date when the inspection was alleged to be conducted. The Petitioner contends that the inspection and back billing is fictitious and he never stole any energy even for the erection of his building. He has requested to quash the notice of back billing issued by the Respondents.

4. The Respondents have put in appearance. However they have not filed any statement of objection. We have heard both the Counsels for the Petitioner and the Respondents. The counsel for the Petitioner has also filed his written arguments wherein he contends that the theft case against the Petitioner is a fictitious one and that the back bill has no basis. The Counsel for the Respondents argued that there is no appeal provision against the orders of the 2nd Appellate Authority and the orders of the 2nd Appellate Authority has attained finality under the law. He requested that the case be dismissed as not maintainable.

5. We have carefully considered the various issues raised by the Counsels for Petitioner and the Respondents. We have also examined the documents produced by the Petitioner. It is seen from the documents produced by the Petitioner that the Respondents have filed a criminal case against the Petitioner for theft of energy and this criminal case is still pending. It is alleged that the Petitioner stole the energy from the near-by LT line by hooking, for the purpose of construction of his unit. The meter boards etc. have been seized at the time of inspection and have been produced in the said criminal case. The Petitioner contends that this is a false case and his installation was never inspected by the Respondents and that there was no possibility of his stealing the energy since the branch line which would have supplied energy to the petitioner's firm was not completed at that time and was not charged. It is the case of the Respondents that the petitioner did not steal the energy from the branch line, which was under construction, but he stole the energy by hooking the near by LT line. Therefore the Respondents have rightly raised the back billing amount for the alleged stolen energy. We do not find any merit in the arguments of the Petitioner since non-completion of branch-line does not give him any alibi for hooking the nearby LT line. Therefore we do not see any reason for invoking the *suo motu* powers and to intervene in this case.

6. The petition is, therefore, **dismissed**. It is so ordered.

(Philipose Matthai)

(H.S.Subramanya)

(S.D.Ukkali)