

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 24th day of June 2004

Present

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

Case No: OP 36/2003

Between

Ramana Maharshi Centre for Learning
Represented by its President
Mr. A.R. Natarajan,
Post Office Road,
Sanjaynagar,
Bangalore -560 094

Petitioner
(By Smt. Kamala Arun, Adv.)

and

1. Managing Director,
KPTCL,
Cauvery Bhavan,
Bangalore - 560 009
2. Managing Director,
BESCOM
K.R.Circle,
Bangalore - 560 001

Respondents
(By Sri. S.Sriranga, Adv.)

The Petitioner is aggrieved that he is not being given the refund due to him, as per the Self Execution Scheme introduced by the Respondent No.1. The facts of this case, in a nutshell, are as follows. -

2. The Petitioner is a registered HT consumer with RR No. HT 24, and claims to be a Non-profit Charitable Organization engaged in the fields of Indian Heritage and Culture Education. On 6.6.2000 he had applied to the Respondent No.1, for 63 kVA HT power supply, and agreed to execute the line work under DCW Self Executing Scheme. The Respondent No.1 prepared the estimation of the work costing Rs. 7, 89,255/-. This estimation consisted of two parts - Rs. 7, 18,940 towards KPTCL and Rs. 62,315 towards the Petitioner. The Petitioner executed an agreement with the Respondent No.1 for execution of the work and he was given work order. The Petitioner executed the work through a Licensed Class I Electrical contractor. After handing over the assets created to the Respondent No.1, the installation was serviced on 23.3.2001. According to the scheme the Petitioner was entitled to receive a refund of Rs. 6, 47,046, which could be adjusted in the future bills of the installation. However, the Respondents refused to grant refund on the ground that the estimation was revised at the instance of the Petitioner to give him assured power supply through two sources, and therefore he should bear the entire cost. The Petitioner claims that he never asked for supply from two sources and that he is entitled for the refund.

3. The Respondents have put in appearance and have filed their objections. The Respondents have stated that the Petitioner wanted power supply from two different sources and therefore the estimate was revised to meet his requirement. It is further stated that the normal supply from single source would have cost Rs.1, 21,701 and it escalated to Rs. 7, 18,940/- to accommodate the request of the petitioner. The Respondents have averred that the extra cost has to be borne by the Petitioner, and that he is not eligible for any refund under the scheme.

4. We have heard both the senior Counsels appearing on behalf of the Petitioner and the Respondents. We have also gone through the documents produced by the Petitioner. The Counsel for the Respondents produced the original file of the KPTCL relating to this work, at the time of arguments. We

have gone through this file also. Sri. S.N. Murthy, learned senior Counsel for the Petitioner denied the contention of the Respondents that the Petitioner sought for supply from two sources and the estimate was revised at his behest. He contended that the Petitioner only asked for HT supply and he was given estimation for Rs. 7, 18,940/- for the line work and that he entered into an agreement to execute this work under the Self Execution Scheme. He further argued that at no time he was informed about the earlier estimate of Rs. 1, 21,701/- and he never made any agreement for that estimate. He also pointed out that there are no records to show that the Petitioner ever asked for two-source supply. Sri Nagananda, senior Counsel for the Respondents stated that the original file of the Respondents contain two estimates - one for Rs. 1, 21,701 for single source supply, and the other for Rs. 7, 18,940 for the two-source supply. He agreed that there is no agreement for the first estimate and that the file does not contain any written request from the Petitioner for two-source supply. He contended that the second estimate must have been made to accommodate the request of the Petitioner, since he is the only beneficiary with such an arrangement. Sri Nagananda contended that the Petitioner alone has to bear the extra cost and he is not eligible for any refund under the circular dated 4th August 1999.

5. We have carefully considered the various points agitated before us. The only point that requires consideration is whether the estimation of the line work was revised at the behest of the Petitioner, since the Respondents contend that the petitioner is not eligible for refund only on that account. From the perusal of the original file produced by the Respondents, it is clear that there are no records to show that the Petitioner requested for two-source supply. The first estimation of Rs. 1,21,701/- was never apprised to the Petitioner nor any agreement relating to this estimate was entered into between the parties. The only estimate which was given to the Petitioner is that of Rs.7, 18,940/- and there was only one agreement to execute the work relating to this estimate. It is quite likely that the Respondents must have themselves thought of improvement of the system and revised the estimate

for two-source supply. In the absence of any document to show that the estimate was revised on account of the request of the Petitioner, it is hard to believe the contention of the Respondents. On the contrary, we have reason to believe that the Respondents have utilized the opportunity to improve the system and made the Petitioner to make heavy investments for their own benefit. The stand taken by the Respondents in this case, is totally unjust, uncalled for and extremely in bad taste. We are really sad to see the plight of an institution that thrives on the public charity for social cause, is made to invest huge amounts of funds and harassed for the issue of legitimate refunds without absolutely any justifiable reason.

6. It is also noted that the Petitioner institution had made a detailed representation to the Respondents as early as October 2002, seeking sanctioning of refund by way of adjustment in the future bills and the Petitioner's representative had met the Technical Director of BESCO in this regard. However, there was no response from the Respondents and at no time the Respondents informed the Petitioner that he was not entitled for the incentives envisaged in the circular. Even after the petition was filed by the Petitioner and the Commission had called for the comments from the Respondent No.1 by its letter-dated 20.8.2003 and reminder letters dated 13.10.2003 and 17.11.2003, there was no response. Only after the Commission fixed the case for hearing, Respondent No.2 had filed letter on 12.12.2003. The records show that the Respondents have displayed utter disregard to the representation of the Petitioner and made him suffer for availing a scheme introduced by them.

7. Having regard to the above mentioned facts of the case, we allow this petition and order that the Respondents shall immediately refund the amount of Rs. 6, 24,440/- (Rs. 7, 18,940 less by Rs. 94,500/- @ Rs.1500/- per kVA payable by the Petitioner) with 6% interest per annum from the date it became due. We allow 30 days time to the Respondents to make this refund.

We also consider this to be a fit case to allow the costs of this petition to the Petitioner.

8. The Petition is **allowed with costs**. Advocate's fee will be Rs.5000/-. It is so ordered.

sd/-

(Philipose Matthai)

sd/-

(H.S.Subramanya)

sd/-

(S.D.Ukkali)