

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this 9th day of May, 2003

Present

- 1. Sri. Philipose Matthai - Chairman**
2. Smt. Nalini M.K. Menon - Member

Review.P.No. 01/2003

Between:

M/s Leela Scottish Lace Pvt. Ltd.,
Administrative Office:
#26/1A2, 26/1B2, 8th Mile,
Mysore Road,
BANGALORE-560 059.

Petitioner

(By Sri B.V.Shankar NarayanaRao Adv.)

and

1) Managing Director,
Karnataka Power Transmission Corporation Ltd.,
Cauvery Bhavan,
K.G.Road, Bangalore.

2. Executive Engineer (Elec)
Additional West Dvn.a
Bangalore Electricity Supply Co.,
Sharada Samaj, Chamarajpet,
BANGALORE - 560 018

Respondents

(By Sri. S. S. Naganand Adv.)

The petitioner had earlier approached this Commission in OP No 20/2002, seeking reduction of contract demand from 186 KVA to 25 KVA with effect from 1.9.2001. This petition was dismissed with costs by Commission's order dated 29th November 2002. He has now filed a petition seeking review of the order dated 29.11.2002.

2. This review petition came up for hearing on 2.5.2003. The Commission, at the outset, asked the learned counsel for the Petitioner to limit his arguments to the admissibility of the review petition. He was specifically asked to elaborate as to whether the present petition has the ingredients, which satisfy the conditions laid down in Order 47 Rule 1 of the Civil Procedure Code, to invoke the power of Review.

3. Sri Shankar Narayana Rao, learned Counsel petitioner stated that there is discovery of new matter of evidence which was not produced at the time of main petition, and that this event satisfies one of the three ingredients prescribed under CPC. He pointed out that the Commission had come to the conclusion that he failed to produce any documentary evidence of his application to the Respondent regarding reduction of contract demand and therefore awarded the cost to the Respondent. He stated that he has now produced a copy of the letter from the Superintending Engineer (Ele), Bangalore Circle (North) dated 18th February 2003 which acknowledges the Petitioner's letter regarding transfer of installation. He argued that the new documentary evidence shows that he faithfully tried with the Respondent for his transfer of installation and reduction of contract demand. He urged that his review petition might be taken up for hearing.

4. Sri. S.S.Nagananda, learned Counsel for the Respondent stated that there is nothing left for review in the Petitioner case, since he has already applied in proper manner, as directed by the Commission, for reduction of contract demand and the matter is closed. He averred that the petition is infructuous as there is nothing to review except the cost awarded.

5. We have carefully considered the arguments of the learned counsels, and examined the records now produced vis-à-vis those produced at the time of hearing the case under review. The production of a letter from the Superintending Engineer that acknowledges the letter of the petitioner for transfer of installation is not new evidence. Had the Petitioner exercised due

diligence regarding production of records at the time of hearing the main petition, the question of producing it now would not have arisen. Undoubtedly it is a belated production and does not help the case of the Petitioner, nor it enables him to invoke the power of review. The Commission awarded the cost for the lapses on the part of the Petitioner for not being diligent in pursuing his case.

6 Under these circumstances, we hold that the petition before us does not satisfy the conditions prescribed under Order 47 Rule 1 of Code of Civil Procedure, 1908, and the Petitioner is not entitled to invoke the power of review. Ordered accordingly.

(Philipose Matthai)
Chairman

(Nalini M.K. Menon)
Member