

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.2182 of 2009**

Chhattisgarh State Electricity Board, (Now Chhattisgarh State Power Distribution Co. Ltd.) Through its Executive Engineer (O & M Division), CSPDCL, Bhilai District Durg (CG) (Successor Company of CSEB)

---- **Petitioner**

Versus

M/s Manmeet Ispat Pvt. Ltd. Through Director Shri Rajendra Agrawal, S/o Late Motilal Agrawal, aged about 43 years, R/o Nandini Road, Bhilai, Distt. Durg CG

--- **Respondent**

For Petitioner	:	Mr. Sunil Otwani, Advocate
For Respondent	:	Mr. Rakesh Thakur, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

19/12/2019

Heard.

1. This writ petition under Article 227 of the Constitution of India is preferred against order passed by the Electricity Consumer Complaint Redressal Forum dated 11.06.2008, by which, on application filed by the respondent, the Forum has directed the petitioner to send revised bills in respect of the period from August 2005 to April 2006 and also to extend the period of contract under clause 23(a) of the agreement between the parties.

2. Shorn of unnecessary details, the petitioner is licensee with whom respondent Sponge Iron manufacturing enterprise had entered into power purchase agreement on 23.02.2005 for supply of 3361 KVA of Electricity on terms and condition as contained in the power purchase agreement (Annexure P-3). In course of time, the respondent/the consumer sent a letter to the petitioner on 29.06.2005 informing that due to defect in the functioning of the furnace, there was break down w.e.f. 25.06.2005 and further that the labours have also gone on strike. On that basis, the respondent/Consumer claimed reduction of contract demand from 3361 KVA to 60 KVA till resumption

of the work in the factory. The petitioner, however, did not accede to the request and issued demand notice for payment of electricity dues on the basis of minimum charges in respect of 3361 KVA supply. The respondent having failed to pay the demand as per bills raised by the petitioner, the agreement was terminated. A dispute having arisen, respondent moved an application before constituted adjudicatory Forum under the provision of the Electricity Act, 2003 read with supply code, applicable in the State, namely Electricity Consumer Complaint Redressal Forum, Raipur. In the application, the Consumer Complainant came out with the case that even though factory had come to standstill and there was a break down because of defect in the furnace and there was lock out due to labours strike, the licensee did not accede to their demand for reduction of minimum contract demand by invoking clause 23(a) of the agreement. The Consumer also raised grievance that not only inflated bills were sent without considering request for reduction of minimum contract demand, even the agreement was also terminated without even giving show cause notice in violation of mandatory provision contained in clause 12.2 of the Supply Code.

3. The petitioner/licensee, however, denied the claim and denied receipt of the first communication dated 29.06.2005. According to the petitioner/licensee, reasons stated for reduction of minimum contract demand were frivolous and baseless because during the month of July itself, the respondent/Consumer had consumed 12,400 units equivalent to 2790 KVA which shows that the factory was in operation.

4. The Forum, however, allowed the application of the respondent giving rise to this petition.

5. Though learned counsel for the petitioner challenged the legality of the order on the foremost ground that the Forum which was otherwise enjoined with the duty of quasi-judicial body, has not applied its mind to the material on record much less submission of both the parties and has mechanically allowed the application of the respondent, drawing attention of this Court to the concluding paras of order, it is argued that the Forum, after having referred to the case of both the parties has straightway passed an order without recording any reason as to on what basis the claim of the respondent was found acceptable and why the reply of the petitioner denying claim was considered worth rejection. Therefore, it is submitted that the Forum has completely abdicated its judicial function and has failed to exercise

jurisdiction vested in it by law warranting interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

6. On the other hand, learned counsel for the respondent would submit that the Forum is not a Court and is only a quasi judicial body. He would submit that the Forum allowed both the parties to submit their statements and the petitioner was given full opportunity to file its reply. He would further submit that the order passed by the Forum shows that the relevant facts with regard to execution of agreement, terms and conditions thereof, fact that the factory had remained closed, labours had gone on strike, were all taken into consideration. He would further submit that even though, the order does not contain specific reasons, it being only a Tribunal and not a Court, requirement of detailed reasons was not necessary and consideration of material shows that the order was based on consideration of consumer's case that its factory had suffered break down w.e.f. 25.06.2005 because of defect in the blast furnace and further that the labours had gone on strike.

7. Having considered the submissions of learned counsel for the parties and after having gone through the order, this Court finds that the Forum has not recorded any reason for coming to the conclusion that the petitioner is required to send revised demand by invoking clause 23(a) of the agreement. The order mostly contains the factual aspect of the case. The order nowhere considers the specific plea taken by the petitioner that in respect of month of July, 2005, the consumer had consumed 12,400 units on a maximum demand of 2790 KVA in respect of which bill dated 01.08.2005 for Rs. 16,43,400/- was also issued. The Forum nowhere considered in its order as to why this particular defence taken by the appellant was not acceptable. The Forum was required to duly examine all these aspects of the matter. It is also found that though the petitioner had taken a plea that earlier letter dated 25.06.2005 was not received, there is no clear specific finding on this aspect.

8. In view of the above, this Court is of the opinion that the Forum has not applied its mind to many relevant submissions made by the appellant and has mechanically accepted the submissions made by the respondent/Consumer and passed the impugned order which cannot be sustained in law and is therefore set aside.

9. The matter is remanded to the Forum. The Forum shall minutely examine and consider the rival claim of both the parties. It is made clear that

this Court has not commented upon the merits of the case. It will be open for both the parties to present their case before the Forum and the Forum shall decide the matter as early as possible preferably within a period of three months from the date of receipt of copy of this order.

10. The petition is accordingly disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Rekha