

# Rahul Nath vs Bses Rajdhani Power Limited on 8 February, 2019

**Author: Anup Jairam Bhambhani**

**Bench: Anup Jairam Bhambhani**

\$~3

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) No. 1727/2016

RAHUL NATH

..... Petitioner

Through: Mr. Mayank Bansal, Adv.

versus

BSES RAJDHANI POWER LIMITED

..... Respondent

Through: Mr. Sunil Fernandes, Adv. with  
Mr. Arnav Vidyarthi, Adv.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI  
ORDER

% 08.02.2019 The petitioner is resident of House No. D-31 Ansal Villas, Satbari Farms, Shahpur, New Delhi. By way of this petition the petitioner has impugned a demand in the sum of Rs.20,66,880/- raised by the respondent/ BSES Rajdhani Power Limited by way of bill dated 10.02.2016 with due date of 29.02.2016 in respect of Electricity Connection CA No. 100013857 installed at the petitioner's property. Apart therefrom the petitioner has also sought a direction that the respondent should revise the bill of Mixed Load High Tension tariff from the date of sanction till date ; and further a direction that the respondent should reduce the load of 101 KW to 70 KW and convert the category of the electricity connection from non-domestic category to domestic category. The petitioner has also sought restoration of the electricity connection which stands disconnected with effect from 15.07.2015.

Prior to the present proceedings there has been an earlier round of litigation by the same petitioner against the same respondent in respect of the same premises and the same electricity connection number, whereby the petitioner had challenged an electricity demand in the sum of Rs.9,20,381/- ; which was settled as recorded in order dated 17.07.2015 made in WP(C) No. 6821/2015 whereby the petitioner had handed-over to the respondent a post dated cheque dated 24.07.2015 in the sum of Rs.9,20,381/- against the demand due with the assurance that the post dated cheque handed-over would be honoured. It transpired however, that the post dated cheque so handed-over was dishonoured; consequent whereupon, as specifically directed by order dated 17.07.2015 aforesaid, the respondent again disconnected the petitioner's electricity connection.

It is the petitioner's contention that ever since 15.07.2015, the electricity connection stands disconnected.

During the period between 2015 and now several demands by way of electricity bills have been raised by the respondent upon the petitioner in respect of the same electricity connection. None of these demands have been paid by the petitioner.

In counter-affidavit dated 01.08.2016 filed in the present petition, the respondent has fairly admitted that the bill for Rs.20,66,880/- was raised inadvertently upon the petitioner and that the said bill has since been withdrawn.

I am of the view that once the impugned bill dated 10.02.2016 in the sum of Rs.20,66,880/- was withdrawn, the prayer made in the present petition stood satisfied.

Thereafter, the respondent has raised upon the petitioner a revised bill dated 16.03.2016 for Rs.14,11,870/- which was due on 02.04.2016.

It is evident from the above that there is a running dispute as between the petitioner and the respondent in respect of the billing against the electricity connection at the petitioner's premises.

Section 42(5) of the Electricity Act, 2003 mandates that every distribution licensee (in this case the respondent) shall within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers as may be specified by the State Electricity Regulatory Commission.

Furthermore, under the grievance redressal mechanism under the Electricity Act, section 42(6) provides that a consumer aggrieved by non- redressal of his grievances before the CGRF may make a representation to an authority known as 'Ombudsman' to be appointed by the State Electricity Regulatory Commission.

Learned counsel appearing for the respondent confirms that in compliance of the aforesaid mandate, the respondent has set-up a Consumer Grievance Redressal Forum (CGRF) to inter-alia address billing disputes between consumers and the respondent, which forum is functional and routinely entertains complaints relating to billing disputes etc. Counsel also confirms that an Ombudsman is also available for taking-up the matter after the CGRF.

The alternate efficacious remedy before the CGRF is therefore clearly available to the petitioner ; who has however, chosen not to avail such remedy but to approach this court in its extraordinary jurisdiction under Article 226 of the Constitution of India not once, but in a second round as well.

This, apart from the fact that the demand/bill that was impugned by way of this petition as originally filed also stands withdrawn. To that extent, the prayer made in this writ petition has been rendered infructuous.

Furthermore, a Division Bench of this Court in case titled Ram Kishan Vs. N.D.P.L reported as 130 (2006) DLT 549 (DB) rendered in a Letter Patents Appeal arising from a dispute of electricity bills has held as under:-

"3. In our opinion all disputes regarding electricity bills should first go before the appropriate Forum provided for in Section 42(5) and thereafter to the Ombudsman under Section 42(6) of the Electricity Act, 2003 and only thereafter should writ petitions be entertained.

7. In our opinion this only means that if the petitioner has rights before any other Forum, he can avail of those rights. This does not mean that the principle of alternative remedy applicable to writ petitions has to be ignored in view of Section 42(8).

8. It is well settled that ordinarily writ jurisdiction will not be exercised when there is an alternative remedy vide Union of India v. T.R. Verma, AIR 1957 SC 882 (Para 6); Veluswami Thevar, N.T. v. Raja Nainar, G., AIR 1959 SC 422 (vide para

18); U.P. State Bridge Corporation Ltd. v. U.P. Rajya Setu Nigam Karamchari Sangh, (2004) 4 SCC 268 (Para

12); Titaghur Paper Mills Ltd. v. State of Orissa, (1983) 2 SCC 433 : AIR 1983 SC 603; Chanan Singh v. C.C.E., (1999) 9 SCC 17 (Para 2), etc. Where statutory remedies are available or a statutory Tribunal has been set up, a writ petition should not ordinarily be entertained, vide U.P. Jal Nigam v. N.S. Mathur, (1995) 1 SCC 21 (Para 4).

9. Hence we fail to understand what relevance Section 42(8) has to do with our decision that ordinarily writ petitions regarding disputes of electricity bills should not be entertained by this Court, since there are alternative remedies.

10. If this Court entertains writ petition regarding disputes relating to electricity, water, telephones bills, etc. even though there is an alternative remedy provided by the statute before some Forum, this Court will be flooded with lacs and lacs of such writ petitions and will be doing no other work except deciding such writ petitions.

11. We are of the opinion that ordinarily no writ petition should be entertained regarding disputes relating to electricity, water, telephone and other kind of bills, if there is a Forum provided under the statute or rules or regulations thereunder for resolving such disputes."

Accordingly, in my view, firstly, the demand/bill that was subject matter of this petition stands withdrawn by the respondent ; and accordingly the prayer made in this petition stands satisfied and therefore the petition is rendered infructuous ; secondly, the petitioner has chosen to come to this court with what appears to be a running dispute as regards the demand/bills for electricity consumed at the petitioner's premises and this court cannot keep issuing orders or directions in

respect of such running dispute as to bills ; thirdly, it appears the petitioner, of his own volition chose not to avail the alternate, efficacious remedy of approaching the CGRF to seek amelioration of his grievances, which he would have been well advised to do.

In my view, repeated forays in proceedings under Article 226 of the Constitution of India in usual and ordinary billing disputes such as the one in this case, is an abuse of process and misuse of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

In view of the above, this petition is disposed of, with liberty to the petitioner to approach the CGRF set-up under Section 42(5) of the Electricity Act, and if necessary thereafter, the Ombudsman under Section 42(6) to seek redressal of his grievances.

The petition stands disposed of in the above terms.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 08, 2019 sr