

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 4768 of 2010

Devendra Kumar, son of late B.L. Chourasia, resident of Lohardaga Road, Gumla, P.O. and P.S. Gumla, District-Gumla (Jharkhand)

... ... **Petitioner**

Versus

1. Jharkhand State Electricity Board, through its Chairman having its office at Engineering Bhavan, HEC, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi
2. General Manager-cum-Chief Engineer, Gumla Electric Supply Area, Jharkhand State Electricity Board, having its office at Kusai Colony, Doranda, P.O. and P.S. Doranda, Dist. Ranchi
3. Electrical Executive Engineer (C& R) Gumla Electric Supply Area, Jharkhand State Electricity Board, Gumla
4. Electrical Executive Engineer, Electrical Supply Circle, Jharkhand State Electricity Board, Gumla
5. Assistant Electrical Engineer, Electric Supply Circle, Jharkhand State Electricity Board, Gumla
6. Junior Electrical Engineer, Electric Supply Circle, Jharkhand State Electricity Board, Gumla

... ... **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner	: Mr. Nitin Kumar Pasari, Advocate
	: Ms. Samiksha Kumari, Advocate
For the JUVNL	: Mr. Mrinal Kanti Roy, Sr. S.C. JUVNL
	: Mr. Chandan Tiwari, A.C. to Sr. S.C. JUVNL

15/30.09.2024 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following reliefs:-
 - (A)“For issuance of an appropriate writ or a writ in the nature of Mandamus directing upon the Respondents to show cause as to how and under what authority of law the petitioner's electrical connection/tariff category has been converted from Domestic Tariff Category to Non-domestic Tariff Category inasmuch as no commercial business at all is carried out at the residential house of the petitioner.
 - (B) For issuance of an appropriate writ or a writ in the nature of Certiorari for quashing the inspection report dated 19.07.2010 by which the petitioners load has been assessed as 6 KW and a note has been made that the petitioner is running a sweet workshop

in his residence, although the actual connected load was different than that of installed load, which has already been defined/ interpreted by the Hon'ble Division Bench of this Hon'ble Court and so far running a sweet workshop is concerned, the same has been so mentioned out of grudge.

(C) For issuance of an appropriate writ or a writ in the nature of Certiorari for quashing the load inspection bill dated 24.08.2010 issued to the petitioner converting the tariff category of the petitioner from Domestic Service Tariff Category to Non-Domestic Service Tariff Category, on the enhanced load, although the Respondents have taken into consideration the entire installed equipment/electrical appliances/fittings of the petitioner's residential premises which is not permissible and is beyond the definition as defined/ interpreted by this Hon'ble Court with regard to "Connected Load".

(D) For issuance of an appropriate writ or a writ in the nature of Mandamus directing upon the Respondents to forthwith restore the electrical connection of petitioners residential premises, which has been disconnected on 13.09.2010, without following provision as contained in Section 56 of the Electricity Act 2003, otherwise for an action purported to have been taken under section 126, notice of disconnection is a must inasmuch not a single naya paisa is due against the current monthly energy charges.

(E) For any other reliefs which the petitioner may be found entitled to or any consequential relief after granting the reliefs as has been prayed for by the petitioner herein.”

2. Learned counsel for the petitioner has submitted that on 19th July 2010 at about 04.00 p.m. an inspection was conducted by the respondent authorities and a load inspection report was prepared. He submits that the load was found to be 5969 Watts and the various gadgets which were found in the premises were essentially of domestic nature which included one geyser, CFL bulbs, Fans, one mixer, one Refrigerator, one electric iron, one television and two

pump motors and one exhaust fan. He submits that in the load inspection report it was mentioned as a note “*Sweet workshop running in this comp.*”.

3. The learned counsel submits that pursuant to aforesaid inspection, load inspection bill was issued converting the connection from domestic category to non-domestic category and a bill of 6 KW was raised with a demand of Rs. 1,82,142/- without any break-up. It is an admitted fact on record that sweets were being prepared at the place of inspection and that the shop was at a different place from the residence. He has submitted that merely because some sweets were being prepared, the same by itself cannot be a reason to convert a domestic category connection to a non-domestic category connection. He has submitted that the inspection report does not even reveal that any workman was found in the premises or ever any workman was engaged for the purposes of preparation of sweets.

4. The learned counsel has further relied upon the judgment passed by this Court in **LPA No. 391 of 2009 (M/s. Sujata Picture Palace, Ranchi versus Jharkhand State Electricity Board, Ranchi and Others)** decided on 09.08.2010 to submit that merely because the gadgets were installed in the premises, the same does not mean that the petitioner was found using all the gadgets at a time. He submits that nothing has been mentioned in the inspection report that these gadgets were connected to the line at the time of inspection and two pump motors were found installed.

5. He has further referred to the counter affidavit and has submitted that in paragraph no. 10 there are allegations which do not find place in the inspection report. In the counter affidavit, it has been stated that the petitioner is running a workshop for preparing sweets behind his house for selling through his shop located at Gumla in the name and style of ‘Fun and Food’ and many heavy electrical equipment have been installed for that purpose. He submits that inspection report does not reveal any heavy electrical equipment and the gadgets found are routine gadgets which are found in a house. The learned counsel submits that the action of the respondents is ex-facie

illegal and not sustainable in the eyes of law and consequently, the load inspection bill is fit to be set aside. He has further submitted that the petitioner is liable to pay the units consumed recorded in the meter as there is no allegation that the meter was ever found defective.

6. The learned counsel appearing on behalf of the respondents on the other hand has submitted that it has already been recorded in the inspection report that a sweet workshop was running in the compound. He has further submitted that since two pump motors were found therefore the connection was converted into non-domestic category. The learned counsel has submitted that for the purposes of domestic category, motor pump for lifting water up to 1 BHP is permissible. He submits that if both the pump motors are added together, then it will exceed 1 BHP and therefore the connection cannot be said to be under domestic category. So far as the definition of workshop is concerned, he has not been able to show any provision under the tariff under the Electricity Act, 2003 or the rules framed thereunder to define a workshop. However, the learned counsel submits that the non-domestic service is applicable to workshops as mentioned in the tariff itself.

7. After hearing the learned counsel for the parties and before proceeding further, it is relevant to quote the provision of the tariff which has been relied upon by the respondents.

Domestic Service (DS) Applicability

“Domestic Service-1, Domestic Service-IL, Domestic Service-III and Domestic Service HT

This schedule shall apply to private residential premises for domestic use for household electric appliances such as Radios, Fans, Televisions, Desert Coolers, Air Conditioner etc. and including Motors pumps for lifting water up to 1 BHP for domestic purposes and other household electrical appliances not covered under any other schedule.

This rate is also applicable for supply to religious institutions such as Temples, Gurudwaras Mosques, Church and Burial/Crematorium grounds and other recognized charitable institutions, where no rental or fees are charged whatsoever. If any fee or rentals are charged, such institution

will be charged, such institution will be charged under Non domestic category.”

“Non-Domestic Service (NDS)

Applicability:

This schedule shall apply to all consumers, using electrical energy for light, fan and power loads for non-domestic purposes like shops, hospitals (govt. or private), nursing homes, clinics, dispensaries, restaurants, hotels, clubs, guest houses, marriage houses, public halls, show rooms, workshops, central air-conditioning units, offices (govt. or private), commercial establishments, cinemas, X-ray plants, schools and colleges (govt. or private) boarding/lodging houses, libraries (govt. or private), research institutes (govt. or private), railway stations, fuel-oil stations, service stations (including vehicle service stations). All India Radio/T.V. installations, printing presses, commercial trusts/ societies, Museums, poultry farms, banks, theatres, common facilities in multi-storied commercial office/buildings, Dharmshala, and such other installations not covered under any other tariff schedule.”

8. Upon perusal of the inspection report dated 19.07.2010 at 4 P.M. this court finds that the gadgets which were found on inspection were 1 geyser, 13 CFL bulbs, 8 fans, 1 mixy, 5 bulbs, 3 tube lights, 1 refrigerator, 1 electric iron, 1 television, 1 exhaust fan and 2 pump motors of 750 Watt and 375 Watt respectively. The inspection report does not reveal that any heavy electrical equipments were found installed in the premises of the petitioner. Each pump motor was less than 1 BHP.

9. This Court finds that in the judgment passed in the case of **LPA No. 391 of 2009 decided on 09.08.2010** the terms connected load has been considered in paragraph 2,3 and 4 which is as under: -

2. ‘Connected load’ has been defined under sub-clause 14(A) of Clause 2 of the Financial and Account Code, issued by the Bihar State Electricity Board, which reads as follows:

“‘Connected load’ means the sum total of the installed capacities of all the energy consuming devices on the consumers’ premises which can be operated simultaneously, excluding spare or stand by capacity in the form of extra units or larger ratings than necessary.”

3. The words “can be operated simultaneously” is the crucial phrase.

4. *The learned counsel for the respondent-Board has argued that if all the energy consuming devices can ‘possibly’ be operated simultaneously whether with or without any objective or purpose, they should be deemed to be included within the definition of “connected load”. We do not think any rational person would possibly subscribe to such unreasonable view. In our considered opinion, there can be no possible doubt that the phrase quoted above can only mean the situations wherein the normal usage by sensible persons, the power consuming devices would find simultaneous operation. For example, in the present case it would cross all limits of perversity to hold that in a cinema hall having only one screen, more than one movie projector would operate simultaneously with other projectors at any given point of time.”*

10. This court finds that although in the inspection report two pump motors have been found of 750 Watt and 375 Watt, but there is no allegation in the inspection report that they could be simultaneously used in the premises nor there is any allegation that these two pump motors were being simultaneously used. Otherwise also, each of the pump motor had the capacity less than 1 BHP. There is no such provision in the tariff which disentitles a consumer to have multiple gadgets, each gadget having permissible limit of horsepower. So far as the other gadgets which were found, they were also related to regular domestic use/consumption. This court also finds that there is no allegation in the inspection report that any workman was found in the premises. It is not the case of the respondents that the place of inspection was also the point of sale of the sweets. As per the arguments advanced by the respondents, the workshop by itself has not been defined. In such circumstances, this court is of the considered view that merely because some sweets were being prepared in the house which could be used in the shop for sale, the same will not convert the house into the workshop. In order to bring home the concerned category of non-domestic service, the respondents or the regulatory Authority ought to have clearly defined the workshop. The argument of the respondents that the combined power of two pump motor would be more than 1 BHP and therefore the premises would fall under non-domestic category is devoid of any merits as the power of each motor was less than 1 BHP. The aggregate power of the

gadgets is not important and what is important is whether the power requirement of any motor pump exceeded 1 BHP, which is certainly not the case here. It is also not the case of the respondents that the two pump motors were operating simultaneously or were capable of operating simultaneously in the premises. This court is of the considered view that mere presence of two pump motors, both below 1 BHP will not entitle the respondents to convert the connection from domestic to non-domestic category.

11. Considering the totality of the facts and circumstances this court is of the considered view that the load inspection bill as contained in Annexure-3 which has been raised by converting domestic category into non-domestic category cannot be sustained in the eyes of law and accordingly the same is set aside. However, the petitioner shall be liable to make payment with regard to the units consumed under domestic category.

12. At this, the counsel for the petitioner has submitted that pursuant to the impugned order, an amount of Rs. 50,000/- has been deposited by the petitioner. The amount, if any, deposited by the petitioner will be adjusted against the regular bills of the petitioner.

13. The needful be done by the respondent no. 4 within a period of one month from the date of receipt of a copy of this order and a final bill taking into account all the payments made by the petitioner up to date will be prepared and handed over to the petitioner so that the account of the petitioner be settled.

14. This writ petition is accordingly disposed of.

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(Anubha Rawat Choudhary, J.)