**(1996) 2 MPJR 82**

**Supreme Court of India**

**Case No:** C.A. No. 7798 of 1996

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| M.P. Electricity Board, Jabalpur | | APPELLANT |
| | Vs | |
| Harsh Wood Products | | RESPONDENT |

**Date of Decision:** April 18, 1996

**Acts Referred:**

- Constitution of India, 1950 - Article 14, 20(1), 21
- Electricity Act, 1910 - Section 24, 31, 49

**Citation:** (1996) 2 MPJR 82

**Hon'ble Judges:** K. Rama Swamy, J; G.B. Pattnaik, J

**Bench:** Division Bench

**Final Decision:** Allowed

**Judgement**

@JUDGMENTTAG-ORDER

1. Leave granted.

2. We have heard learned Counsel on both sides.

3. This appeal by special leave arises from the judgment and order dated March 12, 1993 passed by the Division Bench of the High Court of Madhya Pradesh, Gwalior Bench in M. P. No. 1484/91. The admitted position is that on August 21, 1991, the Appellants, staff inspected the electrical installation of the Respondents connected by the Appellant-Board. In the proceedings recorded after the said inspection, the facts noted are as under:

During the course of inspection, Shri Dilip was present as the representative of Ms. Harsh Wood Products, Banmore, and found the following irregularities. Connection No. 1156 (2556)-

1. No seal found on Meter terminal cover.

2. Body seals of the meter, bearing No. 490812 (Right side) and 01443 (Left Side) found tematampered.

3. The seals on Meter Box, bearing No. 38556/SE Morena, C-10/- MPEB, Gwalior found 0. K.

Connection No. 1158 (2824)

(1) No seal found with Meter terminal cover.

(2) Meter Body seals, bearing Nop. 49817 (Right side) 013361 (Legt Side) found broken and Tampared.

(3) Seal on meter box bearing No. 33434/SE Morena C-10 MPEB Gwalior found O. K.

In both the above connections, the difference was noticed, in serial No. and the location of the seals provided on Meter Body,

The serial No. and the location of the meter body seals, as found in the inspection carried out on dated 16.3.1991, are found different in the checking carried out on dated 22.8.91. The difference noticed in serial No. & location in checking is as hereunder:

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|---|---|---|
| 16.3.91 Seal fixed | Connection No. 2556<br>Right side 490817<br>Left Side 490812 | Connection No. 2824<br>013343 013361 |
| 28/8/91 Report as | Right Side 490812<br>Left side 013343 | 49817<br>013361 |
| Meter No. | 0530489 | 545768 |

This panchnama has been prepared in view of Meter Body seals found Tempered and Meter terminal seals found missing so as to interfere and control the energy consumption as per his own desire.

Maintaining "Status Quo" of the tempered and broken body seals of Meter of Both the above connection, New Seals are fixed on the meter box bearing No. M1919 MPEB/MT on No. 2556 and No. M 1920 MPEB/MT on connection No. 2824. The old seals provided on the meter box are in custody with the Executive Engineer (O&M) Morena.

| | | |
|---|---|---|
| Sd/- 22.8.91 | Sd/-22.8.91 | Sd/-22.8.91 |
| EE (O&M) | S. E. (Testing) | A. E. (DIW) |
| Morena | Gwalior | Morena. |
| Sd/-22.8.91 | Sd/-22.8.91 | Sd/-22.8.91 |
| A. E. 132 KV | A. E. (Testing) | Dilip (Representative of Consumer) |
| S/s Banmore | Morena. | |

4. In the said proceedings, one Mr. Dilip had represented the Respondent-Industry and he was also the signatory to the proceedings. Thereafter, notice was issued to the respondnets on August 26, 1991 informing that the meter body seals were termpered and damaged with seal wire. The seals of the meter terminal block were found missing which would indicate that the function of the meter was disturbed to reduce the consumption of electrical energy. Therefore, the Respondent-Industry was directed to pay the difference of the assessed amount said to be in a sum of Rs. 6, 51, 256, 61 at the earliest. It was also pointed out that hi II for the further past years was being examined and the decision would be taken and intimated in due course. In furtherance thereof, the Respondent industry submitted the explanation to the show cause on August 29, 1991 wherein he requested that on humanitarian gorunds, viz., "the supply of the installation will please be restored immediately and we give the undertaking that if any balance amount becomes due for payment on account of vigilance checking, the same will be deposited immediately on providing the bills for such amount." The reply was also given by Mr. Dilip who had participated during inspection.

5. Upon these facts, the question emerges; whether the High Court would be justified in interfering with the order directing them to pay the difference of the amount. The High Court in the impugned judgment has held that the Respondent has a right of hearing before the authority subject it to payment of the amount which is alleged to be due towards the theft of electircity as required u/s 31(e) of the Indian Electricity Act, 1910. Since that opportunity was not given it violated Articles 20(1) and 21 of the Constitution and, therfore, the order was void. Accordingly, it directed the Appellant-Board to restore within 24 hours the service connection No. 2556/1156 of the Industry. It is also stated with respect to the claim of the Board against electricuty stolen that it would be open to the Appellant to raise legal and appropriate demand in a legal and lawful manner. Accordingly, the demand was quashed.

6. The question, therefore, is: whether the view of the High Court is sustainable in law. It would be seen that Section 49 read with Section 79 of the Electricity (Supply), 1948 given power to the Appellant-Board to determine and also to revise tariff from time to time. Admittedly, in exercise of the power the tariff has been determined and the principles governing the supply of electricity have been enumerated. Clause 31 (e) is relevant in this behalf. It provides as under:

(e) Where any consumer is detected in the commission of any malpractice with reference to his use of electroical energy including authorised alternations to installations, unauthorised extension and use of devices to commit theft of electrical energy the Board may, without prejudice to its other rights, cause the consumer''s supply to be forthwith disconnected. The supply may be restored in the discretion of the Division Engineer of the Board if the consumer forthwith compensates the Board and pays all dues as per bill and takes such other actions as he may be directed by the Divisional Enginner of the Board to take in this connection.

7. A reading thereof clearly indicates that the Appellant-Board, when it detects that any consumer had committed any malpractice with reference to his use of electrical energy including authorised alternations to installations, unauthorised extension and use of devices to commit theft of electrical energy, may, without prejudice to its other rights, disconnect the supply of electricity forthwith and may call upon the consumer to make payment for compensation of the unauthorised use of electricity which is now stated to be a theft of electricity. It is not in duspute that in FIR had already been lodged for theft of electrical energy. It seen that the proceedings have been drawn in the presence of the representative of the Respondent-Industry and the meters were found to have been tempered with. In furtherance thereof, a prima facie conclusion of pilferage has been reached that the meters were tempered with and respondnets were called upon to pay the difference of the rate for electricity said to have been consumed during the stated period of the detection. It would appear that the said assessement was based upon the previous consumption. It is seen that since the proceedings are pending, it would not be desirable to record any finding in this behalf.

8. The learned Counsel for the Respondent placed strong reliance on Section 24 of the Indian Electricity Act, 1910 which contemplates sevan days'' notice before disconnection. Section 24 does not apply to demand on detection of pilferage. It would apply to a case of regular supply made and prior demand for payment of electricity charges with a notice of seven days to be made and for failure to pay within the given time, after expiry of seven days, the Appellant as a licensee would get the right to disconnect the supply of electrical energy. It would thus be seen that disconnection will be in the course of regular supply of electricity for non-payment of the usual bills but not to any case demand after detection of pilferage.

9. The only question is: whether the consumer is entitled to hearing before disconnection ? In view of the conditions to which the Respondents had agreed at the time of installation and also the prima facie conclusion reached by the authorities, it was not necessary to give further hearing to the Respondents. The action taken by the Appellant is not violative of Article 20(1), 14 of the Constitution and principles of natural justice.

10. The appeal is accordingly allowed. No. costs.