

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 3277 of 2008

M/s Dayal Steels Ltd
Versus
The State of Jharkhand through Secretary,
Department of Energy and others

Petitioner
Respondents

CORAM: HON'BLE MR. JUSTICE D.G.R. PATNAIK

For the Petitioner: Mr. Ajit Kumar, Advocate
For the Respondents: Mr. M.S. Akhtar, SC-II, M.S. Mittal, S. Shrivastava, Advocates

5. 22.08.2008 Affidavit has been filed on behalf of the respondent no. 2 Jharkhand State Electricity Regulatory Commission, stating therein that pursuant to the direction of this court, the petitioner and the respondent DVC have furnished the names of the Agencies before the Commission for its approval for testing the defective meters and on receipt of those names, Commission has approved the following names constituting it as Panel:
- a. National Physical Laboratory, New Delhi
 - b. National Testing Laboratory, Bhubaneswar, Orissa
 - c. National Test House, Alipore, Kolkata.
2. Since new panel has already been constituted, the respondent DVC authorities with prior intimation to the petitioner will forward the suspected defective meters to any of the three Agencies for testing and for obtaining the test report. The petitioner on being so informed, if he desires, may be present at the time of testing of the meter.
3. The Agency to whom the meter is sent, shall conduct the test and submit its test report within a maximum period of one month from the date of receipt of the meter.
4. Learned counsel for the petitioner submits that even without having confirmed the fact that the meters are defective, the respondent DVC has raised the Bills on the basis of average billing for a sum of more than Rs. 2.66 crores. The petitioner has already deposited the sum of Rs. 1.8 crores. Learned counsel prays that till the test report is finally received, the respondent DVC should not insist upon and compel the petitioner to pay the remaining amount, as per demand raised by them.
5. Learned counsel for the DVC on the other hand, refers to the Regulation 11.3.1 which relates to the billing in the event of defective meters and submits that under the provisions of the above Clause, the respondent DVC is entitled to raise bills on average basis and to demand payment from the consumer. Learned counsel adds that in the event the meters are found to be defective, the licensee is entitled to take recourse according to the provisions of law, of raising average Bills and realize the same from the petitioner. In the event the test report does not confirm that the meters are defective, then if any amount paid on the basis of the average bills raised by the DVC is found to be in excess of what was payable, the same shall be adjusted in respect of the future bills.
6. Since, the petitioner has already deposited the sum of Rs. 1.8 crores and since this court has given a time frame to the agency to conduct the test and submit the test report, it would be appropriate in all fairness that till the test report is received, the respondent

authorities should not insist upon the petitioner to pay the remaining amount of the Bills as raised by them and should refrain from insisting the demand for payment of the remaining amount till the test report is finally received..

7. On receipt of the test report, if the meters are found to be defective, then the respondent DVC may take appropriate action as per law and shall also intimate the petitioner in advance about the proposed action sought to be taken.

With the above observations and directions, this writ application is disposed of.

sd/- D.G.R. Patnaik, J



Delegated to the Copy

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28/8/08

Delegated to the Copy of HC Rules

Amendment, Part I of 1972

Tn G in Bhadra, 1930

28-8-08

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25-8-08