

# IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. ( C ) NO. 4443 OF 2007.

Smt. Maya Devi ..... Petitioner.  
Versus  
The State of Jharkhand and others, ... Respondents.

**CORAM : HON'BLE MR. JUSTICE M.Y.EQBAL.**

For the petitioner : Mr. S.K. Pandey,  
For the respondents: M/s B.B.Sinha & S.Sivastava.

Reserved on 12.2.2008 ..... Delivered on 27<sup>th</sup> February, 2008.

**M.Y.Eqbal, J.** In the instant writ application the question that falls for consideration is as to whether the action of the respondent- Jharkhand State Electricity Board ( in short JSEB) and its authorities refusing to provide electrical connection in the premises of the petitioner is illegal, arbitrary, discriminatory and unjustified.

2. The facts of the case lie in a narrow compass :

The petitioner is a purchaser of the building in question from the erstwhile owner. The building was in occupation of a Training College on rent. The petitioner, after purchase, got the rent fixed by the Rent Controller. The said college ultimately vacated the building premises in July, 2002 and handed over the same to the petitioner. The petitioner, thereafter, applied for fresh connection but the respondents refused to accept the application form of the petitioner and informed that electric bill of Rs. 1,49,048-00 is lying due on the said premises against the occupier-Training College and as per law, for non-payment of dues of the said premises, fresh connection cannot be given. It is worth to mention here that earlier connection was disconnected for non-payment of dues.

3. I have heard Mr.S.K.Pandey, learned counsel appearing on behalf of the petitioner and Mr. B.B.Sinha, learned counsel appearing on behalf of J.S.E.B. and with their consent this writ application is disposed of at this stage since the facts are not in dispute because electric connection was refused on the ground that there is substantial amount lying due against the earlier occupier of the building, namely, the training college.

4. The question as to whether the Board can refuse to grant electric connection on the ground that the erstwhile occupier of the premises defaulted in payment of dues is concerned, has been considered by the Supreme Court in the case of *Isha Marbles Vs. Bihar*



**State Electricity Board and others ( 1995 (2) SCC 648)**. The facts of the case was that the previous owner had the benefit of electricity supply from the Corporation. The electricity arrears in relation to the premises in question had fallen due since they had neglected to pay and, so electric connection was disconnected. The appellant became auction purchaser of the said property. He applied for supply of electricity for the same premises to which already electricity was supplied and disconnected for non-clearance of the dues. The question, therefore, that fell for consideration before the Supreme Court was as to whether the auction purchaser was liable to meet the liability of the old consumer of electricity to the premises which was purchased by him in auction sale from the State Financial Corporation under section 29 (1) of the State Financial Corporation Act, 1951. Upholding the contention of the auction purchaser their Lordships held

*" We are clearly of the opinion that there is great reason and justice in holding as above. Electricity is public property. Law, in its majesty, benignly protects public property and behoves everyone to respect public property. Hence, the courts must be zealous in this regard. But, the law, as it stands, is inadequate to enforce the liability of previous contracting party against the auction purchaser who is a third party and is in no way connected with the previous owner-occupier. It may not be correct to state, if we hold as we have done above, it would permit dishonest consumers transferring their units from one hand to another, from time to time, in infinitum without the payment of the dues to the extent of lakhs and lakhs of rupees and each one of them can easily say that he is not liable for the liability of the predecessor in interest. No doubt, dishonest consumers cannot be allowed to play truant with the public property but inadequacy of the law can hardly be a substitute for overzealousness."*

5. This court also, following the ratio decided by the Supreme Court, decided the case against the Board in CWJC Nos. 1301 of 1997R and 482 of 2000R.

6. I will now discuss some of the provisions of the new Electricity Act, 2003. Section 43 makes it mandatory for supply of electricity within 30 days if such application is filed, from the date of application.. Section 43 reads as under :

*"43 Duty to supply on request :- (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply"*

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Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required electric plant or electric line for giving electric supply to the premises specified in sub-section (1).

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."

7. Regulation has also been framed under the Electricity Act, 2003 by the Jharkhand State Electricity Regulatory Commissioner. The said Regulation is called Jharkhand State Electricity Regulatory Commission (Tariff ) Regulation, 2003. Chapter 5 of the Regulation is worth to be considered. Chapter 5 deals with the procedure relating to requisition for supply . Clause 5 is worth to be quoted which reads as under :

#### **5. Requisition for supply**

**"5.1** Requisition for a new supply of electricity shall be made by the owner/occupier of the premises in duplicate in the prescribed form of the licensee which shall be available at a cost from the local office of the licensee. The model format of the application form is provided in Schedule I & II of these Regulations. The Licensee shall necessarily supply to copies of agreement format, one copy of tariff schedule and one copy of Electricity supply code along with the application forms. Copies of application form and other necessary required documents as mentioned above down loaded from the website of licensee may also be used by applicant and shall be accepted by the licensee.

On the application form there shall be clearly mentioned the names with address and telephone numbers of the offices from where the application form can be obtained and where the filled up application form will be submitted.

Any assistance or information required in filling up the form will be provided to the applicant at the local office of the licensee.

**5.2** The application shall indicate in the application for electricity supply his full name and address(permanent if any) with telephone number and also detail address of the premises for which requisition of supply has been made

including Khata no., Khesra no., Municipal holding no., house/plot no etc. as applicable. The applicant shall also provide following information's/particulars in the application:-

(a) Name and address of the licensed Electrical contractor through whom the wiring/installation will be/have been carried out.

(b) Purpose of usages of electricity and load for each such usage.

(c) Whether application is for new connection, temporary connection, shifting of service, additional load, change of name or change of type(category) of service(tariff).

(d) Whether the applicant wants to carry out the works of laying service line and/or dedicated distribution facility for the electricity supply requisitioned.

**5.3** The applicant shall furnish, along with application for requisition of electricity supply following documents

(a) Two photographs affixed one each in the duplicate copies of the application form

(b) Proof of legal occupancy in the form of copies of sale deed or partition deed or succession certificate or power of attorney or lease/rent agreement or allotment order or in case of agricultural connection "Khata nakal" giving khesar no.

(c) In case of a partnership firm, partnership deed, authorization in the name of the applicant for signing the requisition form and agreement.

(d) In case of Public and/or Private limited Company, Memorandum and Articles of Association and Certificate of incorporation together, with an authorization in the name of the applicant for signing the requisition form and agreement.

The licensee may ask for the original documents from the consumer for verification.

**5.4.** The application for requisition of supply shall be submitted to the notified local office of the licensee along with non-refundable application fee in cash or Demand Draft as per the schedule of charges approved by the Commission under Clause 17 of, these Regulations.

**5.5\*** If the applicant, in respect of an earlier agreement executed in his name or in the name of a firm or company with which he was associated either as a partner, director or managing director, has any arrears of electricity dues or other dues for the premises where the new connection is applied for and such dues are payable to the licensee, the requisition for supply may not be entertained by the licensee until the dues are paid in full. But if the old consumer who had committed default in payment of the dues has left the premises for good and the concerned premises has come in legal possession of a new occupant through a transfer or purchase of the concerned property and where the new incumbent is not connected with the previous owner/occupant in any manner applies for re-connection of the electrical line in the same disconnected premises, in that

event the distribution licensee shall be obliged to order reconnection without realization of the arrear dues of concerned premises from the new incumbent, as the purchaser of the premises would not be held liable to meet the liability of the previous consumer in order to secure reconnection."

8. Reading the provisions of Act and the regulation made therein it is crystal clear that on application being made by the owner or occupier of any premises for the supply of electricity, electric connection shall be given to the premises by the authority within one month after the receipt of application. Regulation framed under the Act specifically provides that the authority cannot deny supply of electricity on the ground that old consumer committed default in payment of dues and left the premises provided new incumbent is not in any way connected with the previous owner or occupier of the premises who committed default. Regulation further makes it clear that purchaser of the premises would not be held liable to meet the liability of the previous consumer in order to secure re-connection.

9. Coming back to the instant case, as noticed above, the writ petitioner is the purchaser of the premises which was earlier occupied by the Training College as a tenant under the previous owner. The applicant has no connection with the College or persons who were managing the College. In such circumstances, refusal by the respondent-Board in supply of electricity in the premises of the petitioner is illegal and wholly arbitrary.

10. For the aforesaid reasons, this writ application is allowed and the respondent-Board is directed to accept the application of the petitioner for giving fresh connection in the premises in question. Respondent-Board is further directed to supply electricity in the premises within 30 days from the date when petitioner files application and comply all the requirements which are necessary for giving fresh connection in the premises of the petitioner.

Sd/- M Y Egbal, J.

Certified to be true Copy

B. S. Chaito  
7/3/08  
Copying Officer

(Designated under Rule 352 (B) of J.H.C. Rules  
Authorized U/B 76 Act 1 of 1972)

The 17th Falgun 1929