

IN THE HIGH COURT OF JHARKHAND AT R A N C H I

L.P.A. NO.450/2009

M/s. G.R.RICE & DAL Mill Appellant

Versus

1. Union of India.
 2. Jharkhand State Electricity Regulatory Commission, through Its Secretary, Ranchi.
 3. Jharkhand State Electricity Board through its Chairman, Ranchi
 4. General Manager-cum-Chief Engineer, Electricity Supply Circle, Jharkhand State Electricity Board, Hazaribagh.
 5. Electrical Superintending Engineer, Electricity Supply Circle, Jharkhand State Electricity Board, Hazaribagh.
 6. Electrical Executive Engineer, Electric Supply Division, Ramgarh, Jharkhand State Electricity Board, Ramgarh
- Respondents.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR.JUSTICE R.R.PRASAD**

For the Appellant: Mr. M.S.Mittal.
For the respondent-JSEB: Mr. V.P.Singh, Sr. Advocate.

08/21.12.2009

This appeal has been preferred against the order dated 02.09.2009 passed by the learned Single Judge in W.P(C) NO.2309/2009 by which the writ petition was dismissed as the learned Single Judge had been pleased to observe that an alternative remedy of appeal exists for the petitioner which is provided under the statute against the final assessment and in view of the non-explanation of the circumstances, the discretionary and equitable jurisdiction under writ petition was not fit to be exercised and accordingly, the writ petition was dismissed.

Initially, counsel for the parties advanced a lengthy argument on the facts as to whether an exorbitant amount of Rs.40,27,000/- (Forty lakhs twenty seven thousand) which has been raised by the respondent-Board could be entertained by over-looking the fact that the average consumption of the appellant in one whole year would not amount to more than a consumption of 6000 units which would amount approximately Rs.19,000/- p.m.

The submission, however, was strongly refuted by the counsel for the Board but, in our view, it was not necessary to enter into a scrutiny of the calculation made by the Board raising the demand as we find substance in the objection raised by the counsel for the respondent-Board to the effect that the appellant has a statutory remedy of appeal before the appellate authority under the



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statute. Counsel for the appellant also could not refute this position but he stated that the appellant has already deposited a sum of Rs.19.00 lakhs as against the demand of Rs.40,27,000/- (Forty lakhs twenty seven thousand) and, therefore, if a further sum of Rs.1,14,863/- (One lakh fourteen thousand eight hundred sixty three) is deposited, that would constitute fifty per cent of the assessed amount for which demand had been raised.

Counsel for the appellant, therefore, offered to pay a further sum of Rs.1,14,863/- (One lakh fourteen thousand eight hundred sixty three) and in the event of its deposit, fifty percent of the total demand of final assessment would be covered after which the appellant will become entitled to file an appeal under the statute.

We concur with the view taken by the learned Single Judge that the petitioner/appellant herein has an alternative statutory remedy of appeal provided it paid fifty percent of the amount raised by the assessing authority of the Board. Since the appellant has already paid a sum of Rs.19.00 lakhs and would pay a further sum of Rs.1,14,863/- (One lakh fourteen thousand eight hundred sixty three) which would amount payment of fifty per cent of the demand raised, the appellant shall be entitled to file an appeal before the appellate authority and on payment of the same, we see no reason as to why the electricity connection of the appellant should not be restored, if it is entitled under the statute to prefer an appeal.

We, therefore, direct that in the event of payment of a further sum of Rs.1,14,863/- (One lakh fourteen thousand eight hundred sixty three) by the appellant, the electricity connection to the appellant shall be restored and obviously it is the appellate authority thereafter who will adjudicate and permit realization of the further amount, if the same is held to be legally sustainable.

The appeal, accordingly, is disposed of.

sdt - Gyan Sudha Misra, CJ
sdt - R.R. Prasad, J.

Certified to be true Copy

Bachchantha
19/2/10
Darying Office

[Designated under Para 22, of J.H.C. Rules]
Authorized U.S 70 Act of 1872

Rakesh
in The 30th Phalguna 1931
19.2.10