



**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,
AT CHIKODI**

DATED THIS THE 25TH DAY OF MARCH 2022

: P R E S E N T :

SRI. T.SRIKANTH, B.A.L.,LL.B.,
PRL. SENIOR CIVIL JUDGE, CHIKODI.

ECA.No.3/2019

BETWEEN :

SMT SUJATHA
AND OTHERS.

PETITIONERS

(BY SRI S.Y.PATIL., ADVOCATE)

AND :

THE EXECUTIVE ENGINEER (ELECTRICAL),
HESCOM, CHIKODI SUB-DIVISION
AND OTHERS.

RESPONDENTS

(BY SRI R.B.SANGROLE., ADVOCATE)

: : ORDER ON PRELIMINARY ISSUE : :

The petitioners filed this petition against the respondents claiming compensation for the death of one Birappa Siddappa Duganni, who is allegedly the employee of respondents.

2. On service of notice, respondents appeared before this tribunal and are contesting the petition by filing their statement of objections, wherein among other

grounds, it is contended that, as per mandatory provisions of the Electricity Act, 2003, ('the act' for short) the jurisdiction of this Tribunal is barred to take cognizance of this petition. Further, the power is conferred on the electrical inspector to entertain and decide the claims in this regard. It is contended that petitioners' petition is also bad for non issuing mandatory notice to the electrical inspector. Hence, prayed to dismiss the petition as not maintainable.

3. On the basis of specific defence raised by respondents, in their statement of objections, issue No.6 regarding jurisdiction of this Court is framed and the same treated as preliminary issue, which reads as follows;

1. Whether the respondents 1 to 5 prove that this petition is barred under the provisions of the electricity Act 2003?

4. As the said issue relates to question of law, the matter was posted for hearing on preliminary issue. Accordingly, heard counsel for both parties. Records



perused. My finding on the above preliminary issue is as follows.

: REASONS :

5. POINT NO.1: According to respondents the jurisdiction of this court is barred under the mandatory provisions of Electricity Act 203. However, the respondents in their statement of objections have not stated the provisions under which the jurisdiction of this tribunal is barred. In this regard Section 161 of Electricity Act reads as below;

Section 161. (Notice of accidents and injuries):

(1)If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate



Government may by general or special order, direct.

(2)The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-

(a)as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b)as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.

(3)Every Electrical Inspector or other person holding an inquiry under subsection (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

6. The above Section 161 of Electricity Act, 2003 is in para matiria with Section 33 of Electricity Act,1910. In



view of Section 176 of Electricity Act, 2003, the Central Government has framed Rules regarding Intimation of Accidents (Form and Time of Service of Notice) Rules, 2004 (GSR 1(E), dt.22.12.2004) with effect from 1.1.2005. Rule 3 deals with Intimation of accidents, which reads as under:

(1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person or any authorized person of the generating company or licensee, not below the rank of a Junior Engineer or equivalent shall send to the Inspector a telegraphic report within 24 hours of the knowledge of the occurrence of the fatal accident and a report in writing in Form A within 48 hours of the knowledge of occurrence of fatal and all other accidents. Where possible a telephonic message should also be given to the Inspector immediately, if the accident comes to the knowledge of the authorized officer of the generating company/licensee or other person concerned.



7. It is clear from the above provision that it was incumbent upon the officials of respondents company to notify the Electrical Inspector about the accident occurred. But, they have failed to inform the Electrical Inspector about the accident within the prescribed time. They are shifting the liability of notifying the incident on the petitioners who are fighting for their life. The petitioners being ignorant persons about the procedure to be followed has not intimated to the Electrical Inspector. It is doubtful whether the petitioners knew or knows about the existence of office of Electrical Inspector. The respondents who have failed in discharge of their duties have adopted a convenient method to put blame on the petitioners. In such circumstances, the petitioners cannot be held responsible for non compliance of Section 161 of Electricity Act.

8. Further, nothing contained in the said Act, is brought to the notice of this court, which bars the jurisdiction of this Tribunal from taking cognizance of this petition for compensation. It is not in dispute that under the Act, if the officers do not act bonafide, then petition



will lie against them in their individual capacity and only bonafide acts are protected under the Act. The claim of petitioners is for compensation for the death of deceased during the course of his employment. As such, the petitioners' petition is maintainable before this Court. Hence, I proceed to pass the following;

: O R D E R :

*The preliminary issue i.e., issue No.6
is answered in the negative.*

*The petition is maintainable before
this Tribunal.*

(Dictated to the Stenographer, transcribed, typed by him, corrected, signed and then pronounced by me in the Open Court on this the 25th day of March 2022.)


(T.SRIKANTH)
Prl. Senior Civil Judge,
Chikodi.

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