

GAHC010134042023



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/228/2023

BIJAY PRASAD SAHU @ B P SAHU
S/O LATE KESHO PRASAD SAHU, R/O MANTRIPUKHRI, OPP. C.R.P.F. CAMP,
P.O. AND P.S.-MANTRIPUKHRI, IMPHAL EAST, MANIPUR-795002

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, POWER DEPARTMENT, ASSAM SECRETARIAT, DISPUR,
GUWAHATI-781006, ASSAM

2:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION COMPNAY LTD.
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-781001
ASSAM

3:THE CHIEF EXECUTIVE OFFICER (CEO)
GUWAHATI ELECTRICAL GEC-I
ASSAM POWER DISTRIBUTION CORPORATION LTD. (APDCL)
KAMRUP
GUWAHATI
ASSAM
PIN-781001

4:THE SUB-DIVISION OFFICER
ASSAM POWER DISTRIBUTION CORPORATION LTD. (APDCL)
ZOO ROAD ELECTRICAL SUB-DIVISION
GUWAHATI ELECTRICAL CIRCLE-I
GUWAHATI
ASSAM

PIN-78100

For the appellant : Mr. A. Sahu. Advocate.
For the respondents : Mr. S.P. Sarmah. ... SC, APDCL

**:::BEFORE:::
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HON'BLE MR. JUSTICE ANJAN MONI KALITA**

Date of hearing : 18.09.2025
Date of order : 25.09.2025

ORDER (CAV)

(M. Zothankhuma, J)

Heard Mr. A. Sahu, learned counsel for the appellant and Mr. S. P. Sarmah, learned counsel for the respondent.

2. The appellant is aggrieved by the order dated 25.05.2023, passed in WP(C) 2697/2022, by which the learned Single Judge has held that the issuance of the Permanent Disconnection (PDC) bill dated 14.03.2023 cannot be said to be illegal.

3. The facts of the case is that the appellant is a Senior Advocate and he is aggrieved with the electricity supply that had been disconnected from his house, which he had rented out to somebody else. The electricity connection had been disconnected by the respondents w.e.f. 20.08.2020, vide intimation dated 16.11.2023, due to non-payment of his electricity dues from the year 2020.

4. The appellant's case is that the permanent disconnection of electricity was done, even though the arrears had been paid by the due date and the same was in violation of the statutory provisions of the Electricity Supply Code, framed by the Assam Electricity Regulatory Commission.

5. Thus the case of the appellant is that the action of the respondents was illegal, as he had paid all the arrears within time. Despite the same, the respondents did not restore his electricity supply. As the appellant was of the view that the arbitrary conduct of the respondents had resulted in the appellant sustaining loss, due to vacation of his premises by his tenants, for lack of electricity and as the respondents wanted the appellant to apply for a new electricity connection, the appellant filed a writ petition before the learned Single Judge, praying for restoration/re-connection of his electricity supply and for payment of compensation for the loss caused to him.

On the other hand, the respondents' case is that a new electricity connection had to be applied for, as the old electricity connection had been permanently disconnected. The respondents' case was that a restoration/reconnection of electricity supply only happens when the electricity is temporarily disconnected.

To the respondents' stand, the appellant's reply is that the disconnection of the appellant's electricity supply being illegal, as all the arrears had been paid by the due date, there was no requirement of applying for a new electricity connection, as the respondents could restore/re-connect the earlier electricity supply to the premises of the appellant. The said writ petition having been dismissed, the present appeal has been filed.

6. The counsel for the appellant submits that the temporary disconnection of the appellant's electricity, followed by the permanent disconnection of electricity on the premises of the appellant, which were leased out, had been done in gross violation of the law. He submits that Regulation 8.2.1 of the AERC Code, 2017, provides that power supply can be temporarily disconnected, after serving a written notice of at least 15 days. However, in this case, prior to the 15 days' notice period having expired in terms of the electricity bill dated 13.08.2020, the respondents temporarily disconnected the appellant's electricity supply. Further, the arrears having been subsequently paid by the appellant by the due date, in terms of the later electricity bill dated 14.03.2022 issued to the appellant, there was no reason to permanently disconnect the appellant's electricity, as per Regulation 8.3(b) of the AERC Code, 2017. Though the temporary disconnection had been done without following Regulation 8.2.1 of the AERC Code and the permanent disconnection had been done in violation of the terms of Regulation 8.3(b), the learned Single Judge held that the permanent disconnection of the appellant's electricity was not illegal and that the appellant would have to pay all the charges for a new electricity connection.

7. The counsel for the appellant further submits that the finding of the learned Single Judge that the caution/Notice printed in the electricity bill that electricity supply may be discontinued for non-payment of arrears after the due date of payment expired, was sufficient notice, was a wrong observation/finding. He submits that the said finding was without any basis. He further submits that in terms of Regulation 8.2.3 of the AERC Code, once a consumer clears the outstanding charges and pays the prescribed re-connection fee, the licensee must restore the electricity supply within 24 hours in urban areas and 48 hours in rural areas. He submits that as the arrears/dues had been

paid to the respondents within the due date mentioned in the electricity bill dated 14.03.2022, the electricity supply should have been restored, in terms of Regulation 8.2.2. He thus submits that the direction passed by the learned Single Judge that the re-connection charge, which had been given by the appellant and accepted by the respondents amounting to Rs.600/-, should be refunded to the appellant, was not a correct decision. He accordingly submits that the respondents should be directed to re-connect the electricity supply and accept the re-connection charges paid by the appellant.

8. The learned counsel for the appellant further submits that due to the disconnection of the electricity supply on 29.03.2022, the appellant has been suffering financial loss, as he has not been able to rent his premises due to the absence of electricity, for which he should be compensated. In this regard, he has relied upon an unregistered tenancy/rent agreement dated 01.04.2015 which was valid from 01.04.2015 till 28.02.2016. The learned counsel for the appellant thus prays that the impugned order passed by the learned Single Judge should be set aside.

9. The learned counsel for the appellant submits that a permanent disconnection bill dated 14.03.2022 has been issued to the appellant, showing that the appellant had to pay his electricity dues of Rs.18,358/- by the due date, i.e. 29.03.2022. Even though the arrears/dues were paid on 29.03.2022, the electricity supply was discontinued permanently on 29.03.2022, in violation of the contents of the bill dated 14.03.2022.

10. The learned counsel for the respondents, on the other hand submits that there is no infirmity with the decision taken by the learned Single Judge, in view

of the fact that Regulation 8.2.1 of the AERC Code provides that electricity supply can be temporarily disconnected after serving a written notice of 15 days. As the electricity bills dated 01.06.2020, 01.07.2020 & 13.08.2020 issued to the appellant had each provided 15 days time for clearance of his bills, the same showed that there was no illegality in the temporary disconnection of electricity, on account of non-payment of the bill amounts by the due date. He however admits that the temporary disconnection of the appellant's electricity was done on 20.08.2020, eight days before the due date, mentioned in the electricity bill dated 13.08.2020. This temporary disconnection, prior to the due date, is reflected in the FORMAT-18 dated 16.11.2021 issued to the appellant. He submits that the appellant had not paid his arrears/dues even on the date the FORMAT-18 was issued to the appellant.

11. The learned counsel for the respondents also submits that the bill dated 14.03.2022 issued to the appellant showed the due date for payment of the appellant's arrears/dues amounting to Rs.18,358/-, to be 29.03.2022. The said bill dated 14.03.2022 was not a notice and did not bar the respondents from permanently disconnecting the electricity supply of the appellant on 29.03.2022, even though the appellant had made payment of all his arrears on 29.03.2022, as the appellant had not paid his earlier electricity bills, which bore the 15 days' notice period. Sufficient notice had been given to appellant to clear his bills and the electricity bill dated 14.03.2022 was not a notice, but a bill simpliciter, the notice period being long gone.

12. The learned counsel for the respondents further submits that in terms of Regulation 4.1 of the AERC Code, the appellant would have to be given a new electricity connection, as the earlier electricity connection had been permanently

disconnected. However, the respondents are willing to give the appellant a new electricity connection, at the rate for reconnecting the old electricity connection. However, the appellant would have to provide all the documents required for a new electricity connection, in terms of Regulation 4.1 of the AERC Code.

13. The learned counsel for the respondents submits that the learned Single Judge has correctly held that if the electricity energy bill was not paid within the due date, the respondent had the right to temporarily disconnect the energy supply and that once the electricity connection was permanently disconnected, the consumer would have to apply for a fresh connection. He accordingly submits that the appeal should be dismissed.

14. We have heard the learned counsels for the parties.

15. We do not find anything wrong in the stand of the respondent that 15 days' notice period required to be given to the consumer to pay their electricity dues, as printed out in the electricity bills dated 01.06.2020, 01.07.2020 & 13.08.2020 was sufficient notice, as 15 days time to pay the bills was provided by giving due dates. However, when was the bill received by the consumer is an issue of fact, for determining, when the time period of 15 days starts to run. Section 171 of the Electricity Act, 2003 (hereinafter referred to as the "2003 Act"), provides that notice is to be served on the said person by delivering the same, after obtaining a signed acknowledgement receipt or by registered post or such means of delivery as may be prescribed.

16. Section 171 of 2003 Act states as follows :

"Section 171. Services of notices, orders or documents:- (1) Every

notice, order or document by or under this Act required, or authorized to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefor or by registered post or such means of delivery as may be prescribed –

(a) where the Appropriate Government is the addressee, at the office of such officer as the Appropriate Government may prescribe in this behalf;

(b) where the Appropriate Commission is the addressee, at the office of the Appropriate Commission;

(c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.”

17. Regulation 8.2.1 of the AERC Code provides that where a person neglects to pay any charge for electricity or any other sum due from him to a licensee, by the due date mentioned in the bill, in respect of supply of electricity, the licensee may after giving not less than 15 days clear notice in writing to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off supply of electricity, until such charge or other sum is paid.

However, the same can be restored when the sum charged is paid. Thus, temporary disconnection of electricity can be made by the licensee under Regulation 8.2.1. Thereafter, in terms of Regulation 8.2.2, the licensee is to issue a notice to the consumer stating the fact that his electricity supply has been temporarily disconnected, vide FORMAT-18 of the AERC Code within 24 hours of the disconnection. In terms of FORMAT-18, the amount due to the licensee and the cause of the disconnection is to be removed within 45 days of FORMAT-18. Failure to comply would result in permanent disconnection of the electricity supply without any further notice. In the present case, the appellant had been given 15 days' time to clear his bills vide the electricity bills dated 01.06.2020, 01.07.2020 & 13.08.2020 etc. However, the same was not done by the petitioner and as such, there was no illegality in the temporary disconnection of the appellant's electricity supply.

18. The relevant provision of Regulation 8.2.1 and relevant provisions of Regulation 8.2.2 is produced hereinbelow as below:

"8.2.1 Disconnection due to non-payment of bill amount

Where a person neglects to pay any charge for electricity or any other sum due from him to a licensee, by the due date mentioned in the bill, in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee may, after giving not less than fifteen (15) clear days notice in writing to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off supply of electricity, until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

The licensee shall not be entitled to terminate the power supply in case the person deposits under protest –

- a) An amount equal to the sum claimed from him, or*
- b) The electricity charges due from him for each month calculated based on the average of past 6 months for the period under dispute whichever is lower.”*

“8.2.2

.....”

The licensee shall intimate the consumer in case of his temporary disconnection in the Format-18 of this code within 24 hours of disconnection.”

19. In the present case, the document on records show that the appellant had been issued various electricity bills, the last bill being dated 13.08.2020, for payment of dues amounting to Rs.4,522/-, payable by the due date, i.e 28.08.2020 and a notice had been printed on the said bill, stating that it was a disconnection notice and power supply would be discontinued at any time due to non-payment of arrear amount under Section 56(1) of the 2003 Act. The earlier electricity bills dated 01.06.2020 and 01.07.2020 also had the 15 days' notice for clearance of bills, printed on them also.

20. Section 56(1) of the 2003 Act provides that if the electricity dues are not paid within the notice period, the licensee can cut off the electricity supply. However, the intimation given to the appellant under Format-18 issued on 16.11.2021 shows that the appellant's electricity supply had been temporarily

disconnected w.e.f. 20.08.2020, even though the due date was 28.08.2020. The above clearly shows that the respondents had not waited till 28.08.2020 for clearance of the bill by the appellant and had instead discontinued the electricity supply, prior to 28.08.2020. Though the respondents had committed an illegality in temporarily cutting off electricity on 20.08.2020, the fact remains that the appellant had not paid his electricity dues even till 16.11.2021, when FORMAT-18 had been issued to him, i.e. beyond the due date of 28.08.2020.

21. In the present case, notice has been issued to the appellant on account of non-payment of electricity charges as mentioned in the electricity bill dated 13.08.2020 and as required under Regulation 8.2.1. FORMAT-18 of the AERC Code has also been issued by the respondents to the appellant, informing him that 45 days was being given to him to clear his dues, failing which his electricity connection would be permanently discontinued. Keeping in view the language of Regulation 8.2.1 and 8.2.2 and the fact that millions of electricity bills are being generated every month, we are of the view that notice has been issued in terms of the Regulations. FORMAT-18 dated 16.11.2021 issued to the appellant is reproduced hereinbelow as follows:

“FORMAT- 18

Intimation to Consumer after Temporary Disconnection of Supply

Licensee's Office Address :Zoo Road Electrical Sub Division,

APDCL

Date 16.11.2021

Service Connection No.: -017000011409

Name of consumer: Bijoy Pd. Sahu

Consumer category: Com

Contracted Load: 6.32 kw M/No = APD33075

Address of consumer: Oriens Place, GS Road, Ghy-5, DTR-

A116_____

This is to inform you that your supply has been temporarily disconnected with effect from 20/8/20 (date) due to the following reason(s):Non Payment_____

You are requested to remove the cause of disconnection and intimate this office at the earliest. You are also requested to pay a sum of Rs.13,706.00 towards disconnection & re-connection charges and _____(mention if any other dues are to be deposited, with a detailed break-up).

If the cause of disconnection is not removed to the satisfaction of this office and above amount is not paid, within 45 days of this notice your supply shall be disconnected permanently without any further notice.

Thank you. Sincerely,

Sd/- illegible

Signature / Seal of licensee's representative Name and Designation."

22. In terms of Regulation 8.3(b) of the AERC Code, permanent disconnection of electricity can be done, if the cause for which the electricity supply was temporarily disconnected is not removed within the notice period. However, prior to this, the temporary disconnection of electricity has to be intimated to the concerned consumer under Format-18 within 24 hours.

23. Regulation 8.3 states as follows :

"8.3 Permanent Disconnection

The supply shall be disconnected permanently in following cases :

(a) On the termination of the Agreement.

(b) If the cause for which the supply was temporarily disconnected is not removed within the notice period.

Provided that if the service of the consumer remains continuously disconnected for 180 days, not being a temporary disconnection upon request of the consumer, the Agreement shall be deemed to be terminated on the expiry of 15 days or after expiry of the initial period of agreement whichever is later without prejudice to the rights of the licensee or of the consumer under the Act for recovery of any amount due under the Agreement. After termination of all agreement the licensee shall intimate the consumer in the Format 20 of this Code.”

24. As notice for permanent disconnection had been given to the appellant under FORMAT-18, giving him 45 days to pay his arrear electricity dues, i.e. till 31.12.2021, which was not done, we do not find any fault in the respondents permanently disconnecting the electricity supply of the appellant.

25. Though the appellant had been given time to pay his arrear/dues of Rs.18,358/-, vide electricity bill dated 14.03.2022, by the due date on 29.03.2022 and the appellant had paid the same by the due date, the same did not bar the respondents from permanently disconnecting the electricity connection, as the 45 days period as per FORMAT-18 had expired on 31.12.2021. Though the permanent disconnection of the appellant's electricity by the respondents was done in consonance with 2003 Act and the AERC Code, the respondents could have decided against taking the extreme steps, in view of the electricity bill dated 14.03.2022 having given the due date of 29.03.2022, as the time for clearing the electricity dues, which had been complied with by the appellant.

26. On considering the fact that the counsel for the respondents has made a

concession to the effect that the appellant would be given a new electricity connection, on rates stipulated for restoration/reconnection of electricity, provided that the appellant submits all the required documents in terms of Regulation 4.1 of the AERC Code, this Court is of the view that the issuance of restoration/reconnection of the electricity need not detain this Court any longer. This Court accordingly directs the respondents to give a new electricity connection to the appellant immediately, at the rate provided for restoration/reconnection of the electricity supply. The appellant will however have to submit all the required documents required under Regulation 4.1 of the AERC Code for the new electricity connection.

27. With regard to the question of the appellant's prayer for payment of damages, it is seen that the appellant has made a claim for payment of rent w.e.f. 20.03.2020, without giving any particulars for the same. The only reason for making such a claim is the tenancy/rent agreement dated 01.04.2015, which had been valid from 01.04.2015 to 28.02.2016 only. There is nothing shown that quantifies the loss caused to the appellant. As such, it is very difficult for this Court to decide whether the appellant is entitled to any damages, in the absence of pleadings. On account of the above facts, we do not find any ground to award any compensation or damages to the appellant, on account of any alleged unproven loss that may have been caused to the appellant. Accordingly, the appellant's claim for damages, without any particulars, cannot be accepted by us. Further, the issue of compensation/damages requires evidence to be adduced, for which this Court is ill equipped, keeping in view the fact that there are no specifics/precise details provided in this case. Accordingly, the appellant may approach the appropriate forum for his claim for damages, if so advised.

28. In view of the reasons stated above, we do not find any reason to interfere with the decision of the learned Single Judge. The writ appeal is accordingly dismissed.

JUDGE

JUDGE

Comparing Assistant