

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 171 of 2005

Beco Industries Limited, A company registered under the Companies Act, 1956 having its registered office at 25-26, Netaji Subhas Road, Calcutta 700 001 and its industrial unit at Kandra Road, Adityapur Gamharia, Dist.-Singhbhum (West) through one of its authorized signatory, Sri, Shiv Murat Pandey, S/o Late R.S. Pandey, R/o Anand Bhawan, Contractor's Area, Road No. 2, P.O. Bistupur, Jamshedpur, Dist. Singhbhum (East)

..... **Petitioner**

Versus

1. Jharkhand State Electricity Board having its office at Engineers Bhawan, HEC, Dhurwa, Ranchi through its Chairman.
2. General Manager-cum-Chief Engineer, Jamshedpur Area Electricity Board, Jamshedpur.
3. Electrical Superintending Engineer, Jamshedpur Electrical Circle, Jamshedpur.
4. Electrical Executive Engineer, (Commerce & Revenue), Jamshedpur Electrical Circle, Jamshedpur

... **Respondents**

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner	: Mr. M.S. Mittal, Sr. Advocate Mr. S.L. Agarwal, Advocate Mr. Salona Mittal, Advocate Ms. Amrita Singh, Advocate Ms. Ayushi, Advocate Mr. Arya Vardhan Singh, Advocate
For the JUVNL	: Mr. Mrinal Kanti Roy, Sr. SC

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16 /07.07.2025. Heard Mr. M.S. Mittal, learned senior counsel appearing for the petitioner, and Mr. Mrinal Kanti Roy, learned senior Standing Counsel appearing for Respondent-JUVNL.

1. The instant Writ Petition has been filed for issuance of an appropriate writ in the nature of certiorari for quashing the bill dated 01.12.2004 showing an arrear of Rs.2,68,34,080/- (Annexure-23).

CASE OF PETITIONER

2. Petitioner's company is an industrial unit having its registered office at Calcutta, and its industrial unit at Kandra Road, Adityapur Gamharia, District- Singhbhum (West) where it manufactures Aluminium extruded sections and for that purpose, the petitioner is having High Tension Electrical connection from the Respondent-Board being Consumer No. HJ/AP-50 for contract demand of 734 KVA, voltage at 11 KV. For the said

purpose, the petitioner entered into an agreement with the Respondent-Board for supply of electricity under the category of HTS-I.

3. Petitioner-company entered into an agreement with the Board for supply of electricity with a contract demand of 190 KVA and the same was enhanced to 450 KVA vide contract demand dated 22.10.1981. It was further enhanced with effect from 21.05.1988 to a demand of 630 KVA.
4. The case has a long and chequered history which can be summed as under:
 - I. Initial electricity bill bearing No.672 dated **25.07.1986** for the period 1985-86 for a sum of Rs.3,18,861.53/, was challenged in **CWJC No.1078 of 1986[R]** which was disposed of with a direction to file a representation before the Chief Engineer of the area concerned on deposit of **Rs.75,000/-**, and further to continue to deposit the current charges including the Fuel Surcharge and as such, the other charges payable under the current bill.
 - II. The petitioner's representation dated 15.09.1986 in pursuant to the order of the Court passed on 16.08.1986 was rejected, against which, **CWJC No.197 of 1988 [R]** was preferred. The Court directed the petitioner to raise the matter before the General Manager of the Board against the demand raised under the head of Minimum Guarantee Charges for the year 1985-86 for a sum of Rs.3,14,231.30/-.
 - III. The petitioner filed representation before the General Manager cum Chief Engineer, Ranchi, in pursuant to the order passed by the Court on 11.02.1988, but in the meantime, vide Letter No.474/ESE/ JSR dated 24.02.1988, a bill of Rs.2,43,861.53/- was raised which included delayed payment surcharge of Rs.1,18,430.96/-.
 - IV. This bill was assailed in **CWJC No.356 of 1988 [R]** wherein vide order dated **23.03.1988** a direction was given to make payment of **Rs One Lakh** in two equal instalments during the pendency of representation and the petitioner paid the said amount vide Receipt Nos. 747612 dated 27.04.1988 and 747661 dated 24.05.1988.
 - V. In pursuance of the direction of the Court passed in this case on 01.06.1988, the petitioner moved the Electrical Inspector, Ranchi,

against the demand of **Rs.3,93,561.46/-** on account of AMG for the period of 1985-86, but his representation was rejected.

- VI. The petitioner further moved the Court in **CWJC No. 1135/1991(R)** against the rejection of representation by non-speaking order and the same was quashed by the Court vide order dated 21.05.1991.
- VII. Ultimately, the Electrical Inspector, Ranchi disposed of, the representation vide Letter No. 1481 dated 14.07.1995 with a finding that the petitioner had availed maximum demand of 650 KVA and burning of meter due to withdrawal of excess load, was not proper. The Electrical Inspector reassessed the bill and quantified the same to a sum of Rs.2,13,943/-.
- VIII. On the basis of the report of the Electrical Inspector, revised bill was not raised by the Board.
- IX. Board assailed the report of the Electrical Inspector in W.P.(C) No. 3012 of 2001 in which the direction was given to the Chairman that the petitioner will make representation before the Chairman-cum-Managing Director of the Board which was to be disposed of by the Chairman.
- X. In compliance to the direction, the representation was disposed of by the Chairman on 28.07.2003, wherein the following was held: -
“I feel that the stand of the counsel of the Board is very fair and reasonable. Since the consumer has not deposited entire amount of AMG bill even under protest, he is bound to pay the DPS. It is further held that as per tariff of the Board no DPS over DPS should be charged. It is also directed that the payment made by the consumer time to time should be first adjusted against the DPS then against the arrears and then only against the current charges. The General Manager-cum-Chief Engineer, Jamshedpur was directed to re-examine the calculation in accordance with the direction and observation given.”
- XI. On the basis of these observations, the fresh bill was drawn on 05.12.2003 for raising a bill of Rs. 4,71,115/- for energy consumption only and vide dated 01.12.2004 **for arrear amount of**

Rs. Rs. 2,68,34,080/- which is under challenge in the present writ petition.

5. Bill of Rs.4,71,115/- (Annexure-22) was raised on 05.12.2003 by the Jharkhand State Electricity Board against the petitioner, which has been admittedly paid by the Petitioner.
6. It is argued by learned counsel for the petitioner that the arrear of bills has broadly two components. The first is the Annual Maintenance Guarantee (AMG) bill for 1985-86 and second is Fuel Surcharge i.e. the principal amount and Delayed Payment Surcharge (DPS).
7. With regard the AMG Bill, it is argued that the entire sum was paid in different instalments as per direction of this Court. If there was any delay in raising the bill, it was not on the part of the Petitioner but on the part of the Board, for which the Petitioner cannot be penalized by charging DPS.
8. With regard to Fuel Surcharge, it is argued that in view of the ratio laid down by this Court in L.P.A. No.305 of 2015 and its connected cases, the claim raised against the Fuel Surcharge is not sustainable.
9. It is submitted by learned counsel for the Respondent- Board that the matter involves complicated question of calculation of bills and arrears which can be addressed to in terms of Section 42(5) of the Electricity Act, 2003, which makes specific provision for alternative dispute redressal. In terms of this provision, Vidhut Upbhokta Shikayat Forum was constituted for looking into the complaints of the consumers with regard to the bills and the related matters.
10. It is contended that so far as the bill of 05.12.2003 is the current bill, whereas the bill dated 01.12.2004 is the cumulative bill including the delayed payment surcharge over the unpaid amount on the AMG bill.

FINDING

11. At the outset it must be noted that at this stage after 20 years to relegate the parties to the forum will be inequitable, as the issue at hand is mainly regarding bill having been raised under the head of Fuel Surcharge and DPS.

12. Challenge is to the bill raised by the Board (Annexure-23) for a sum of Rs. 2,68,34,080/- dated 01.12.2004. This is an arrear bill for the period from 1985-86 to 2004 so far AMG is concerned, and so far, Fuel Surcharge is concerned, it is for 1996-97 onwards.
13. Fuel Surcharge part was assailed in W.P. (C) No. 3045 of 2000 in which the bill raised under this head was struck down. The said has been affirmed in L.P.A. No. 305 of 2015 and connected matters.
14. In this view of matter, the claim of the bill raised under Fuel Surcharge component is, not sustainable, and the bill with respect to it is liable to be set aside.
15. There is no bifurcation with regard to the arrears under the head of AMG and that accruing under the head of Fuel Surcharge in the impugned bill.
16. The respondent- JUVNL has sought an adjournment to bring on record the break-up of outstanding amount against the petitioner and the manner in which the said calculation was made. The same has been brought on record by way of supplementary counter affidavit dated 03.07.2025. On perusal of Annexure-A/1, which has been enclosed with the supplementary counter affidavit, the cloud has not been cleared so far the outstanding bill of AMG and Fuel Surcharge is concerned. It will be apparent from the bill under the head of DPS which has been charged to Rs.1,42,05,845/- which is for non-payment of dues including Fuel Surcharge and AMG.
17. Thus, on the face of it, the impugned bill needs revision by deducting the Fuel Surcharge part.
18. In principle, there can be no objection to a bill raised under the head of AMG, provided it is in accordance with the terms of the agreement. Similarly, there can be no legitimate grievance against the imposition of DPS by the Board for delays attributable to the consumer in making payments.
19. The pertinent question, however, is whether a consumer can be held liable to pay DPS when the delay is not attributable to the consumer, but rather to the Board—either due to delay in raising the bill, or because the bill, though raised in time, was subsequently found by a competent authority or judicial forum to be inflated or erroneous?

- 20.** The answer to this question is the obvious: a consumer cannot be burdened with DPS for delays caused by the Board, or for a bill that has been found to be flawed or invalid by a competent authority or judicial pronouncement. If the bill is set aside or found to be erroneous, the consumer cannot be held liable for a delayed payment surcharge arising from such bill. Where the delay is not attributable to the consumer, imposing a penalty in the form of DPS is both unjust and untenable.
- 21.** In cases involving minor disputes over the quantum of the bill, the consumer may be expected to deposit the amount under protest. However, where the disputed amount is substantial and manifestly inflated or inconsistent, insisting on payment may be impractical and inequitable.
- 22.** In the present case the initial bill bearing no.672 dated 25.07.1986 was raised for a sum of Rs 3,18,861.53/- which was under challenge in different writ petitions, in which the Petitioner paid Rs 1,75,000/-.
- 23.** Pursuant to the order passed in CWJC No.1135/1991(R), the Electrical Inspector reassessed the bill to a sum of Rs 2,13,943/--, but the Board did not revise the bill in the light of the assessment made by the Electrical Inspector. Board assailed it in W.P.(C) No. 3012 of 2001 in which direction was given to the Chairman-cum-Managing Director of the Board to dispose of the said representation of the petitioner.
- 24.** On the basis of these observations Board raised two bills, first was on 05.12.2003 for Rs 4,71,115 which has been paid by the petitioner.
- 25.** Dispute festers over the arrear bills raised on 01.12.2024 for a sum of Rs 2,68,34,080 which is the subject matter of challenge.
- 26.** As discussed in the foregoing paragraphs, Board cannot charge for fuel surcharge, yet in the bifurcation of the bill filed by way of supplementary counter affidavit dated 03.07.2025 Fuel Surcharge still figures in this bill, which the Petitioner is not liable to pay. In the present circumstances, where the bills raised by the Board on various dates were found to be erroneous, and where specific directions were issued by the Chairman himself not to impose DPS on DPS and to revise the bills accordingly, the delay in payment cannot reasonably be attributed to the Petitioner. Consequently, the Petitioner cannot be burdened with the liability to pay DPS in the absence of any fault on its part. Permitting such a course would,

- in effect, reward the Board for its own lapses. A consumer is entitled to receive an accurate and fair bill for energy consumption, and if any error or delay occurs in the billing process due to the Board's conduct, the consumer cannot be penalized for the same.
- 27.** Impugned bill dated 01.12.2004 (Annexure-23) has component of Fuel Surcharge which is not permissible for the reason discussed above. Further it has component of DPS, which cannot be charged for the reason that the delay in raising the final bill was on the part of the Board.
- 28.** In the result, impugned bill dated 01.12.2004 (Annexure-23) is set aside as it had incorporated Fuel Surcharge and DPS.
- 29.** The Board will be entitled to the AMG bill but not to DPS over it. The Board is directed to draw final arrear bill excluding fuel surcharge and DPS within eight weeks from the date of receipt/production of a copy of this order. Board shall be entitled to interest at the rate of 9% on the principal arrear amount on the bill.

Wri Petition, accordingly, stands disposed of.

Pending I.A., if any, also stands disposed of.

(Gautam Kumar Choudhary, J.)

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