

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.** 2544/09

Case of **KISHORE Kr. AGARWAL**

Applicant Kishore Kumar Agarwal – resident of Kasturba Path, Boring Road Patna – has approached this Commission for compensation for the loss and harassment & mental agony caused by the officials of the Bihar State Electricity Board (in short 'the Board').

The applicant has a house near Saguna More, Danapur for which he had secured electric connection since 18.08.1988 for 0.66 KW load for domestic consumption. According to him, in 1992 a small portion of the house was let out to one Yashwant Kumar who wanted to set up a technical institute. On 25.10.1994 the premises was inspected by the Assistant Electrical Engineer, Electric Supply Sub-Division, Danapur, who found connected load of 10.067 KW as against the sanctioned load of 0.66 KW. On 16.11.1994 bill for Rs.94,889.77 paise was served on the applicant. On protest by the applicant, the premises was again inspected by Assistant Electrical Engineer, Danapur and Assistant Electrical Engineer (Supply) Digha on 06.01.1995 when the connected load was found to be 2.381 KW. The complaint of the applicant with respect to difference in load and nature of use as found in the two inspections was examined at different levels in the Board and, finally, bill for Rs.53,037.25 was raised on 18.12.1996. In the meantime, as the bill was not paid the electric line was disconnected on 30.09.1995. The premises was raided by the Board's officials in presence of Executive Magistrate and police on 4.07.1997 and electricity was found being consumed even though the line officially stood disconnected, and in the circumstances, an FIR was lodged against the applicant and Yashwant Kumar which was registered as Danapur P.S. Case No.290/97. Punitive bill for Rs.83,484 was also raised on the applicant.

The applicant approached the High Court in Cr. Misc. no. 13562/97 and pursuant to its direction, sum of Rs.13537.25 was deposited on 16.08.1997. He also filed application (Case No.187/97) before the District Consumer Forum under the Consumer Protection Act for determination of dues on the basis of second inspection held on 6.1.1995, and for penalty/compensation for deficiency in service on the part of the Board's officials. By order dated 16.10.1997 read with order dated 17.04.1998, the District Forum directed the Board to immediately restore electric connection on payment of sum of Rs.13537 upholding the applicant's case that there was deficiency in service.

The Board preferred appeal (being appeal no.674/97) before State Consumer Disputes Redressal Commission (in short, the State Commission) against the said order. By order dated 19.07.1994 the State Commission set aside the finding of the District Forum on the point of deficiency in service but upheld the applicant's claim on the basis of the second inspection. The State Commission directed the Board to issue bills to the complainant on the basis of 2.381 KW load (rounded to 3.0 KW) from 1.1.1995 along with admissible tariff of the Board and the applicant was directed to pay the entire arrear bill. The State Commission further directed that on receipt of the amount of the bill from 01.01.1995 till date, the Board shall restore the electric connection of the applicant if it had not been restored already. With these directions and modification in the order of the District Forum the appeal was disposed of.

Sometime in the year 2007, the Danapur court in seisin of Danapur P.S. Case No.290/97/ Trial No.934/237 absolved the applicant of the charge of theft of electricity holding the tenant, Yashwant Kumar, liable for the same. After the said verdict the electric bill was bifurcated, and bill was accordingly served on Yashwant Kumar.

Facts mentioned hereinabove have been taken from the reply jointly filed by the General Manager-cum-Chief Engineer, PESU Area, Patna, Deputy General manager-cum-Electrical Superintending Engineer, Patna and Electrical Superintending Engineer, PESU West Circle, and thus there cannot be any dispute as regards the factual matrix of the case – so far as the Board is concerned.

The case of the applicant is that the even after the decision of the District Forum dated 16.10.1997/17.04.1998 holding the applicant liable for payment of the sum of Rs.13537.23 determined on the basis of the second inspection dated 6.4.1995, and payment of the said amount on 16.08.1997, the electric line was not restored for about 1½ years forcing the applicant to file Execution Case No.109/1999 under section 27 of the Consumer Protection Act. On misrepresentation of facts to the effect that the sum of Rs.13537.23 was outstanding the District Forum directed the applicant to deposit the amount and in order to buy peace and get the connection restored, the applicant deposited the said amount again. Even then the electric line was not restored on the plea of non-availability of electric meter and cable. The applicant had to provide the materials and only then the line was restored on 3.5.2010. The applicant/ premises thus remained without electricity for five years.

Even after the supply was restored in the premises, inflated energy bills to the tune of Rs,4,24,048, Rs.4,54,511 and so on were served on him which were revised on protest. For some of the months the applicant was forced to pay the

excess amounts. It was only after the applicant approached this Commission that the present General Manager-cum-Chief Engineer, PESU made personal enquiry, and after getting the ledger scrutinised, directed refund of excess amount of Rs. 71,424.63.

The applicant in the circumstances submits that he was deprived of electricity and harassed in various ways for fifteen long years only because he did not agree to the illegal demands of the officials of the Board. For infringement of his human rights relating to life and liberty and dignity at the hands of the officials he is entitled to be compensated.

In course of hearing, Shri SKP Singh, General Manger-cum-Chief Engineer, PESU fairly submitted that the dispute should have come to an end in the normal course after the decision of the State Commission but the decision – particularly para 9 thereof – gave rise to some confusion and therefore the decision could not be implemented. The issues being purely legal, it was referred to the Board for obtaining legal opinion and, finally, in the light of the legal advice received from the Additional Standing Counsel, the bills were revised and as of date no dispute exists. The Board having resolved the dispute “in letter and spirit” and redressed the “genuine grievances” of the applicant, the issue may be closed.

From the narration of events it is clear that the applicant’s liability had to determined on the basis of the second inspection of 06.01.1995 – as held by the District Forum and the State Commission. Thus there may be some justification for continuance of dispute and the disconnection, but there was absolutely no justification to delay restoration of electric connection and raise inflated bills after decision of the State Commission. The dilly-dallyings on the part of the Board’s officials and raising of excess/inflated bills were clearly acts intending to harass the applicant. Indeed, the first inspection of 25.10.1994 itself was wrong and illegal. As conceded in para 16 of the reply of the Board, “the whole dispute that lingered over a period of time relates to surprise inspection carried in 1994.” Be that as it may, as observed above, while the dispute arising from said surprise inspection can be justified – resulting in the disconnection of line etc, there was absolutely no justification to keep the dispute alive after the decision of the State Commission on 19.07.2004.

The point for consideration, in the facts and circumstances, is whether the applicant should be allowed compensation for the acts of harassment meted out to him and the mental trauma suffered by him as a result of those acts. Attention of the Commission was drawn by the General Manager to the concluding part of the reply, expressing “regret” for the “inconvenience” caused to the applicant. The applicant submitted that he suffered not only mental harassment and agony;

the suffering was also in terms of money as the premises remained without electricity for five years.

The Commission is of the view that electricity is an absolute requirement of life and therefore a right "relating to life" which is a facet of human right. The facts not being in dispute, on the admitted case of the applicant, he is entitled to compensation. In the facts and circumstances, the Commission would award compensation of Rs. one lakh.

In the result, the proceeding is disposed of with a direction to the Chairman, Bihar State Electricity Board to pay sum of Rs.1 lakh as compensation to the applicant within a period of one month and submit compliance report to this Commission.

Matter may be put up in the last week of March 2012 awaiting compliance report.

Date: 13.02.2012

Justice S.N. Jha
Chairperson