



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3209]

MONDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No: 5501 of 2004

Between:

1. RASHTRIYA ISPAT NIGAM LTD., VISAKHAPATNAM STEEL PLANT,
REP. BY ITS DEPUTY GENERAL MANAGER (DNW) MR. G. RAGHU,
VISAKHAPATNAM.

...PETITIONER

AND

1. CHAIRMAN EASTERN POWER DISTRIBUTION CO., OF ANDHRA
PRADESH LTD. HAVING ITS CORPORATE OFFICE AT
VISAKHAPATNAM, REP. BY ITS CHAIRMAN & MANAGING
DIRECTOR, EASTERN POWER DISTRIBUTION COMPANY OF
ANDHRA PRADESH LTD., CORPORATE OFFICE 30-14-9, SAI
SHAKTI BHAVAN, DABAGARDENS, VISAKHAPATNAM.

2. THE CHIEF GENERAL MANAGER O&N, EASTERN POWER
DISTRIBUTION COMPANY OF ANDHRA PRADESH LTD.,
CORPORATE OFFICE, 30-14-9, SAI SHAKTI BHAVAN,
DABAGARDENS, VISAKHAPATNAM.

3. THE SUPERINTENDING ENGINEER OPERATIONS CIRCLES,
EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD. VIDYUTH BHAVAN, OPP. HOTEL GREEN PARK,
VISAKHAPATNAM.

4. THE DIVISIONAL ELECTRICAL ENGINEER, OPERATIONS DIVISION,
ZONE-II, EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD. KANCHARAPALEM, VISAKHAPATNAM.

...RESPONDENT(S):

Counsel for the Petitioner:

1.Mr.VIVEK CHANDRA SEKHAR S

Counsel for the Respondent(S):

Mr.V V SATISH (SC for APEPDCL)

Orders Reserved on : 18.02.2026

Orders Pronounced on : 15.06.2026

Orders Uploaded on : 16.06.2026

The Court made the following Order:

The present writ petition is filed seeking the following relief:

“.....to issue a writ of certiorari or any other appropriate writ calling for the records of the 2nd respondent in Proceedings No.CGM/O&M/EPDCL/VSP/O&M/BB/D.No.2025/03 dated 23.09.2003 and quash the same as being contrary to clause 22.3.3.3 of terms and conditions of supply, being illegal, arbitrary and without jurisdiction in view of section 49 (1) of Indian Electricity (A.P. Amendment) Act 2000 and Electricity Act 2003 and be pleased to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Mr.Avula Akash, learned counsel representing Mr.S.Vivek Chandra Sekhar, learned counsel for petitioner. Also heard Mr.V.V.Satish, learned Standing Counsel for APEPDCL appearing for respondents. Perused the material on record.

3. Brief facts of the case are that Rashtriya Ispat Nigam Limited (for short “RINL”), a Public Sector Undertaking established by Union of India for production of steel requires continuous and reliable power supply, since manufacturing involves handling of liquid metals at high temperatures and highly poisonous and explosive gases. For continuous and reliable power supply, RINL established three 60 MW (Mega Watts) generators. It established a fourth turbo generator with a capacity of 67.5 MW in the year 1995 and thereby total power generation capacity was enhanced to 247.5 MW. Power generated by petitioner's Captive Power Plant including 2 x 7.5 MW and 2 x 12 MW auxiliary generators is adequate to meet its production and ancillary activities. Therefore, excess power generated by RINL's Captive

Power Plant is being exported to Transmission Corporation of Andhra Pradesh (A.P.Transco) at a reduced price. In order to meet contingencies like annual shut down of its generating stations and any other unexpected generator / boiler tripping situation, RINL entered into an agreement with 1st respondent for supply of energy with a Contracted Maximum Demand (CMD) of 150 Mega Volt Ampere (MVA) later revised to 100 MVA. For the purpose of recording, import and export of power, 1st respondent-Distribution company set up its meters at the main receiving station. RINL established a system known as Supervisory Control and Data Acquisition System (SCADA) which also measures import and export of power.

4. On 25.10.2001, RINL authorities observed that there is an unusual difference between the net import of power as calculated from SCADA and as recorded by meters set up by the 1st respondent. To rule out the possibility of any abnormal error in measurement power by SCADA, relevant transducers were tested and found to be in order. Later, a precision meter was installed in one of the incoming circuits at Main Receiving Station and it was observed that meters setup by the 1st respondent were recording 30% less than the recording by precision meter. RINL through letter dated 09.11.2001 reported about improper functioning of meters to the authorities of 1st respondent. On 10.11.2001, the Assistant Divisional Engineer (MRT) visited the main receiving station and observed that current in the three phases i.e., red, yellow and blue is not being recorded equally and having abnormal variations. After

thorough verification of the meters, current transformers and wiring on 19.11.2001, defect in the power consumption recording process was noticed in the wiring between the secondary of 220 KV current transformers and summation current transformers in R & Y in circuit-II. Ultimately, officials of 1st respondent-Distribution Company rectified defect on 21.11.2001 by replacing defective wires.

5. Basing on the inspection dated 19.11.2001, 4th respondent / Divisional Electrical Engineer invoking Clause 22.3.3.3 of Terms and Conditions of Supply issued Assessment Notice dated 04.12.2001 and called upon the petitioner / RINL to submit representation, if any to the same. In the said notice, it was *inter alia* stated that the meter installed is not functioning correctly, recording less energy consumption and the energy consumption during the period of defect in the meter i.e., from July, 2001 to October, 2001 was assessed at Rs.5,27,66,471/-. In response to the said notice, RINL sought some information / material and submitted representation dated 01.01.2002, *inter alia* stating that A.P.Transco has not followed required maintenance practices and periodical checking to ensure healthiness of the circuits and meters. 3rd respondent thereafter by affording an opportunity of hearing confirmed the back billing for an amount of Rs.5,27,66,471/- vide Proceedings dated 05.02.2002.

6. RINL aggrieved by the said proceedings filed an appeal on 04.03.2002 before 2nd respondent with detailed comments on the order passed by 3rd

respondent. Appellate Authority without taking into account the annual test of meters conducted on 30.08.2001 by ADE/HT meters, Visakhapatnam, by making an observation that during the month of 06/01, the consumers generator (TG2) had tripped, confirmed the order of assessment holding that the billing meter is recording less due to melting of secondary leads in Circuit-II from 07/01 onwards.

7. Assailing that the determination of back billing amount of Rs.5,27,66,471/- is illegal and without jurisdiction, present writ petition came to be filed.

Contentions:

8. Learned counsel for the petitioner referring to material on record, made elaborate submissions. He argues that the reason for improper recording of power by the meter is due to melting and shorting of secondary circuit wires and not due to malfunctioning of the meters. He submits that in such circumstances, invocation of Clause 22.3.3.3 of Terms and Conditions of Supply is without jurisdiction, that as it is not a case of defective functioning of meter, Clause 22.3.3.3 is not attracted and if at all, the dispute / difference as to the energy supplied to the petitioner was to be determined by the Chief Electrical Officer to Government (CEIG) as provided under Section 26 (6) of Indian Electricity Act, 1910, but the said Act was repealed. He further contends that the obligation to maintain meters, circuits, wiring etc., lies with the Distribution Company and it failed to ensure maintenance of

interconnecting circuit and proper recording of supply particulars. He submits that any defect in the maintenance by the 1st respondent authorities and the loss, if any, shall be borne by the 1st respondent, but cannot be fastened to the writ petitioner.

9. Drawing the attention of the Court to the relevant Terms and Conditions of Supply and the provisions of Indian Electricity Act, 1910 as also decisions of the Hon'ble Supreme Court in **Bombay Electricity Supply & Transport Undertaking v. Laffans (India Pvt. Limited) & another**¹etc., learned counsel submits that the impugned back billing order is liable to be set aside as the same is without jurisdiction, unjust and arbitrary.

10. *Per contra*, learned counsel for the respondents strenuously contended that order of assessment as confirmed by the Appellate Authority is valid, contains cogent reasons and does not suffer from any illegality. He submits that the case on hand is not one of defective functioning of the meter, but defect in the wires. He submits that during the course of inspection of meters / equipment etc., it was found that the wires were burnt and it has resulted in recording of less consumption. He submits that after rectification of the wires, the meter recorded normal consumption and the authorities concerned after taking into consideration all relevant aspects by co-relating with earlier consumption pattern, had rightly determined back billing amount for the period from July, 2001 to October, 2001. He contends that as it is a case of defect in

¹ (2005) 4 SCC 327

the wires, the CEIG has no jurisdiction in the matter and the contention with reference to Section 26 (6) is misconceived. He submits that in fact, petitioner has not raised any objection with regard to invocation of Clause 22.3.3.3 of Terms and Conditions of Supply much less, lack of jurisdiction at any point of time before the concerned authorities. He also submits that material on record goes to show that grievance of the petitioner is only with regard to period of assessment, but not the method adopted by DISCOM authorities in arriving at the back billing amount. Making the said submissions and relying on decision of Hon'ble Supreme Court reported in **Uttar Haryana Bijli Vitran Nigam Limited & Another v. Adani Power (Mundra) Limited & Another**² and **Bihar State Electricity Board & Another v. Shree Plywoods (Pvt.) Ltd., and others**³ etc., learned counsel submits that there are no merits in the writ petition and interference in a matter like this is not called for. Accordingly, he seeks dismissal of the writ petition.

Consideration by Court:

11. At the outset, it may be pertinent to mention that there is no dispute about less recording of consumption by the meter at the time of inspection of the petitioner's premises by the concerned officer on 19.11.2001. It is also not in dispute that the meter is not defective and in view of the same, it was not changed after the inspection. The only issue is with regard to invocation of Clause 22.3.3.3 of Terms and Conditions of Supply for arriving at the amount

² (2023) 14 SCC 731

³ 2001 SCC OnLine Pat 450

of back billing and period of back billing. To appreciate the contentions advanced by the learned counsel with reference to the said aspects, it may be appropriate to extract Clause 22.3.3 which deals with procedure for arriving at consumption when the meter is defective and Section 26 (6) of the Indian Electricity Act, 1910.

22.3.3. Procedure for arriving at consumption when the meter is defective:-

Where supply to the consumer has been given without a meter or where the meter fixed is found defective or to have ceased to function and no pilferage of energy or malpractice is suspected, the quantity of electricity supplied during the period when meter was not installed or the meter installed was defective, shall be assessed as mentioned hereunder:

22.3.3.1 The quantity of electricity supplied during the period in which the meter ceased to function or became defective, shall be determined by taking average of the electricity supplied during the preceding three months the month in which the said meter ceased to function or became defective provided that condition in regard to use of electricity during the said three months were not different from those which prevailed during the period in which the meter ceased to function or became defective.

22.3.3.2 If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive three months during the preceding 12 months when the conditions of working were not different.

22.3.3.3 Where it is not possible to select a set of three months as indicated in sub-clause 22.3.3.1 or 22.3.3.2 or if meter is not at all installed, quantity of electricity supply shall be assessed by the Assistant Divisional Engineer / Divisional Engineer of the area on the basis of connected load and hours of usage of electricity by the consumers. However in the case of industrial consumers due regard shall be given to the production figures and conditions of working in the period under question.

The concerned Asst. Divisional Engineer (Operation), of the area shall issue the assessment notice to the consumer (Appendix – XII) within a week from the date of receipt of the inspection report from the Inspecting Officer. The Assistant Divisional Engineer operation shall indicate the details based on which the assessment was made, in the said notice. The consumer shall be advised to file his representation if any to the concerned Divisional Engineer (operation) in the case of LT services and Superintending Engineer (operation) in the case of HT services within fifteen days from the date of receipt of the notice. The Divisional Engineer(operation) / Superintending (operation) as the case may be, shall permit the consumer to represent his case in person, if the consumer so desires.

After due consideration of the material furnished in the reply to the Assessment notice, representation made available if any, during personal hearing and the facts and material of the case on record, the Divisional Engineer (operation) / Superintending Engineer (operation) as the case may be, shall then pass an order in the case which shall be a speaking order. The amount payable by the consumer towards short billing on account of defect in meter, pursuant to the said order of the Divisional Engineer (operation) / Superintending Engineer (operation), shall be payable by the consumer within 30 days from the date of issue of the order, by cash or by D.D. drawn in favour of the concerned AAO (ERO) in case of LT services and SAO of circle office in case of HT services.

(B.P.Ms.No.377 (Opn-Comml) Dated 23-12-93)

(B.P.Ms.No.110 (Opn-Comml) Dated 06-3-98)

Section 26(6) of the Indian Electricity Act, reads as follows:

26.Meters –(1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.

(2).....

(3).....

(4).....

(5).....

[(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity;

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.]

12. Further, Rule 30 (1) of the Indian Electricity Rules, 1956, contemplates that the supplier shall ensure that all electric supply lines, wires, fittings and apparatus belonging to him are under his control, which are on a consumer premises, are in a safe condition and in all respects fit for supplying energy and the supplier shall take due precautions to avoid danger arising on such premises from such supply lines, wires, fittings and apparatus.

13. A perusal of the letter dated 24.11.2001 (Page 41), addressed by the ADE/DPE/HT to the 4th respondent with regard to conduct of joint inspection by him along with other officials of the Distribution Company, wherein it was mentioned that “the meter box is completely rusted, rats and squirrels are freely moving inside the meter box through the rusted roles(sic. wholes)” would clearly indicate lack of maintenance and protection to metering equipment by DISCOM authorities. Nowhere in the said communication / report, was there any finding / observation that the meter is defective. Obvious reasons for less recording even as per respondent-authorities is only ‘B’ phase CT secondary wires are intact and others are melted resulting in unbalance of current in the meter. Thus, it is not a case where the meter *per se* is defective, but a case where the meter is functioning and recording less consumption due to melting of wires. In such circumstances, that too when meter fixed is not found defective, invocation of Clause 22.3.3. and assessment of quantity of electricity thereof as rightly contended by the learned counsel for the petitioner is without jurisdiction. Any assessment

towards back billing on the basis of the procedure contemplated under the said clause is illegal, not sustainable.

14. At this juncture, it may be appropriate to point out that plea with regard to jurisdiction / assessment of back billing amount under Clause 22.3.3.3 of the Terms and Conditions was not specifically raised by the petitioner at the time of submitting its representation / objections. However, it had objected to the period of assessment from 7/2001 to 10/2001 i.e., for four months. Since a dispute was raised with regard to the period during which less consumption was recorded by the meter which is otherwise perfect in all respects, the authorities of DISCOM ought to have referred the matter for resolution by CEIG as provided under Section 26 (6) of the Indian Electricity Act, at the relevant point of time.

15. In similar circumstances, A Division Bench of High Court of Karnataka in **Karnataka Electricity Board v. Topasa**⁴ dealt with an issue whether a dispute arising out of under recording of consumption of electricity by an electrical meter, it is for the Board or it is for the consumer, to have the matter decided by the Electrical Inspector under sub-section (6) of Section 26 of the Indian Electricity Act, 1910?. In the said case, at the time of a surprise inspection of the premises of the respondent-consumer it was found that the power meter was under-recording to the extent of 23% and the lighting meter was under-recording to the extent of 11.2%. Division Bench answered the

⁴ ILR 1991 KAR 909

Issue at Para No.7 and dismissed the appeal. For ready reference, relevant portion is extracted hereunder:

7. Now the precise question before us is as to whether it is for the consumer to raise a dispute before the Electrical Inspector or for the Electricity Board to raise a dispute. In our opinion, when sub-section (6) of Section 26 of the Act says that either of the party is at liberty to raise a dispute before the Electrical Inspector it means the party aggrieved is entitled to raise a dispute. Naturally in the case of under-recording, it would be the Board which is the aggrieved party and therefore in such cases, it is for the Board to raise a dispute before the Electrical Inspector and have the matter decided if it wants to make back billing to the extent the Board's income was reduced on account of fault in the meter. In cases where the complaint is that the meter is over-recording naturally consumer would be the adversely affected party and therefore it is for him to raise a dispute before the Electrical Inspector under sub-section (6) of Section 26 of the Act, in order to have the amount of the bill reduced."

16. In **Bombay Electricity Supply** case referred to supra, a Three Judge Bench of the Hon'ble Supreme Court was dealing with an appeal filed against the judgment of a Division Bench of Bombay High Court. The dispute relates to two meters, one which was burnt and another which was found running slow. After replacing the burnt meter, on the premise that the meter had recorded incorrect readings, revised bills were raised. Challenging the same, the consumer M/s.Laffans (India) Pvt. Ltd., filed a writ petition. A learned Single Judge dismissed the same holding that it was for the consumer to raise a dispute before the Electrical Inspector under Section 26 (6) of the Electricity Act, in case he challenged or disputed the assertion of the supplier and that the meter was not recording correctly and was running slow. Further, that as the consumer did not raise any such dispute, supplier was entitled to replace the meter if the same was defective and to raise a demand on the basis of average consumption in the past period.

17. Hon'ble Division Bench reversed the said view and held that if the supplier disputed the correctness of the meter, it should have referred the dispute to the Electrical Inspector as provided in Section 26 (6) of the Act and it was for the Electrical Inspector to estimate the amount of energy supplied to the consumer. It was also held that the appellant / supplier having not referred any such dispute to the Electrical Inspector and consequently no estimate of the energy supplied by it to the first respondent (consumer) having been made, it was not open to the appellant / supplier to raise a bill on the basis of average of the past one year's consumption.

18. The Hon'ble Supreme Court examined the matter with reference to Section 26 (6) of the Electricity Act, 1910 and Rule 57 of the Electricity Rules as also the earlier precedents viz., **M.P.Electricity Board v. Basantibai**⁵, **Belwal Spinning Mills Limited v. U.P.SEB**⁶ and **J.M.D.Alloys Ltd., v. Bihar SEB**⁷. Expressing its view, as to what is a correct meter, the Hon'ble Supreme Court at Para No.8 and 9 held as follows:

"8. As to what would be a "correct" meter, there is sufficient indication in the Act and the Electricity Rules, 1956 in the Explanation given at the end of sub-section (7) of Section 26 of the Act and sub-rules (1) and (2) of Rule 57, quoted hereinabove. Where the meter is completely non-functional on account of any fault or having been burnt, it will not register the supply of energy at all. Since a burnt meter does not record any supply of energy, it virtually means "no meter".

9.What is contemplated by Section 26 (6) is a running meter, but which on account of some technical defect registers the amount of energy supply or the electrical quantity contained in the supply beyond the prescribed limits of error. It contemplates a meter which is either running slow or fast with the result that it does not register the correct amount of energy supplied. There is an additional

⁵ (1988) 1 SCC 23

⁶ (1997) 6 SCC 740

⁷ 2003 (5) SCC 226

reason for coming to such a conclusion. Section 26 (6) confers power upon the Electrical Inspector to estimate the amount of energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct. Where the meter is running slow or fast, it will be possible for the Electrical Inspector to estimate the amount of energy supplied to the consumer by determining the extent or percentage of error in recording the supply, whether plus or minus. However, where the meter is burnt or is completely non-functional, such an exercise is not at all possible. Therefore, Section 26 (6) can have no application in a case where a meter has become completely non-functional on account of any reason whatsoever.”

19. In Para No.10, specific reference to decision of **Belwal Spinning Mills case** was made, wherein it was *inter alia* held that “any difference or dispute arising between the licensee and consumer, as to whether any meter has recorded or is recording correct reading or not, can be raised by either party and referred, upon the application of either party, for decision by an Electrical Inspector.”

20. Hon’ble Supreme Court in the facts of the said case, while noting that for the period for which, according to the appellant / supplier, the meter was not correct, none of the parties has referred the dispute to the Electrical Inspector disposed of the appeal clarifying that the demand raised by the appellant / supplier based on the average consumption during the similar period in the last year is justified, for the period for which the reading was lost on account of the meter having been found burnt. Further, so far as the period for which the meter is said to be incorrect, the demand has not been revised by basing it on the finding arrived at by the Electrical Inspector and hence is not available to be revised. (Para 14)

21. In the light of the expression of the Hon'ble Supreme Court in the above said decision, this Court is of the opinion that the issue with regard to less recording of readings by a meter which is not otherwise defective and the assessment towards back billing amount falls within the purview of Chief Electrical Inspector to Government under Section 26 (6) of the Indian Electricity Act. Therefore, the very issuance of notice under Clause 22.3.3.3 of Terms and Conditions of Supply and the impugned orders pursuant thereto are not sustainable for want of jurisdiction. There is no dispute with regard to the proposition that scope of judicial review of decisions of expert bodies is limited and Courts would be loathe to interfere with the same. But the decision in **Uttar Haryana Bijli Vitran Nigam Limited** relied on by learned counsel for respondents is not applicable to the facts of the case and contentions raised by him merits no acceptance.

22. For the foregoing reasons, the order dated 23.09.2003 of the second respondent confirming the order of the third respondent dated 05.02.2002 is quashed and the writ petition is allowed.

23. Before parting with the order, it may be pertinent to mention that as per the instructions of learned counsel for petitioner, back billing amount was adjusted / collected from the petitioner. In view of setting aside of the impugned order, back billing amount collected or adjusted, if any by the

respondents shall either be refunded or given credit to in the monthly consumption bills of the petitioner. No costs.

Consequently, all pending applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

BLV
Dt. 15.06.2026

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

W.P. No: 5501 of 2004

Date: 15.06.2026

BLV