



THE ENERGY WE USE AND THE LAWS IN INDIA

Law

**Dr. Hiranmaya
Nanda**

Associate Professor, KIIT School of Law, KIIT Deemed to be University, Bhubaneswar

ABSTRACT

The present study is based on Energy Sector and the rules governing Energy Sector in India. For a layman understanding energy is the capacity of a physical system to do any work or it is the ability to do the work. We may consider a living organism or a non living organism, energy is considered to be the prime element of the work. In this paper the author has tried to give a fundamental idea of source of energy, types of energy and the use of energy industries in India. Various rules and regulations and the interpretation of the judiciary in India have been discussed.

KEYWORDS

Energy, Electricity Act, Laws, Economy

INTRODUCTION

The term energy derived from the greek word "ergia" which means capacity to do work and was coined by Thomas Young. The energy of a body is defined as its capacity for doing work and it is necessary for our survival. The history of the energy can be traced back to the primitive age when man used his own strength or muscle power and animals to meet his needs. In the Stone Age man discovered the art of making fire by rubbing two pieces of wood and started to utilize heat energy for cooking food. Since then he continued his efforts to minimize labor and discover tools and machines which can be used for the benefit of the man. During the later Neolithic age man used animal power for agricultural purpose and established stable human communities. Then gradually he learnt to harness energy from wood, wind, water and sun. He used wood for heating and cooking of food. The use petroleum and its products come into prominence in the 17th century. In the 18th century steam power was developed and the large scale use of petroleum started from early 20th century for cars, airplane and various industries. Today we all know that by burning petrol or diesel we get energy to run scooter, cars and other vehicles. Further we also know that for cooking food we need coal, kerosene, gas or electricity. For lighting our home and running fans we need electrical energy. Now we have come to such a stage that without energy our life is meaningless and we can't manage a single day.

Types of Energy

Energy sources can be broadly classified into two categories; (1) Non Renewable Sources and (2) Renewable Sources. Non Renewable Sources are like fossil fuels, like coal, oil and gas. Renewable Sources consisting of hydel powers, the sun, biomass, wind, tidal, geothermal and ocean power.

Energy can also be classified into (1) Commercial and (2) Non Commercial. The commercially exploited forms are coal, hydropower and nuclear energy. The non commercial sources are fire wood, farm waste, cow dung and animal power. It may be noted that commercial sources are non renewable and so non commercial sources have not been significantly exploited.

As the commercial energy sources are limited we cannot afford so much on this. As per the estimate, the coal reserve of our country is expected to last another 70 years or so. The total oil reserves cannot meet the need of the country.

Against this background it is inevitable that we have to search for alternative fuel sources. More permanent and dependable sources of energy of the renewable type have to be found out. A few renewable type energy sources are hydro power, bio mass, the sun, tidal, wind, geothermal and sea thermal. The nuclear energy is also another good source for fulfilling the needs of the country.

Conventional Sources of Energy

The ultimate source of all forms of energies that we use today is the energy comes from the sun. This energy is utilized by plants to produce plant products that are ultimately consumed by animals. The known commercial fuel like wood, coal, gas and oil are derived from the plants and animals. We use all these for cooking food and fulfilling our domestic needs.

Review of Literature

Dash and Sangita (2011) observed that, "the force of governance reforms on effectiveness, equity and service delivery in order to identifying the factors responsible for the success/failure of reforms in the power sector in Orissa. It is found from their study that the success of reforms depends not on mere change of ownership from public to private. It depends on so many factors like to what extent the stakeholders involved in the process are benefited and how the institutions implement the policies in reality."

Godbole (2003) observed that "when the bill, which was approved at the time appropriate to the Electricity Act 2003 was under consideration of the Standing Committee of parliament, a number of issues that deserve closer examination had highlighted. Some of the problems remained autonomous. The law, which is an intermediate state, also raises a number of new issues that are likely to be so serious problems in the coming years."

Totare and Pandit (2010) examined that "the case for reform in the electricity sector in Maharashtra and concluded that the first phase of reform had been successfully based on a Ten point action plan" leading to reduce distribution losses. The study also examined the performance of the franchise based distribution model (Public-Private Partnership) and recommend its extension to other sectors. "

Dubash and Rajan (2001) found that "three steps, including de-measurement of agricultural consumption and the grant of aid, signing of the independent power producers contract with major fiscal implications and implementation of the Orissa model on a national scale made policy of Power sector in India be locked into adverse arrangement. They criticized the international donor organizations that are largely unaccountable to the Indian public, plays a crucial role in shaping the future of the power sector. They explained the process of energy reforms in India by dividing the whole period into four distinct periods, but overlapping. The World Bank led restructuring policy began to be implemented around 1993 in Orissa and in short time after 1998 make a full analysis of the social and political context, in which power sector reforms have taken place."

Empowering The Power Sector in India

The Former Prime Minister Shri Atal Behari Vajpayee said "Electricity has become one of the basic necessities of life, not only does it drive the economic growth but also determines the standard of living of people." To make India Economically developed, militarily strong and scientifically advanced it is important that each sector performs its best. Electricity is the bedrock of all advancement in the modern world. Unstated objective of The Electricity Act 2003 was to unleash the potential of power sector through fundamental reforms. The Electricity Act, 2003 was enacted for the purpose "to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry."

The main cause for the enactment of this act is due to the uncontrolled corruption in the power sector of India and particularly in the absence of any precision and infertile organizations that seldom apply the rules and regulations in the right intense. The Electricity Act 2003 tends to

deal with these types of issues. The Act is also a stir towards making a market-based administration in the power sector of India and consolidates the laws relating to generation, transmission, distribution, trading and use of electricity.

The important structure under the Electricity Act, 2003, includes "Electricity Regulatory Commissions" at the central level and state levels, with the right of appeal provisions embodied to an Appellate Tribunal for Electricity (APTEL) which has been created under the Electricity Act, 2003 and from APTEL appeal to the highest court that is Supreme Court of India. The Supreme Court of India in the year 2019 has pertinently illuminated that "it would not interfere with the decisions of APTEL, or with those of any of the regulatory commissions established under the Electricity Act, unless a specific question of law is presented. It further clarified that it would not interfere with issues such as elements of tariff determination that do not involve questions of law."

Judicial Interpretations in the Energy Sector in India

The Supreme Court of India time and again has decided many case laws on energy sector for the interest of the justice. This may be the ambit for the interest of the consumer or with the supplier. The areas such as Delay in allotment /release of power connection, Loss due to voltage fluctuations / power cuts/ interrupted / inadequate power supply, Problems relating to billing, Damage due to electrocution / sparking /short circuit, Meters related grievances, Complaints regarding refunds, Theft/ unauthorized load / unauthorized connection etc.

In the case of *Amit Products (India) Ltd. v. Chief Engineer (O & M) Circle & Anr.*, the issue was whether the appellant company was the same corporate entity as M/s Amar Amit Jalna Alloys Pvt. Ltd. and liable to pay the previous electricity charges or was it a separate and distinct corporate entity having no previous liability? The Supreme Court of India observed that, "they were unable to accept the contention of the appellant company that by changing the members of the Board of Directors of the company or by changing the shareholding pattern, the company had undergone any change. The same company wanted the electricity connection without making any payment towards the electricity charges payable by the previous consumer. The matter was dealt in detail by the High Court and it was held that the appellant company was none other than the sister concern of M/s Amar Amit Jalna Alloys Pvt. Ltd. and was representing the same consumer who had committed the default and that Condition 23 (b) of the Conditions of Miscellaneous Charges for supply of electricity energy would apply to the appellant company. The Supreme Court did not find any reason to interfere with the impugned judgment and the appeal was dismissed."

In another case *Haryana State Electricity Board v. Bhagwat Prasad*, the main issue was that, Is there any ground for the National Commission to interfere with the majority view of the District Forum as affirmed by the State Commission on refund of the amount with interest? The Supreme Court of India observed that, "the National Commission after going through the case in detail upheld the majority decision of the District Forum as affirmed by the State Commission and dismissed the Revision Petition. The National Commission held that the District Forum in its majority decision has rightly ordered that the amount should be refunded with interest at the rate at which the Electricity Board charged surcharge on unpaid amount. Thus, upholding the orders, the National Commission further held that there was absolutely no ground for them to interfere with the concurrent findings of the fora below under Section 21 (b) of the Consumer Protection Act, 1986 and the revision petition dismissed."

In the case of *Kamla Prasad Tiwari v. Junior Engineer*, the main issue was whether inaction on the part of the opposite party constituted deficiency in service. The Supreme Court of India observed that, "the National Commission did not find any illegality or jurisdictional error in the order of the State Commission. Moreover both the fora below dealt with the merits of the case and came to the correct conclusion. There was no justifiable reason given for the further enhancement that was prayed in the revision petition. In view of the above the National Commission dismissed the revision petition. Revision Petition dismissed."

CONCLUSION

According to Roudolf Julius Emanule Clausius, a German physicist

pointed out that, in any process involving a flow of energy, there is always some loss, as if it has drained away into the universal lake of unusable energy. This is known as increasing entropy of the universe, since the energy lost cannot be regained for further use. The portion of energy that is unavoidably lost. Therefore any energy which is created naturally or artificially shall be utilized and restored to the maximum and this can help in building up the economy of any country.

REFERENCES

1. Dash BC, Sangita SN. Governance reforms in power sector: initiatives and outcomes in Orissa. Institute for Social and Economic Change; 2011.
2. Godbole M. Electricity Act, 2003: questionable wisdom. Economic and Political Weekly. 2003 Sep 27;4104-10.
3. Totare NP, Pandit S. Power sector reform in Maharashtra, India. Energy Policy. 2010 Nov 1;38(11):7082-92.
4. Dubash NK, Rajan SC. Power politics: Process of power sector reform in India. Economic and Political Weekly. 2001 Sep 1;3367-90.
5. Amit Products (India) Ltd. v. Chief Engineer (O & M) Circle & Anr. 2005.
6. Haryana State Electricity Board v. Bhagwat Prasad. 2005.
7. Kamla Prasad Tiwari v. Junior Engineer. 2003.