

**Court No. - 3**

**Case :-** WRIT - C No. - 32661 of 2023

**Petitioner :-** Ram Rekha Gupta

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Shri Kant Shukla

**Counsel for Respondent :-** C.S.C.,Rishu Mishra

**Hon'ble Siddhartha Varma,J.**

**Hon'ble Shekhar B. Saraf,J.**

1. The final assessment order dated 11.4.2023 passed on by learned counsel for the Electricity Department be kept on record.

2. The petitioner, as per the writ petition, was served with provisional assessment notice dated 6.3.2023. In pursuance thereto, the petitioner replied on 20.3.2023. While the petitioner was waiting for a date for personal hearing, he was served with citation to appear and there was a requirement in the citation to appear to pay Rs.41,46,077/-.

3. Learned counsel for the petitioner had submitted that there was no final assessment. In such circumstances, this Court on 12.10.2023 had passed the following order:-

"No one is present for the electricity department.

Learned counsel for the petitioner states that without passing a final assessment order the Recovery Certificate has been issued on the basis of provisional assessment.

The electricity department may send instructions. Also they may ensure that some counsel is present on the next date.

Put up this case on 22.11.2023 as fresh.

Till then no coercive action shall be taken against the petitioner.

Learned counsel for the petitioner may also inform the counsel for the respondents- Electricity Department about the order which has been passed today in writing."

4. Learned counsel appearing for the Electricity Department, Shri Pankaj Dubey, holding brief of Sri Rishi Mishra, states that in fact the final assessment order was passed on 11.4.2023 and since the same is not challenged, no relief be granted to

the petitioner.

5. We have heard learned counsel for the petitioner, Sri Pankaj Dubey, learned counsel for the Electricity Department and have also perused the final assessment order dated 11.4.2023.

6. From a perusal of the final assessment order, we find that the petitioner's reply was not considered. We also find that the petitioner was not given any personal hearing.

7. In such circumstances, the final assessment order dated 11.4.2023 is quashed and set-aside. The petitioner may file a fresh reply to the provisional assessment notice within 10 days from today and the Electricity Department shall hear the petitioner on or before 14th December, 2023 and pass an order with regard to final assessment. It is made clear that the entire proceedings shall be completed within a period of two months.

8. For a period of three months or till a decision is taken by the Electricity Department, whichever is earlier, no coercive action shall be taken against the petitioner.

9. The writ petition is disposed of accordingly.

**Order Date :- 22.11.2023**

Rakesh