

Court No. - 40

Case :- WRIT - C No. - 34911 of 2023

Petitioner :- Pawan Kumar Kesharwani

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

Counsel for Petitioner :- Devashish Tripathi, Brij Gopal

Counsel for Respondent :- CSC, Narendra Kumar Tiwari

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner; Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondents and learned brief holder of Sri Narendra Kumar Tiwari, learned counsel for the respondent - Corporation.

2. Present writ petition has been preferred for quashing the impugned provisional electricity bill dated 04.09.2023 issued by respondent No.5 - Executive Engineer, Purvanchal Vidyut Vitaran Nigam Limited, Pritam Nagar, Prayagraj and further for a direction to the respondent not to adopt any coercive method against the petitioner as well as against his property (movable or immovable) pursuant to impugned provisional bill.

3. Learned counsel for the respondent - Corporation has raised preliminary objection regarding the maintainability of the writ petition on the ground that for the reliefs claimed in the writ petition full fledged mechanism is provided under Section 126 of the Electricity Act, 2003. Section 126 (2) provides that the order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed. Section 126 (3) provides that the person, on whom an order has been served under sub-section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person. Even against the final assessment an aggrieved person is having efficacious remedy to file an appeal under Section 127 of the Electricity Act. As such it is pressed that without final assessment a writ petition is not maintainable. In case the petitioner files an objection to the provisional bill, definitely

the same would be considered by the respondent authorities as per law.

4. Confronted with this, learned counsel for the petitioner submits that the petitioner has already filed an objection against the impugned provisional bill but till date the proceeding has not been finalised and as such leave may be accorded to file fresh objection.

5. Considering the facts and circumstances of the case, we are not inclined to keep the matter pending consideration. In case the proceeding has not been finalised, it is expected that final assessment shall be made strictly in accordance with law expeditiously.

6. The writ petition stands **disposed of** accordingly.

Order Date :- 2.12.2023

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