

Court No. - 3

Case :- WRIT - C No. - 36912 of 2023

Petitioner :- Smt.Urmila Devi And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ram Sanahi Yadav

Counsel for Respondent :- C.S.C.,Narendra Kumar Tiwari

Hon'ble Siddhartha Varma,J.

Hon'ble Shekhar B. Saraf,J.

1. Instructions filed today be kept on record.
2. The Electricity Department upon finding that the petitioners had indulged in theft of electricity had issued a provisional assessment notice dated 23.1.2021. This notice was replied to by the petitioners on 4.2.2021. The petitioners when were being troubled by a recovery citation dated 11.7.2022 demanding Rs.52,171/-, approached this Court by means of the instant writ petition.
3. Learned counsel appearing for the Electricity Department has handed over to the Court a final assessment order dated 25.2.2022. A copy of this order has also been handed over to learned counsel for the petitioners.
4. Learned counsel for the petitioners has submitted that the final assessment order does not even whisper about the reply which the petitioner had given and, therefore, he submits that the reply of the petitioners were not considered at all.
5. The Court has also gone through the reply of the petitioners and has perused the order dated 25.2.2022. We do find that none of the issues, which were raised by the petitioners in their reply, has been considered. Even though this order has not been impugned in the instant writ petition, we do find that the order dated 25.2.2022 cannot be sustained in the eyes of law.
6. Under such circumstances, we quash the final assessment order dated 25.2.2022 and remit the matter back to the Executive Engineer for a re-consideration. Further, it is ordered that the petitioners be given an opportunity to reply to the provisional notice which was dated 23.1.2021, on or before 14.12.2023. The Electricity Department shall, thereafter, after considering the reply,

adjudicate upon the rights of the petitioners within the next two months. Needless to mention that before the order is passed, the petitioners be also granted a personal hearing. For a period of two months or till a decision is taken by the Executive Engineer, whichever is earlier, no coercive action shall be taken against the petitioners.

7. With these observations, the writ petition stands allowed to the extent indicated above.

Order Date :- 11.12.2023

PK

(Shekhar B. Saraf,J.) (Siddhartha Varma,J.)