

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3152 of 2023

Applicant :- Mohd. Afzal Thru Power Of Attorney Holder Mohd. Faisal

**Opposite Party :- Rama Shankar Maurya Exe. Engineer Madhyanchal
Vidyut Vitaran Nigam Ltd. Ayodhya And Anr.**

Counsel for Applicant :- Angrej Nath Shukla

Counsel for Opposite Party :- Mayank Sinha

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Angrej Nath Shukla, learned counsel for the petitioner and Sri Mayank Sinha, learned counsel for the opposite party no. 1.

2. Attention has been drawn towards the order of writ court dated 29.9.2022 passed in Writ-C No. 6704 of 2022 which reads as under :

"Heard learned counsel for the petitioner and Sri Manish Jauhari on behalf of the opposite party no. 4.

The provisional assessment notice issued under Section 126 of the Electricity Act, 2003 was finalised with the imposition of the same amount i.e. Rs. 6,27,051/- on 25.11.2021 and in furtherance thereof, the recovery proceedings are in progress.

Learned counsel for the petitioner has argued that the final assessment order has been passed without consideration of any objections for which opportunity was denied to the petitioner.

The final assessment order does not reflect consideration of any objection for which an opportunity ought to have been granted to the petitioner.

We accordingly permit the petitioner to file objections against the provisional assessment notice dated 25.11.2021 and in case any such objections are filed within a period of two weeks from today, the same shall be considered and decided by a reasoned and speaking order not later than a period of two months from the date of filing of the objections alongwith a copy of this order.

The recovery proceedings shall remain in abeyance and shall abide by the outcome of the objections.

The writ petition is disposed of accordingly."

3. Learned counsel for the petitioner has stated that the petitioner has submitted his objection before the Executive Engineer on 14.8.2023 (Annexure no. 5 to the contempt petition) wherein he has stated that the petitioner is having the electricity connection of 2 Kilowatt, his earlier meter was changed by the department as it had got fire and burnt completely. The department has lodged false F.I.R. against the petitioner for electricity theft imposing a charge and fine to the tune of Rs. 6,27,051/-. Sri Sinha has shown the copy of the

letter dated 13.9.2023 preferred by the Executive Engineer, Electricity Division, Rudauli, Ayodhya, along with the coloured photograph of the meter and utilization of the said connection, addressed to the petitioner wherein it has been indicated that after finding that on the electricity connection of 2 K.W. the petitioner was utilizing 6.576 K.W. in an unauthorized manner and the aforesaid fact has been verified from the checking report and photography report, therefore, the charge / fine has rightly been imposed upon the petitioner. In view of above the aforesaid representation of the petitioner has been rejected.

4. Learned counsel for the petitioner has stated that in the aforesaid letter dated 13.9.2023 the objection of the petitioner has not been referred. However, in the objection dated 14.8.2023 the petitioner has not stated about the allegation against the petitioner that he was utilizing the electricity of 6.576 K.W. on a connection of 2 K.W. rather he has stated that the F.I.R. has been falsely lodged against the petitioner. Though the specific recital has not been given in the letter / order dated 13.9.2023 regarding objection of the petitioner dated 14.8.2023 but the fact which has been indicated in the aforesaid order that the petitioner has committed theft of electricity by utilizing 6.576 K.W. on the connection of 2 K.W. has not been disputed in the aforesaid objection dated 14.8.2023, therefore, if the petitioner is aggrieved from the order / letter dated 13.9.2023 (supra) he may assail the same before the appropriate court of law. The contempt court may not set aside the order dated 13.9.2023 (supra) inasmuch as the authenticity and validity of the aforesaid order may not be tested by the contempt court.

5. In view of above observations nothing remains to be decided by this Court in the contempt petition.

6. Accordingly, the contempt petition is **dismissed**.

7. Notices, if any, stand discharged.

Order Date :- 24.11.2023

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