

HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.5751 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for respondents 1 to 4.

2. This Writ Petition is filed seeking to declare the action of respondents 2 to 4 in raising the bill and levying the power supply charges three times more than of its original charges for power supply in relation to the petitioner's premises bearing Plot Nos.6,7,8,10 and 11 in Sy.No.40 of Khajaguda, Gachibowli, Hyderabad, concerning the existing service connection No.RRN 2689 belonging to the petitioner's company, as arbitrary and illegal.

3. The petitioner company, along with others, is the absolute owner and possessor of the property and the premises constructed in Plot Nos.6, 7, 8, 10 and 11 in Sy.No.40 of Khajaguda, Gachibowli, Hyderabad. After purchase of the said plots, the petitioner Company constructed a multi-storied building after obtaining necessary permission from the GHMC, and also obtained electricity connection from the respondents. The petitioner Company applied to the GHMC for issuance of Occupancy Certificate in the month of September, 2014 and the same is pending with them. While so, contrary to the bill for the month of August, 2014, which was issued for Rs.1,29,090/- by the 3rd respondent basing on the actual consumption of 16,233 units, the 3rd respondent issued bill for the month of September, 2014 for an amount of Rs.5,15,934/- for consumption of 12,288 units as against the actual consumption amount of Rs.1,72,251.48 and demanded an extra amount of Rs.3,42,557/- towards penal charges. When the petitioner Company questioned the authorities for issuing such a bill, it was informed that

as per the instructions of GHMC, penal charges are being levied three times more than the actual consumption charges. Though, the respondents promised and assured the petitioner Company that the amount collected towards penal charges will be adjusted in future consumption charges, but however, the 3rd respondent issued the bills for the months of October to December, 2014 and January 2015 demanding the penal charges three times more than the usual charges and the 3rd respondent is also threatening to issue bill for the month of February, 2015 also by claiming and demanding the penal charges three times more than the usual charges. Hence, the writ petition.

4. The grievance of the petitioner is that as per G.O.Ms.No.168, dated 07.04.2012, there is no necessity to obtain occupancy certificate. As per Section 62 of the Electricity Act, 2003, the commission shall determine and fix tariff and the respondents have to collect the charges as per tariff, but they cannot charge more than the prescribed tariff.

5. In similar set of facts and circumstances, learned Single Judge of this Court in W.P.No.32906 of 2014, held as under:

“In this view of the matter, demand and collection of electricity consumption charges at three times the normal charges from the petitioner cannot be sustained and the same is declared as illegal. The respondents are directed to adjust the excess tariff, if any, collected so far, from the petitioner’s future C.C. bills.

Before closing this case, this Court feels it imperative to observe that the petitioner cannot violate law and insist on the power distribution licensee to continue to supply power to it without obtaining Occupancy Certificate, which, admittedly, is a mandatory requirement under Section 455 of the Greater Hyderabad Municipal Corporation Act, 1955. The respondents are, therefore, left free to call upon the petitioner to produce the Occupancy Certificate in accordance with the said provision within a stipulated time. If the petitioner fails to produce such certificate, they shall be free to disconnect the power supply to him and terminate the power supply agreement. The respondents are also left free to refuse release of power supply to other similarly situated consumers if they fail to

produce Occupancy Certificates within a stipulated time.”

6. As the issue involved in this writ petition is identical and squarely covered by the aforesaid judgment of this Court, this writ petition is also disposed of in terms thereof. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

R.KANTHA RAO, J

Date: 09.03.2015
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