

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.24573 OF 2007

ORDER:

This writ petition is filed under Article 226 of Constitution of India, challenging the order passed by the second respondent-Superintending Engineer, Operation Circle vide proceedings No.SE/O/ELR/FBB/AAE.T2/D.No.841/2007 dated 17.02.2007, confirming the order of the 3rd respondent vide proceeding No. DEE/O/ELR/AAE/Comml/F:BBDOC/D.No.718/04 dated 21.03.2004.

Heard the counsel for the petitioner, learned standing counsel for the respondents.

According to the petitioner, it is a small scale industry and started in the year 1998 and the power supply was released to the petitioner unit in the year 1999 under Service Connection bearing No.Rec-200 Cat.III. By virtue of an order vide proceedings No. DEE/O/ELR/AAE/Comml/F:BBDOC/D.No.718/04 dated 21.03.2004 the Divisional Electrical Engineer, Operation, Eluru, 3rd respondent herein directed the petitioner herein to pay a sum of Rs.67,127/- towards back billing and short fall amounts to the Assistant Accounts Officer, ERO/Tadepalligudem within 30 days from the date of receipt of the order. As against the said order passed by the 3rd respondent, petitioner filed an appeal before the 2nd respondent on 01.08.2003 raising number of grounds. The 2nd respondent vide proceedings No. SE/O/ELR/FBB/AAE.T2/D.No. 841/2007 dated 17.02.2007 passed an order, disallowing the said appeal. Challenging the validity and the legal acceptability of the said orders passed by the original and the appellate authorities, who are respondents 2 and 3 herein respectively, the present writ petition came to be filed. This Court, while ordering *RULE NISI* on 20.11.2007, granted interim direction, directing the respondents to forthwith restore power supply to the petitioner unit

subject to the petitioner paying half of the demanded amount vide proceedings dated 17.02.2007. In response to the Rule Nisi issued by this Court, counter affidavit deposed by the 2nd respondent herein is filed by the second respondent herein, denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

It is contended by the learned counsel for the petitioner that the order of the appellate authority, confirming the orders passed by the original authority, i.e., the third respondent herein is highly arbitrary and illegal and it is further submitted by the learned counsel that the appellate authority grossly erred in not taking into consideration various grounds raised in the appeal. It is further submitted that being a quasi judicial authority, the second respondent appellate authority ought to have assigned cogent and convincing reasons for arriving at the conclusions. On the contrary, it is strenuously contended by the learned standing counsel for the respondents that the orders of the original authority as confirmed by the appellate authority are strictly in conformity with law and there is absolutely no illegality nor any infirmity either statutory or constitutional in the orders impugned, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India.

The material available on record manifestly discloses that as against the orders passed by the primary authority on 21.03.2014, the petitioner herein filed a statutory appeal before the 2nd respondent-Superintending Engineer, raising a number of grounds. A perusal of the order of the appellate authority vividly shows that the grounds mentioned in the said appeal filed by the petitioner herein and contents of the appeal were neither adverted to nor considered by the appellate authority in the impugned order. It is a settled and well established proposition of law that the orders of the quasi judicial authorities should necessarily be supported by reasons. In the instant case, the

same is conspicuously absent in the order passed by the appellate authority. On the said ground alone, the order of the appellate authority cannot be sustained. This Court is of the definite opinion that the matter requires to be reconsidered by the appellate authority by taking into consideration the contents of the appeal filed by the petitioner herein. As this Court is inclined to remand the matter to the appellate authority, this Court does not propose to go into other merits of the matter.

For the aforesaid reasons, the order passed by the 2nd respondent vide proceedings No. SE/O/ELR/FBB/AAE.T2/D.No.841 /2007 dated 17.02.2007 is set aside and the matter is remanded to the 2nd respondent herein for fresh consideration after giving notice and opportunity of being heard to the petitioner herein. Till completion of the said exercise, no coercive action shall be taken against the petitioner herein. No order as to costs. Miscellaneous petitions pending if any in this writ petition, shall stand closed.

JUSTICE A.V.SESHA SAI

27.01.2015
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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