

HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.No.8425 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for respondents 1 to 5.

This Writ Petition is filed seeking to declare the action of the respondents in collecting penalty of more than thrice the actual electricity consumption charges in respect of the petitioner's service connection, as arbitrary and illegal.

The petitioner is the developer of property bearing No.1-8-506/3/A, 1-8-506/3/Bj, 1-8-506/4 and 1-8-506/4/A, Gareebnagar, Prakashnagar, Begumpet, Hyderabad, which was acquired by virtue of two registered development agreements-cum-General Power of Attorneys dated 13.11.2009 & 2.12.2009. The petitioner constructed a residential building by duly obtaining permission from the competent authority. Thereafter, the petitioner applied for electricity service connections for the said building and the respondent-authorities have sanctioned the same. As the respondent-authorities have been issuing electricity bills by assessing the consumption charges more than thrice the actual tariff fixed by the Andhra Pradesh Electricity Regulatory Commission for non-production of Occupancy Certificate, this writ petition is filed.

The grievance of the petitioner is that 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 the said tariff and they cannot charge more than the prescribed tariff.

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.”

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.

JUSTICE R. KANTHA RAO

27th February, 2015

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Note: Issue CC by one week.

