

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.38816 of 2012

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04.06.2015

Between:

M/s.Y.S.R.Techno Bio Fuels, West Godavari District

...Petitioner

And

The Superintending Engineer, Electrical,
Eluru, West Godavari District and others

...Respondents

Counsel for the petitioner: Mr.P.V.Rao

Counsel for respondents: Mr.P.Anand Seshu,
learned standing counsel for APEPDCL

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.3 in changing the multiplying factor from 1 to 2 and raising demand for Rs.1,05,878/-, Rs.74,884/- and Rs.43,334/- vide bills, dated 26.09.2012, 26.10.2012 and 26.11.2012 respectively as illegal and arbitrary.

I have heard the learned counsel for the parties and perused the record.

It is not in dispute that till the multiplying factor was revised, the respondents were billing the petitioner's electrical consumption by applying multiplying factor 1. However, for the first time, in the bill, dated 26.09.2012, the multiplying factor has been shown as 2 and the same has been repeated in the bills for the subsequent months viz., bills, dated 26.10.2012 and 26.11.2012. In the counter-affidavit filed by respondent No.4, it is, *inter alia*, stated that respondent No.4 has inspected the petitioner's service connection on 11.08.2012 and during the said inspection, it was

found that while the actual multiplying factor of the meter is 2, the consumer was continuously billed with multiplying factor 1. Therefore, on the request made through letter, dated 20.09.2012, the Electricity (Revenue) Department has changed the multiplying factor as 2 and issued the bills accordingly. There is no averment in the counter-affidavit that before changing the multiplying factor, the competent authority has issued notice to the petitioner.

In my opinion, the respondents are wholly unjustified in unilaterally changing the multiplying factor without putting the petitioner on notice. As the change of multiplying factor imposes additional financial burden on the petitioner, principles of natural justice require issue of notice to the petitioner calling upon it to show cause why the multiplying factor shall not be changed. Upon receiving the explanation, if any, made by the petitioner, the competent authority shall take appropriate decision before changing the multiplying factor. As this fundamental procedure is not followed, the action of the respondents in changing the multiplying factor does not stand legal scrutiny.

Accordingly, the Writ Petition is allowed. Respondent No.4 is directed to issue notice to the petitioner calling for the objections to the proposed change of multiplying factor within one month from the date of receipt of a copy of this order. After considering the objections, if any, that may be filed by the petitioner, respondent No.4 shall pass appropriate order containing detailed reasons and communicate the same to the petitioner. Till this process is completed, the respondents shall continue to collect electricity charges based on multiplying factor 1.

As a sequel to allowing the writ petition, interim order, dated 18.12.2012 is vacated and W.P.M.P.No.49235 of 2012 filed by the petitioner for the interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

04th June, 2015

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