

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.23821 of 2010

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Date: April 29, 2015

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Between:

Uma Rice & Flour Mill,

represented by its Managing

Partner P. Chenchu Subba Rao

at Tadepalligudem, W.G. District. ... Petitioner

And

1. Eastern Power Distribution Co. of A.P.,

Limited, Visakhapatnam, represented

by its Managing Director & 2 others. ... Respondents

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HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.23821 of 2010

ORDER:

This writ petition is filed under Article 226 of the Constitution

of India for the following relief:

“To issue a writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the order dated 27.12.2006 in Proceedings No.SE/O/ELR/F.BB/AE.T2/D.No.719/2006 on the file of the 2nd respondent and the order dated 18.04.2003 in Proceedings No.DEE/O/TPG/AE.T/F.BB/Doc/D.No.2344/03 on the file of the 3rd respondent, as illegal, arbitrary and violative of Articles 14 and 19 (1)(g) of the Constitution of India.”

2. Heard Sri S. Sudeep Reddy, learned counsel for the petitioner, and Sri P.Anand Seshu, learned standing counsel for the respondents, apart from perusing the material available on record.

3. Petitioner firm is the consumer of electricity and obtained a service connection bearing No.6625 from the respondent company. The Divisional Engineer, Operation, Tadepalligudem, 3rd respondent herein, issued a final assessment order vide proceeding No.DEE/O/TPG/AE.T/F.BB/Doc/D.No.2344/03, dated 18.04.2003, assessing the amount at Rs.62,625/-. Assailing the validity of the said order, the petitioner filed an appeal before the Superintending Engineer, Operation Circle, Eluru, West Godavari District, 2nd respondent herein. The Superintending Engineer rejected the said appeal by virtue of proceedings No.SE/O/ELR/F.BB/AE.T2/D.No.719/2006, dated 27.12.2006. Calling in question the validity and legal sustainability of the said orders passed by respondents 2 and 3 herein, the present writ petition came to be instituted.

4. This Court while issuing *Rule Nisi* on 28.09.2010 granted interim order in W.P.M.P.No.30473 of 2010 directing restoration of power supply to the petitioner.

5. The principal contention advanced in the present writ petition is the violation of conditions 2.2.3.3 and 2.2.3.4 by the respondent authorities while considering the issue. As per the above conditions, when a consumer makes a request to the Divisional Engineer, Operation/Superintending Engineer, Operation, to represent his case in person, the said authority shall permit the same.

6. A perusal of the order of the 2nd respondent-Superintending Engineer clearly and manifestly discloses that the petitioner herein raised the said ground as one of the grounds, but the appellate authority did not consider the same. Even before the appellate authority the petitioner herein, as evident from the grounds of appeal, made such a request for personal hearing. It is also the case of the petitioner herein that no personal hearing was given to the petitioner even by the appellate authority. This failure on the part of the authorities in giving personal hearing is not disputed by the respondents in their counter also. Therefore, this Court is inclined to remand the matter to the Superintending Engineer, 2nd respondent herein, on the said ground alone without going into other merits of the matter.

7. For the aforesaid reasons, the writ petition is partly allowed, setting aside the order dated 27.12.2006 passed by the 2nd respondent and the matter is remanded to the 2nd respondent herein for fresh consideration and passing orders in

accordance with law after giving notice and opportunity of hearing to the petitioner herein within a period of two months from the date of receipt of a copy of this order. Till such exercise attains finality, the interim order dated 28.09.2010 granted by this Court shall continue.

8. Pending miscellaneous petitions, if any, shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

Date: April 29, 2015.
BSB

HON’BLE SRI JUSTICE A.V. SESHA SAI

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Date: April 29, 2015

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