

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.19511 of 2015

ORDER:

Heard the learned Counsel for the petitioner and learned standing counsel for respondent Nos.1 to 4.

The petitioner is running hostel for students in premises bearing D.No.70-12B-9, Ramanaiahpetta, Kakinada, owned by the fifth respondent, which is covered by eight electricity meters with eight service connections. While so, in the month of June, the respondent - officials inspected the premises of the petitioner, and noticed that the activity being carried out is a commercial activity and asked to pay an amount of Rs.5,68,997/- by notice dated 28.06.2014 and, when the petitioner did not pay the amount, the service connection was disconnected. On payment of Rs.2,85,725/- on 14.07.2015, power supply was restored to the petitioner. The petitioner submitted a representation on 27.03.2015 seeking exemption of the balance amount. The first notice was issued on 28.06.2014 calling upon the petitioner to appear before him for disposing of the application. The petitioner appeared before the first respondent on the said date and pleaded ignorance of the usage of electricity. The first respondent passed an order on 21.05.2015, confirming the demand made by the Divisional Engineer, Assessment, Rajahmundry, dated 04.03.2015, holding as follows:

“The case was studied in detail on verification of ERO records the service was billed under category-I but tenant utilizing the supply for Hostel purpose (commercial cat-II) which constitutes unauthorized use of electricity under Section 126 of IE Act, 2003 and Assessment made accordingly on observation of the consumption pattern from 03/14 to 06/14. The consumption abnormally raised from 311 to 1567 units while indicates suppression of readings.

Having regard to all the facts and circumstances of the case, the undersigned is convinced that the consumer had committed unauthorized

use of electricity and is liable to compensate the loss sustained by A.P.E.P.D.C.L.

The other point for consideration is the quantum of the assessment and the undersigned finds no reason to revise the assessment contained in the Final order of DE/A/RJY, and hence the same is herewith confirmed.”

Challenging the same, the present Writ Petition is filed.

Learned counsel for the petitioner submits that the first respondent has not assigned any reasons for coming to the conclusion that the petitioner has been using the electricity for commercial purposes and there was suppression of facts.

A perusal of the above extract of the order indicates that the order was passed after verification of the ERO records. The first respondent came to the conclusion that the petitioner committed unauthorized use of electricity based on the above records. Since the petitioner was not heard before passing the order, the impugned order dated 21.05.2015 is set aside, and the matter is remanded to the first respondent for consideration afresh, in accordance with law, and to pass a final order after hearing the petitioner. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of the order. Till such time, there shall not be disconnection of the power supply.

Accordingly, the Writ Petition is allowed to the extent indicated above.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO,J

Date:30.06.2015
usd

