

THE HONOURABLE MR JUSTICE A.V.SESHA SAI

WRIT PETITION No.4140 of 2008

-

ORDER

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the first respondent-Superintendent Engineer vide proceedings No.SE/A/TPT/FAO/(A)/8-07/GNT/D.No.250/07 dated 31.08.2007, confirming the final order of assessment passed by the second respondent-Divisional Engineer vide proceedings No.3713/GNT/DE/A/VJA/Doc.No.NRT-1412/D.No.531 dated 21.01.2006.

2. Heard learned counsel for the petitioner and Sri P.Vinod Kumar, learned Standing Counsel for the respondents apart from perusing the material available before this Court.

3. According to the petitioner, one Sri M. Hanumantha Rao is a registered consumer of his service connection bearing No.121 situated at Kothapalem Village (Evuruvaripalem) Chilakaluripet Mandal, Guntur District, and the said service connection was applied under domestic category and the petitioner herein has been utilizing the said service connection for the purpose of power supply and has been paying monthly CC charges regularly. Earlier, the third respondent, Assistant Divisional Engineer, issued a letter bearing No.ADE/OSD/CPT/F.No. --DKT/D.No.223/04 dated 17.05.2004 in the name of the registered consumer asking to pay a sum of Rs.1,19,773.80 ps and questioning the same, the petitioner earlier filed W.P.No.17647 of 2004 and the said writ petition was disposed of by this Court by way of an order dated 13.09.2004 setting aside the said notice dated 17.09.2004, and it was left open

to the assessing authority to make a final assessment in respect of service connection No.121 after giving an opportunity to the petitioner to submit his explanation.

4. Subsequently, the second respondent-Divisional Engineer passed an order of final assessment vide proceedings No. 3713/GNT/DE/A/VJA.Doc.No.NRT-1412/D.No.531 dated 21.01.2006, asking the petitioner herein to pay a sum of Rs.82,523/-. As against the said order passed by the Office of the Divisional Engineer, the petitioner filed an appeal before the Superintending Engineer (Assessments), Tirupathi, in the month of March, 2007. Thereafter, the appellate authority i.e., the Superintendent Engineer vide proceedings No.SE/A/TPT/FAO(A)/8-07/GNT/D.No.250/07 dated 31.08.2007, passed an order confirming the orders passed by the original authority on 21.01.2006. Challenging the said order, the present writ petition came to be filed.

5. This Court while ordering rule nisi on 28.02.2008, granted interim suspension in W.P.M.P.No.5414 of 2008, subject to the condition of the petitioner depositing 1/4th of the amount demanded in the final assessment order dated 21.01.2006. No counter affidavit has been filed by the respondents, either in the direction of denying the averments made in the affidavit filed in support of the writ petition or in the direction of justifying the impugned action.

6. It is contended by the learned counsel for the petitioner that the orders impugned are highly illegal, arbitrary and contrary to the material available before the authorities. It is nextly contended by the learned counsel that being a quasi judicial authority, the appellate authority/Superintending Engineer ought to have

considered the contents of the appeal filed by the petitioner herein from proper perspective. It is contended nextly by the learned counsel for the petitioner that even though number of grounds were urged by the petitioner in the grounds of appeal, the appellate authority did not take into consideration any one of the said grounds/objections.

7. On the contrary, it is argued by Sri P. Vinod Kumar, learned Standing Counsel for the respondents that the orders passed by the primary authority as well as the appellate authority are in conformity with law and there is no illegality nor any statutory infirmity in the impugned orders, as such, the present writ petition is liable to be dismissed and the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India.

8. The material available before this Court manifestly discloses that as against the final order of assessment passed by the Divisional Engineer vide proceedings No. 3713/GNT/DE/A/VJA.Doc.No.NRT-1412.D.No.531dated 21.01.2006, the petitioner herein filed an appeal before the first respondent, Superintending Engineer, raising and urging a number of grounds and taking a number of objections. A perusal of the order of the appellate authority vividly shows that the appellate authority did not deal with the said objections urged by the petitioner in his appeal.

9. It is a settled and well established proposition of law that the orders of the quasi judicial authority should necessarily be supported by valid and cogent reasons. In the instant case, the same are conspicuously absent in the impugned orders passed by

the appellate authority. In the considered opinion of this Court, the mode and manner in which the appellate authority considered the objections in the appeal is highly unreasonable. A perusal of the appellate order candidly shows that except extracting the grounds of appeal, the appellate authority did not make any effort to consider the said objections from proper perspective. In these circumstances, this Court is inclined to remand the matter to the appellate authority for fresh consideration by considering the objections in the appeal filed by the petitioner herein after giving notice and opportunity to the petitioner.

10. For the aforesaid reasons, the Writ Petition is partly allowed, setting aside the orders of the first respondent-Superintendent Engineer vide proceedings No.SE/A/TPT/FAO/(A)/8-07/GNT/D.No.250/07 dated 31.08.2007, and the matter is remanded to the Superintending Engineer, first respondent herein, for fresh consideration and to pass appropriate orders after giving notice and opportunity to the petitioner. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Till such exercise attains finality before the appellate authority, no coercive steps shall be taken against the petitioner. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

27th January, 2015

sj