

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6574 OF 2016

ORDER:

This writ petition is filed challenging the provisional assessment order dated 02.02.2016 issued by the respondents alleging that the petitioner indulged in theft of energy.

The allegations made in the provisional assessment order dated 02.02.2016, which reads as follows:

“At the time of inspection, the consumer is utilising power supply but meter is not recording his consumed energy. On observation, it is found that 3 Nos. Multi standard Black coloured aluminium wires (approx. 5Mts are directly connected from Distribution Transformer LT HG fuse set to his entire load duly bypassing the meter. The consumer is dishonestly utilising power supply and committed theft of energy. Hence, theft of energy case is booked under Section 135 of Electricity Act, 2003.”

In the provisional assessment order dated 02.02.2016, it was also indicated that if the petitioner desires to continue to avail the power supply, he has to pay 50% of the total assessed amount of Rs.4,61,597/- in addition to supervising and reconnection charges. This amount is subject to final assessment that may be made pursuant to Section 154(5) of the Electricity Act, 2003 (for short, “the Act”).

In terms of the provisional assessment order, petitioner in fact paid a sum of Rs.2,30,886/- to the respondents on 15.02.2016. But, as on date no final assessment orders are passed. The petitioner's apprehension is that the power supply to his prawn pond will be disconnected for not paying the

balance amount. Petitioner was also given the opportunity to compound the criminal offence of theft on payment of Rs.50,000/- as compounding fees.

Considering the fact that the petitioner had paid the provisional assessment amount as demanded in terms of the notice dated 2.2.2016, no useful purpose would be served by keeping the writ petition pending. Further, as the notice issued by the respondents-authorities themselves has stated as the demand is only provisional in nature subject to final assessment and final orders to be passed in accordance with Section 135 of the Act read with Clause 10 of the general terms and conditions of the supply by the designated officer of the respondents, the apprehension of the petitioner is unfounded.

In the facts of the case, there shall be a direction to the respondents-authorities to complete the enquiry and pass appropriate orders after giving adequate opportunity of hearing to the petitioner to put forward his defence to the allegations of theft made. In the interest of justice, the respondents shall complete the enquiry and pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order. The amount deposited by the petitioner shall be subject to passing of final orders and subject to his remedies as available in the Act.

With the above directions, the writ petition is disposed of. No order as to costs.

As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

Dated:01.03.2016

Cbs/Gk

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