

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**WRIT PETITION No.4606 of 2016**

**ORDER:**

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Heard Sri Challa Gunaranjan for petitioner and Sri R.Vinod Reddy for respondents.

The additional counter affidavit dated 07-06-2016 of 2<sup>nd</sup> respondent is taken on file.

The petitioner prays for the following relief:-

“..... to pass an order or direction or any other proceedings one in the nature of Writ of Mandamus declaring the action of respondents 1 to 3 in demanding an amount of Rs.59,59,751/- from the petitioner purported to be on account of short-payment made under the C.C.Bill of January, 2016 without adjusting the said amount which the respondents collected towards Voltage Surcharge, which levy has been declared to be illegal by the Viduyut Ombudsman in Appeal No.26/2011 vide order dated 08-12-2011 as confirmed by this Hon'ble Court by order dated 27.08.2015 in WP 5310 of 2012 as arbitrary, illegal besides violating the petitioner's rights guaranteed under Article 14 & 19 (1) (g) of the Constitution of India...”

To cut short the narration, this Court is of the view that reference to the order of this Court in W.P.No.5310 of 2012 would suffice.

The respondents herein filed W.P.No.5310 of 2092 assailing the order of Vidyuth Ombudsman in Appeal No.26/2011 dated 12-12-2011. Through the said order, the Ombudsman held that collection of penalty and voltage charges from the writ petitioner herein for alleged consumption of power from July, 2010 to October, 2010 is unsustainable.

The operative portion of the order dated 27-08-2015 in W.P.No.5310 of 2012 reads as follows:-

“At the hearing Mr. R.Vinod Reddy, learned Standing Counsel for the petitioner, has placed before the Court the present Tariff Order, a perusal of which shows that Clause-8 thereof, which deals with the demand charges for exceeding the maximum demand, contains a proviso to the effect that the said Clause will not apply to the consumers on whom Voltage Surcharge is levied as per Clause-4. This newly inserted Clause itself would show that the licensee has expressly excluded levy of both the charges simultaneously. As the petitioners levied and collected penal charges for exceeding the CMD, levy of Voltage surcharge simultaneously is not sustainable either in law or in equity.

For the above-mentioned reasons, I do not find any illegality or jurisdictional error in the impugned order passed by respondent No.1 and hence, the Writ Petition is dismissed.”

Now the grievance of petitioner is that in spite of dismissal of writ petition filed by respondents, the failure of respondents to adjust Rs.59,59,751/- is illegal and arbitrary.

Through the additional counter affidavit it is stated that the respondents are contemplating to pursue the remedy of appeal against the order dated 27-08-2015 in W.P.No.5310 of 2012. Therefore, for the present, it is stated that the adjustment effected by petitioner is accepted by the Department and this amount will not be demanded subject to outcome of the appeal, if any, filed by respondents against the order dated 27-08-2015 in W.P.No.5310 of 2012.

By placing the above statement on record, the interim order is made final order and the writ petition is disposed of accordingly. There shall be no order as to costs.

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

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**S. V. BHATT, J**

Dt: 07-06-2016  
Prv

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**07-06-2016**

**Prv**