

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6493 OF 2016

ORDER:

The petitioner claims that he is involved in manufacturing of Plastic/PVC/NEC articles i.e., packing material (wrappers) used for various purposes. The respondents have released power supply to the petitioner's unit under L.T. Category-III(A)(Industrial). The officials of respondent No.1 have inspected the petitioner's premises on 31-03-2015, and allegedly found that the petitioner has been utilising the power for the purpose of laminating and printing and which process would come under the L.T. Category-II (Commercial). On opining that the petitioner was not involved in manufacturing activity and that he was only running the printing press, the respondents have started demanding the tariff applicable for category-II (commercial consumers). This action is challenged in the present Writ Petition.

At the hearing, Sri D.V. Nagarjuna Babu, learned counsel for the petitioners, submitted that Regulation No.8 of A.P. Electricity Regulatory Commission (Consumers' Right to Information) Regulation, 2000 (for short "the Regulation"), makes it mandatory for the respondents to issue a prior notice before changing a consumer's category and that in the present case admittedly no such notice has been issued to the petitioner. He has further submitted that had notice been issued, the petitioner would have satisfied the respondents that he is in fact involved in the manufacturing activity but not merely in the activity of printing. He has therefore submitted that the action of the respondents is not only arbitrary but also in violation of the Regulation.

Sri R. Vinod Reddy, learned Standing Counsel for Central Power Distribution Company Limited, opposed the above submissions and contended that as reclassification of the petitioner's unit was made in pursuance of the Tariff Order under which printing press is brought by the Electricity Regulatory Commission under L.T. Category-II, there was no need for issuance of separate notices before change of the classification is made.

I have carefully considered the submissions of the learned counsel for the parties. The question whether, in the face of the Tariff Order issued by the

Electricity Regulatory Commission, a separate notice needs to be issued for changing the category of a consumer, or not, need not be addressed in these cases for the simple reason that there is a serious dispute relating to the nature of business activity of the petitioners. Even if the law does not require issuance of a prior notice for change of category for a particular category of consumers, the Tariff Order has itself prescribed a particular Tariff. In the instant case, application of Tariff Order dated 30.04.2015 for charging the petitioner's unit under L.T. Category-II depends upon the fact whether the petitioner is running only printing press or manufacturing plastic/PVC/NEC articles as part of the whole manufacturing process. If the latter is true, then the Tariff Order dated 30.04.2015 cannot be made the basis for changing the petitioner's service connection to L.T. Category-II. Therefore, in order to determine this question, a prior notice is very much necessary. If after such notice, the petitioner is unable to show that he is carrying on manufacturing activity and that he is involved only in printing on the plastic PVC/NEC articles, the respondents will be entitled to change the petitioner's service connection from LT Category-III(A) to LT Category-II. As this procedure is not followed by the respondents, the impugned bills are set-aside. The respondents are given liberty to issue notice to the petitioner calling for objections for change of the latter's category. On consideration of the objections along with the material, if any, that may be filed by the petitioner, the competent authority shall pass speaking order and communicate the same to the petitioner. Till such a decision is taken, the petitioner is directed to pay the electricity charges under LT Category-III(A). The bills of the petitioner will however be subject to revision depending upon the result of the enquiry and the order that may be passed by the competent authority as directed above.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

In view of the disposal of the main writ petition, the Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

CHALLA KODANDA RAM,J

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