

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.213 of 2006

ORDER:

Heard Mr. Ch. Jagannatha Rao for petitioner and Mr. Vinod Reddy for respondents.

2. Petitioner challenges the proceedings No.CGM/(P&O)/NPDCL/Wgl/PE/C0Odn/D.No.607/05 dated 30.11.2005.

3. The third respondent through impugned proceedings, after recording a finding that the petitioner indulged in pilferage of energy, determined the value of pilferaged energy at Rs.1,39,420/- and called upon him to pay the sum within thirty days.

4. Mr. Ch. Jagannatha Rao, learned counsel for petitioner, draws the attention of the Court to the following paras in the proceedings impugned in the writ petition:

“Accordingly, personal hearing in the case has been held on 3-11-2005 in the chamber of Chief General Manager (P&O)/NPDCL/Warangal and the consumer has put-forth the following further points to the earlier representation.

- i. The seal bits are of lead can be detrained due to normal wears and tear.
- ii. There is no proof of foreign material available inside the meter.
- iii. The meter was inspected in MRT lab on 28-11-03 but there is no foreign material found inside.
- iv. The inspecting officer totally failed to establishing the facts of alleged pilferage hence the FAO may be quashed and amount already paid may be adjusted in future bills.

The appeals made by the consumer with the points are examined in detail. The consumption particulars furnished by the consumer for the years prior to the date of inspection and after inspection are examined. But as per the MRT reports the meter chamber seals were in tampered condition and an impression on seal bits. After opening the meter body no foreign material was observed. But some scratches found on and under the disc. Meter CT & PT connections are found OK.

5. According to learned counsel for petitioner, the findings recorded by the third respondent suffer from contradictions viz. on one hand it is stated that the meter chamber seals were tampered and impression on seal bits is noticed, at the same time, it is further observed that after opening the meter body no foreign material was observed but a few scratches were found on and under the disc and meter CT & PT connections are found OK. Therefore, according to him, the very finding that there is pilferage of energy is untenable and prays for setting aside the proceedings impugned in the writ petition.

6. Mr. Vinod Reddy contends that the appreciation and the findings recorded by the third respondent is completely erroneous. The third respondent has objectively considered the report and according to him, the summary of the report is that (i) as per the MRT reports, the meter chamber seals were tampered and (ii) impressions on seal bits are found. The crucial aspect of the matter is scratches are found on and under the disc. Therefore, the possibility, as rightly arrived at by the third respondent that there is pilferage of energy, cannot be re-appreciated by this Court. The standing counsel, however, submits that as against demanded sum of Rs.1,39,420/- the petitioner, in all, has paid about Rs.1,00,000/- and the balance payable, as on date, is Rs.39,420/-.

7. With the assistance of learned counsel, keeping in mind the scope of review in a Writ of Certiorari, perused the material available on record. At the outset, it has to be recorded that the contention of the petitioner that the findings recorded by the third respondent suffer from contradictions is unsustainable for the third respondent has appreciated the reports in seriatum and has spelt out reasons for his conclusions. Having regard to the fact that the petitioner has already paid substantial sum, the petitioner is given three (3) months time from the date of receipt of a copy of this order to pay the balance amount. If the amount is paid with the three (3) months

granted by this Court, the respondents shall not subject the petitioner to levy of interest etc. for delayed payment.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

June 16, 2016
DSK