

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7100 of 2016

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Between:

M/s. Usha Enterprises
Rep. by its Manager Sri Naveen Goyal

PETITIONER

AND

1. The Southern Power Distribution Company of Telangana Limited, rep. by its Chairman & Managing Director Mint Compound, Hyderabad, and others.

RESPONDENTS

ORDER:

The petitioner is engaged in the business of processing of iron scrap to bundle with the help of power press machines, and secured electricity service connection under category – III(A) with CMD of 74 HP. While so, the Assistant Divisional Engineer, Operations, Balanagar issued demand notice dated 01.08.2015 by assessing an amount of Rs.6,56,794/- for the period 5.08.2009 to 01.08.2015. The grievance of the petitioner is that without issuing prior notice, the Category of service connection has been changed from Category III(A) to Category II(B) and arbitrarily issued the demand notice. Challenging the same, the present writ petition is filed.

At the hearing, Smt. G. Jyothi Eswar, learned counsel for the petitioner submitted that Regulation No.8 of the A.P. Electricity Regulatory Commission (Consumers' Right to information) Regulation, 2000 (for short 'the Regulations') 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. The learned counsel therefore submitted that the action of the respondents is not only arbitrary but also in violation of the Regulations.

Sri R. Vinod Reddy, learned Standing Counsel for Central Power Distribution Company Limited, opposed the above submissions and contended that in pursuance of the complaint made by one Sri K. Ravinder, the petitioner's unit was inspected and found that the consumer is using electrical power for iron scrap material bundle formation works and godown pourpose i.e., commercial activity/Cat-II(B), but the consumer sanctioned load is for industrial activity / Cat-III(A). Hence there is no need for issuance of separate notices before change of 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 petitioner. Even if the law does not require for issuance of prior notice for change of category for particular category of consumers as the Tariff Order itself prescribed particular Tariff. In order to determine the question whether the petitioner is involved in manufacturing activity or not, a prior notice is very much necessary. If after such notice the petitioner is unable to show that it is carrying on manufacturing activity, then the respondents will be entitled to change the petitioner's service connection from LT Category-III(A) to LT Category-II(B).

As the said procedure is not followed by the respondents, the impugned demand notice is set aside. The respondents are given liberty to issue notice to the petitioner calling for objections for change of Category of Service Connection. 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 shall, however, be subject to the 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. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

14th March, 2016
Js.