

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.26690 OF 2017

ORDER:

Heard learned counsel for the petitioner and learned standing counsel for respondents.

The petitioner was awarded a contract bearing No.18/12-13 dated 22.08.2012 for construction of 120 flats for Hon'ble Members of the Legislative Assembly in old MLA Quarters at Hyderguda, Hyderabad. The value of the work is Rs.166 crores. In view of the said work, the petitioner submitted an application for electrical connection and accordingly an Agreement was entered into with the first respondent on 14.03.2013 for supply of electricity under HT Category-II (Temporary). Now the petitioner states that the said category was not correct and its category should have been categorized as HT Category-I (Industrial).

While so, the second respondent issued a letter on 04.08.2016 stating that as per Tariff Order for the year 2016-17, the temporary supply under HT category can be extended only for a period of 12 months and the consumer may seek supply under the said category beyond the period of 12 months but it has to pay twice the tariff or the supply would be under the regular categorization. The said period of 12 months expired on 14.03.2014 and the petitioner was asked to give consent for payment of twice the regular tariff. The petitioner replied by letter dated 18.08.2016 seeking categorization under HT Category-I (Industrial). The petitioner also sought adjustment of the excess amount already paid in HT Category-II (Temporary) from March, 2013 onwards, but the reply and request of the petitioner was rejected by proceedings of the second respondent dated 09.09.2016 and the same was

confirmed by the Consumer Grievances Redressal Forum by its order dated 30.11.2016. Challenging the said orders, the present writ petition is filed.

After hearing the learned counsel for both sides, the only point that remains for consideration is whether consequent to the expiry of a period of 12 months, the request of the petitioner for change of the category should be entertained as per the terms and conditions, and if so, at what rate the activity of the petitioner should be charged. That point was missed by the Consumer Grievances Redressal Forum, which stated that there is no document before the Forum i.e., the Certificate issued by the Government of Telangana recognizing the activity of the consumer company constructing flats to the MLAs comes under Industry or not.

It appears from the above observations of the Forum that the consumer is involved in construction activity and whether the construction activity comes under a particular category or not is a decision that falls for consideration before the adjudicating authority on the basis of the evidence available. Since there is no dispute with regard to the activity of the petitioner, the finding with regard to the applicable tariff to the activity of the petitioner should have been recorded, but no such finding was recorded. It is held that the petitioner is not entitled for change of category from HT-VIII to HT-I. The application of HT-VIII (temporary) does not come at all. Since the point involved is only with regard to applicable category for application of tariff, this Court feels that the said issue can be decided by the Ombudsman constituted under Section 42(6) of the Electricity Act, 2013.

The writ petition is accordingly disposed of relegating the matter to Ombudsman constituted by the respondents and it shall decide the

dispute within a period of three months and pass appropriate orders in accordance with law. Till a decision is passed by the Ombudsman, the *status quo* with regard to the charge of tariff amount shall be maintained by the respondents.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

09.08.2017
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