

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.11822 OF 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, challenging Letter No.ADE/OP/BLNG/D-XVI/C-VI/D.No.3230, dated 23.03.2017, issued by the Assistant Divisional Engineer, Operation D-XVI, Balanagar, TSSPDCL, Hyderabad, asking to pay an amount of Rs.4,47,488/- towards assessment amount along with interest i.e., total sum of Rs.10,63,026.66 ps.

2. Heard Smt Jyothieswar Gogineni, learned counsel for the petitioner and Sri R.Vinod Reddy, learned Standing Counsel for the respondent organization.

3. The Assistant Divisional Engineer vide Letter No.ADE/OP/BLNG/D-XVI/D.No.258/13, dated 17.05.2013, issued Provisional Assessment Order in respect of S.C.No.S8007066, provisionally assessing the electricity charges due as per Section 126 of the Electricity Act, 2003. According to the learned counsel for the petitioner, the petitioner paid half of the amount i.e., Rs.2,58,000/- covered by the said Provisional Assessment Order. Subsequently, the petitioner herein filed W.P.No.24577 of 2013 before this Court against the said provisional assessment order. This Court, on 21.08.2013 in W.P.M.P.No.30264 of 2013, directed the respondents not to take any coercive steps. Eventually, the said Writ Petition came up for hearing and the same was disposed of by this Court on 27.04.2016, directing the Superintending Engineer to dispose of the representation/appeal, dated

05.06.2013, submitted by the petitioner herein, within a period of three (03) months. Now, by virtue of impugned Letter No.ADE/OP/BLNG/D-XVI/C-VI/D.No.3230/2017, dated 23.03.2017, the 2nd respondent-Assistant Divisional Engineer, issued Final Assessment Order, confirming the provisional assessment order, but the demand was reduced to Rs.4,47,488/- along with interest i.e., total amount of Rs.10,63,026.66 ps. The said order is under challenge in the present writ petition.

4. According to learned counsel for the petitioner, without issuing any notice and affording opportunity to the petitioner, the Superintending Engineer passed the impugned order on the representation/appeal, which formed basis for the present impugned order, dated 23.03.2017. It is further submitted by learned counsel for the petitioner that the impugned action on the part of the respondents is highly illegal, arbitrary and totally in deviation to the principles of natural justice. It is further submitted by learned counsel for the petitioner that had the notice and opportunity been afforded to the petitioner herein, petitioner would have placed the material before the appellate authority i.e., the Superintending Engineer and in such an event, the order impugned in the present writ petition would have not emanated.

5. On the other hand, it is submitted by the learned Standing Counsel for the respondent organization that there is no illegality nor there is any procedural infirmity in the impugned order and in the absence of the same, the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India.

6. There is no dispute with regard to issuance of Provisional Assessment Order. Earlier when the petitioner herein approached this Court, by way of filing W.P.No.24577 of 2013, this Court initially granted interim order in W.P.M.P.No.30264 of 2013, directing the respondents not to take any coercive steps. Ultimately, the said Writ Petition was disposed of by this Court, directing the Superintending Engineer to dispose of the representation/appeal, within a period of three (03) months from the date of that order. Pursuant to the said appeal/representation, the Superintending Engineer fixed the date of hearing as 20.06.2013. A perusal of the impugned order under challenge does not disclose issuance of any notice and affording opportunity to the petitioner herein before passing the orders by the appellate authority.

7. It is submitted by the learned Standing Counsel that now a fresh notice will be issued to the petitioner by the appellate authority and opportunity will also be afforded to appellant on the appeal submitted against the provisional assessment order.

8. Recording the said submission, the Writ Petition is disposed of, directing the respondents herein to consider the representation/appeal filed by the petitioner against the provisional assessment order, afresh after issuing notice and after hearing the petitioner herein. Till fresh orders are passed by the appellate authority on the appeal/representation, no coercive steps shall be taken against the petitioner pursuant to the impugned letter, dated 23.03.2017.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

APRIL 11, 2017
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THE HON'BLE SRI JUSTICE A.V. SESA SAI



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Date: 11.04.2017

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