

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.30654 of 2013

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the respondent No.5 in issuing proceedings Lr. No.AAO/ERO/TOWN1-VJA/JAO-1/GBS-III?D.No:1289/13, dated 03.09.2013, changing category from Category II instead of L.T. Industrial Category-III (A) as illegal and arbitrary and contrary to Regulation No.8 of the A.P. Electricity Regulatory Commission (Consumer's Right to Information) Regulation, 2000.

2. Heard and perused the material available on record.

3. The brief facts of the case are that the petitioner is running printing press in the name and style of M/s. Sree Off Set Printers, which is covered under S.S.I. Category and engaged in the activity of Web Offset Printing. For the said purpose, the petitioner obtained a L.T. Category-III (A) (Industrial) service connection from the 1st respondent, licensee under the provisions of the Electricity Act, 2003. It is further submitted that the petitioner is released with the L.T. Category-III service connection and the petitioner paid the bill issued by the 5th respondent, dated 08.05.2011, but to his surprise, the petitioner received bill, dated 09.06.2011, issued by the 5th respondent wherein the 5th respondent billed the petitioner under L.T. Category-II. Immediately, when the petitioner asked the 5th respondent about the change of category, the 5th respondent orally informed that he has instructions from higher authorities to bill the petitioner under

commercial category i.e., L.R. II(A) Category. Challenging the same, the present writ petition is filed.

4. The main contention of the learned counsel for the petitioner is that the petitioner earlier filed W.P.No.10451 of 2013 before this Court, wherein this Court allowed the writ petition *vide* order, dated 10.04.2013, by giving liberty to the APSPDCL to initiate action afresh in accordance with the due procedure for changing the category and that pursuant to the said order, the 5th respondent straight away issued notice, dated 15.07.2013, to the petitioner stating that “the Printing Press are re-categorized as Cat II in the Tariff Order for the year 2011-2012 (Other than News Printing). Hence, it is to inform that the ScNo: 64242-15-150969 are standing in the name of M/s.Sri Surya Off Set Printers the service has to be billed under Cat II as per the Tariff Order.” Hence, the action of the respondents is illegal and arbitrary and prays to allow the writ petition.

5. On perusal of the records, in an identical case, this Court disposed of W.P.No.28106 of 2012, *vide* order, dated 07.09.2012, wherein the operative portion of the said order reads as under:

“Admittedly, in this case, no such prior notice has been issued to the petitioner. Therefore, the unilateral action of the respondents in changing the category of the petitioner’s service from L.T. Industrial Category-III (A) to L.T. Category-II cannot be sustained and accordingly, the same is declared as illegal. The respondents are, however, permitted to issue a notice to the petitioner in terms of Regulation No.8 of the Regulation and after giving it an

opportunity of being heard, they can take a decision regarding the change of category of the petitioner's service.

The Writ Petition is, accordingly, allowed to the extent indicated above."

6. Having regard to the facts and circumstances of the case and taking into consideration the submissions of the learned counsel for the petitioner and following the order, dated 07.09.2012, passed in W.P.No.28106 of 2012, this Court is of the view that the writ petition can be disposed of with the following direction:

The respondents herein are directed to issue a notice to the petitioner in terms of Regulation No.8 of the A.P. Electricity Regulatory Commission (Consumer's Right to Information) Regulation, 2000, in connection with change of category of the electrical connection from Category-II to L.T. Industrial Category-III (A) and on receipt of the said notice, the petitioner is at liberty to file his reply and thereafter, after giving the petitioner an opportunity of being heard, the respondents can take a decision regarding the change of category of the petitioner's service, in accordance with law. Until taking any such decision, the respondents are directed not to interfere with the petitioner.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO,J

Date: 21st April, 2017

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