

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.12888 of 2008

ORDER:

In the present Writ Petition challenge is to the order passed by the Assistant Divisional Engineer (Operation), Kakinada-third respondent herein vide provisional assessment Notice Lr.No.ADE/Opn/Town/KDA/F.Back billing/D.No.450/2000 dated 25.03.2000 as confirmed by the second respondent vide proceedings dated 29.12.2000 and as confirmed by the revisional authority/first respondent vide proceedings dated 17.05.2008.

Heard learned counsel for the petitioner-Sri Josyula Bhaskara Rao and Sri M.Ravindra, learned Standing Counsel for the respondents-company.

According to the petitioner, himself, his mother and brother established a workshop for conducting electrical repairs in the premises bearing Dr.No.5-2-37 of Madireddivari Street, Kakinada for which they secured electricity connection from the respondents vide service No.202. It is stated in the writ affidavit that the petitioner has been using the power to the said service connection under Category-II without committing any malpractices or pilferages and paying consumption charges regularly in accordance with law. The second respondent herein issued proceedings dated 25.03.2000 assessing a sum of Rs.29,817.15/- for the period from 16.09.1999 to 21.03.2000 while asking the petitioner herein to make a representation in the event of there being any objection for the same. According to the

petitioner, he submitted his objections on 28.04.2000 and the Superintendent Engineer (Operation)-first respondent and the Divisional Engineer, Electrical (Operation)- second respondent, vide proceedings dated 29.12.2000, confirmed the same and, thereafter, the petitioner herein filed a revision before the first respondent and the said orders were confirmed by the first respondent vide proceedings dated 17.05.2008. The said proceedings are under challenge in the present Writ Petition.

It is contended by the learned counsel for the petitioner that the impugned proceedings are unreasonable, arbitrary, illegal and violative of principles of natural justice. Learned counsel further argues that no personal hearing was given by the respondent Nos.1 and 2 nor the petitioner was supplied with the copies of this petition and that the Clauses, as noted in the impugned orders, have no application to the present case. It is further submitted that respondent Nos.1 and 2 straightaway followed Clauses 22.3.3.3 and the said action cannot be sustained.

On the contrary, it is contended by the learned Standing Counsel for the respondents that there is no illegality nor there exists any procedural infirmity in the impugned action and the present Writ Petition is liable to be dismissed on this ground. It is submitted by the learned Standing Counsel that, after receipt of the proceedings dated 25.03.2000, the petitioner herein submitted a representation to the first respondent only in the year 2003 and there is no reason assigned

for the said delay on the part of the petitioner in approaching the first respondent.

The information available before this Court manifestly discloses that the third respondent-Assistant Divisional Engineer, while assessing the amount of Rs.29,817.15/-, requested the petitioner herein to make a representation in the event of there being any objection for the same. Thereafter, the Divisional Engineer-second respondent, vide proceedings dated 29.12.2000, passed an order, confirming the proceedings of the third respondent, fixing the amount of Rs.29,830.90/-. In the said proceedings the second respondent specifically observed that, despite acknowledging the proceedings dated 25.03.2000, the petitioner did not make any appeal. Admittedly, after waiting for a period of three years approximately, the petitioner herein approached the first respondent by way of a representation dated 06.02.2003. There is absolutely no reason assigned, in the affidavit filed in support of the Writ Petition, for the said delay in approaching the first respondent for redressal of the grievance of the petitioner herein. In this context it may be appropriate to refer to the averments in the counter-affidavit filed on behalf of the respondents herein, wherein it is stated that the son of the registered consumer witnessed the inspection notes and the meter was tested at MRT laboratory, Bommuru and the test results show that the CT wire was burnt. It is further stated in the affidavit that the consumer did not file any appeal soon after receipt of the provisional assessment which was acknowledged by the consumer on 25.03.2000. No plausible

explanation is given as to why the petitioner did not file any objection for the provisional assessment. Therefore, this ground alone is sufficient for dismissal of the Writ Petition.

The Writ Petition is, accordingly, dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

13th June, 2017
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A.V.SESHA SAI, J

