

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

WRIT PETITION No.13177 of 2006

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, to call for the records relating to proceedings of the second respondent vide letter No.DGM(A&O)/ARB/WL-26402/2004-05 dated 17.03.2005 of the Deputy General Manager (A& C), office of the General Manager Telecom District Manager, Karimnagar.

Heard.

First respondent herein was provided with telephone connection bearing No.26402 in the year 1990. Petitioner herein issued bills dated 01.05.1994 for Rs.27,937/-, 01.07.1994 for Rs.19,262/-, and 01.09.1994 for Rs.5992/-. Claiming the said bills as inflated and attributing deficiency in service and claiming rectification of the said bills, the first respondent herein approached the District Forum by filing a Consumer Dispute No.93 of 1996 and the same was allowed on 31.03.1997. Aggrieved by the said order, petitioner preferred F.A.No.247 of 1998 before the A.P.State Consumer Disputes Redressal Commission and the State Commission allowed the same on 28.10.2002. Aggrieved thereby, the first respondent herein preferred a revision before the National Consumer Disputes

Redressal Commission. The National Commission, by way of an order dated 16.01.2004, set aside the order passed by the State Commission and directed the petitioner to appoint an Arbitrator for deciding the dispute concerning the subject telephone bills.

Pursuant to the said order passed by the National Commission, the matter was referred to the second respondent-Arbitrator and the second respondent, by way of the impugned proceedings dated 17.03.2005, passed an award directing exclusion of the trunk calls shown in the subject bills and to revise the three disputed bills by restricting Rs.500/- per bill only, while directing refund of the excess amount paid in respect of the disputed bills to the first respondent herein.

In the above background, the present Writ Petition came to be filed. It is contended by the learned counsel for the petitioners that the order passed by the second respondent-Arbitrator is erroneous, contrary to law and is a result of non-consideration of the material available on record; that the second respondent herein, in a mechanical manner, without considering the facts and circumstances and the material on record in a proper perspective, passed the impugned award, setting aside the subject bills; and that the factum of filing of the complaint of the first respondent missed the attention of the second respondent-Arbitrator. It is further contended that, though the details of the

calls made to various places and the duration of calls and the amounts were clearly mentioned in the bills, the second respondent-Arbitrator did not consider the said issues in proper angle. He further contended that the first respondent paid the bill dated 01.05.1994 without any protest and the same also missed the attention of the Arbitrator. It is also the submission of the learned counsel that the Arbitrator failed to consider that the application dated 15.03.1994 made by the first respondent herein clearly demonstrates the need of making long distance calls for promoting the business of the first respondent.

The material available before this Court manifestly discloses that aggrieved by the orders passed by the State Commission, the first respondent preferred revision before the National Commission and the National Commission, taking into consideration the 'No Objection', set aside the orders of the State Commission with a direction to the authorities to appoint an Arbitrator. A perusal of the order dated 17.03.2005 passed by the Arbitrator clearly discloses that the second respondent-Arbitrator, except extracting the respective contentions of the parties to the reference, did not make any endeavour to consider the validity of the said contentions nor assigned any reasons, much less valid reasons, for arriving at the conclusions. This exercise undertaken by the second respondent-Arbitrator, in the

considered opinion of this Court, cannot be sustained in the eye of law and is not in accordance with the object of Section 7 (B) of the Indian Telegraph Act, 1885. In fact, having extracted the respective contentions of the stakeholders, the second respondent-Arbitrator ought to have considered the material available on record and ought to have arrived at the conclusions by assigning valid reasons. The said exercise is conspicuously absent in the instant case.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the proceedings of the second respondent issued vide letter No.DGM(A&O)/ARB/WL-26402/2004-05 dated 17.03.2005 and the matter is remanded to the Arbitrator for fresh consideration in accordance with law.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

24th July, 2017

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