

HON'BLE SRI JUSTICE A.V.SESHA SAI

Writ Petition No.12376 and 12451 of 2017

COMMON ORDER.

Since the petitioners are same in both these Writ Petitions and as the cause of action that has prompted them to file these Writ Petitions is also similar, this Court feels it appropriate to dispose of both the Writ Petitions by way of this common order.

Heard the learned counsel for the petitioners and Mr. R.Vinod Reddy, learned Standing Counsel for the respondents.

The first petitioner is a company and the second petitioner is its Authorised Signatory.

According to the petitioners, the first petitioner is engaged in providing safe drinking water in rural and under-served areas by installing Community Water Systems (CWS) and it installed Water Health Centres (WHC) in Tekmal and Jogipet Villages of Medak District. It is further stated that as per the terms and conditions agreed upon between the first petitioner and the Gram Panchayat under CWS agreement, raw water for purification is required to be supplied by the Gram Panchayat

free of cost to the petitioners' purification Unit of RO system. The respondents provided Service Connections to the petitioners' Units for carrying out the purification process through RO system at the respective WHC. The third respondent issued notice, dated 02.3.2017, calling upon the petitioners to pay Rs.1,14,552/- towards penalty and Rs.12,000/- towards compounding fee and another notice, dated 06.3.2017, to pay a sum of Rs.1,14,756/- towards penalty and Rs.12,000/- towards compounding fee for theft of electricity. In the said notices, the third respondent also asked the petitioners to submit the objections, if any, against the same. In response to the said notices, the petitioners submitted objections on 09.3.2017 and the same to the extent of its relevance to the present cases read as under:

“In this connection, the company enters into agreements with Panchayats and Urban Local Bodies (Municipalities) wherein the latter allot land for construction of the WHC, identify perennial raw water source, obtain electricity connection and other necessary clearance to facilitate the Company to instal the WHC and operate it during the agreed concession period after which the WHC is handed over to the Panchayat/Urban Local Bodies. However, the terms of the agreement clearly specify that the monthly electricity expenses incurred for purifying the water shall be borne by WHN.

Accordingly, the Tekmal Gram Panchayat has identified a perennial raw water source (bore-well)

applied and obtained electricity service Connection and the monthly electricity charges are being borne by WHIN till date. Copies of the latest electricity bill and payment receipt are being enclosed for your reference.

Therefore, we would like to inform you that the Service Connection to Tekmal Water Plant is legitimate and WHIN has never defaulted in the payment of electricity charges till date.

Hence, the charges made out in the demand notice are false and not applicable to WHIN. We would like to inform your authority that we are neither guilty of power theft nor drawing electricity illegally as has been made out in the demand notice.

Therefore, we request you to withdraw the subject notice and drop further proceedings against the company or its personnel as the matter does not pertain to it."

Thereafter, the third respondent by way of two separate notices, dated 27.3.2017, which are impugned in the present Writ Petitions, confirmed the above said amounts and directed the petitioners to pay the said amounts while informing them that in the event of their failure to pay the above sums, further course of action will be initiated in the criminal case.

It is submitted by the learned counsel for the petitioners that for the first time in the impugned notices, dated 27.3.2017, the respondents have alleged about availing of power supply by the petitioners by direct tapping of L.T. Overhead line by means

of PVC insulated aluminium wire, for which the petitioners have nothing to do. It is, eventually, requested by the learned counsel that the petitioners may be permitted to submit an explanation to the said notices.

A reading of the notices, dated 02.3.2017 and 06.3.2017, show that the said notices did not mention about the direct tapping of electricity by the petitioners from the L.T. Over Head line by means of PVC insulated aluminium wire. As the said aspect was not mentioned in the said notices, this Court, in the interests of justice, deems it appropriate to afford an opportunity to the petitioners to file an explanation to the impugned notices for consideration of the respondents while directing the respondents to defer coercive action in the meanwhile.

For the afore-mentioned reasons, the Writ Petitions are disposed of, permitting the petitioners to submit explanation to the impugned notices, dated 27.3.2017, within a period of two weeks from the date of receipt of a copy of this order. If any such explanation is submitted by the petitioners within the said stipulated period, the respondents shall consider the same and pass appropriate order in accordance with law after giving opportunity to the petitioners. Till the said exercise is completed, no coercive action pursuant to the impugned notices, dated

27.3.2017, shall be taken by the respondents against the petitioners.

As a sequel, the Miscellaneous Petitions pending, if any, shall stand disposed of.

JUSTICE A.V.SESHA SAI

10th April 2017

Note:

Issue CC in three days.

B/o

DR

