

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

W.P.No.24626 of 2007

ORDER:

In the present writ petition, challenge is to the letter bearing Lr.No.AAO/ERO/R/NZB/D.No.534/07, dated 14.08.2007, of the Assistant Accounts Officer/second respondent herein.

2. Heard Sri Neha Akkineni, learned counsel for the petitioner and Sri Jakir Ali Danish for the respondents 1 and 2 apart from perusing the material available before the Court.

3. In view of the default committed by one M/s. Sri Rajeshwari Oil Mill, the State Finance Corporation auctioned the plant of the said firm under Section 29 of the State Financial Corporations Act, 1951. In the said auction the third respondent herein purchased the said plant for a consideration of Rs.1,26,000/-. According to the petitioner, the third respondent is a proprietary concern and the proprietor of the same is one Sri Shakeel Ahmed, who is no other than the son of the petitioner herein.

4. The Assistant Divisional Engineer, Operation, Rural, APSEB, Nizamabad vide Lr.No.ADE/OP/R/NZB/D.No.622/97, dated 14.10.1997, requested the third respondent to pay a total amount of Rs.1,21,900/- in order to enter into an agreement with the Board on or before 21.10.1997 while threatening with the action of disconnection in the event of failure to do so.

5. Questioning the validity of the said notice, the third respondent filed W.P.No.27130 of 1997 before this Court and this Court by way of an order dated 14.02.2007 dismissed the said writ petition.

6. Subsequently, the second respondent vide impugned Lr.No.AAO/ERO/R/NZB/D.No.534/07, dated 14.08.2007, made a request to the third respondent to pay an amount of Rs.1,09,497/- to avoid disconnection of L2-14262, Cat-I. The said proceedings are under challenge in the present writ petition.

7. According to the learned counsel for the petitioner, the impugned letter to the extent of threatening the disconnection of L2-14262, Cat-I is highly illegal, arbitrary and unreasonable and without jurisdiction as the said service connection pertains to the petitioner herein and the third respondent proprietary concern has absolutely nothing to do with the said service connection. It is further submitted by the learned counsel for the petitioner that neither the provisions of the Electricity Act, 2003 nor the Regulations framed by the respondent authorise disconnection of power supply to the petitioner's service connection.

8. On the other hand, it is vehemently contended by the learned Standing Counsel that the petitioner herein is no other than the mother of the proprietor of the third respondent proprietary concern and as such there is no infirmity in the impugned action. Section 56 of the Electricity Act, 2003 reads as under:

“56. Disconnection of supply in default of payment.-  
 (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

PROVIDED that the supply of electricity shall not be cut off if such person deposits, under protest,-

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

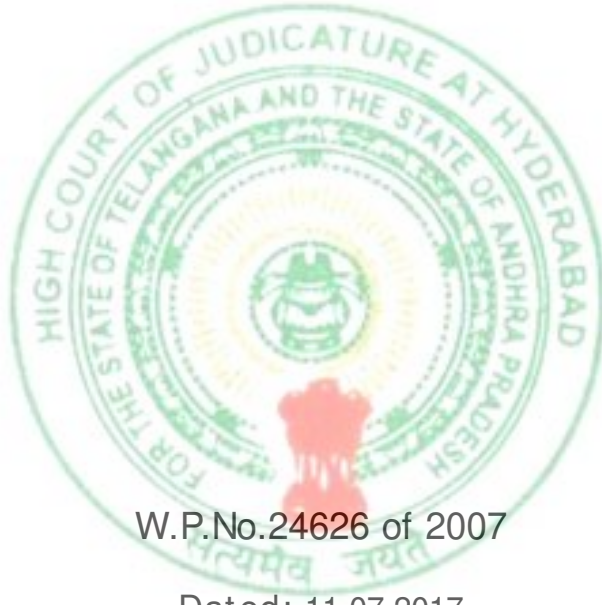
9. The above referred provision of law, in the considered opinion of this Court, authorise the authorities to disconnect the service connection of only those consumers who commit default in payment of the charges. In the considered opinion of this Court, the said provision of law does not enable the respondents to disconnect the power supply to the petitioner for the default committed by the third respondent and in fact no provision of law could be brought to the notice of this Court by the respondents which enable them or empower them to do so. This Court, in fact ordered to restore power supply to the petitioner by way of an order dated 06.12.2017.

10. For the aforesaid reasons, the writ petition is allowed, setting aside Lr.No.AAO/ERO/R/NZB/D.No.534/07, dated 14.08.2007, of the Assistant Accounts Officer/second respondent herein. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:11.07.2017  
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.24626 of 2007

Dated: 11.07.2017

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