

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

WRIT PETITION No.6607 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the orders of the 2nd respondent made in DEA/VIS/DOC.NO.TPG-3450/D.NO.1798/dated 31.8.2016 as highly illegal, arbitrary, unjust, void and the consequential rejection orders passed by the 3rd respondent vide SE/A/VSP/ADE/A/VSP/D.No.290/2016, Dt.30.10.2016 as highly illegal, arbitrary, unjust, void and against the principles of natural justice, consequently, to set aside the same.”

2. Heard Sri Kiran Tirumalasetti, learned counsel for the petitioner and Sri M.Ravindra, learned standing counsel for the respondents.

3. Petitioner herein is a domestic consumer of the respondent Company, bearing service connection No.1541235100001340. The Divisional Engineer, Assessments, APEPDCL, Visakhapatnam – 2nd respondent herein, issued a final assessment order fixing the liability as Rs.30,227/-. Against the said order, petitioner herein filed an appeal before the Superintending Engineer, Assessments,

APEPDCL, Visakhapatnam – 3rd respondent herein. By way of letter bearing Lr.No.SE/A/VSP/ADE/A/VSP/D.No.290/2016/Dt.31.10.2016, the 3rd respondent rejected the said appeal on the ground of delay.

4. According to the learned counsel for the petitioner, the impugned action is highly illegal, arbitrary and unreasonable and violative of Article 14 of the Constitution of India. It is the further submission of the learned counsel for the petitioner, reiterating the contents of the affidavit filed in support of the writ petition, that the petitioner herein received a power consumption bill for the month of October, 2016, mentioning an amount of Rs.2,904/- towards monthly consumption charges for 323 units and the authorities also mentioned an amount of Rs.31,922/- and that the petitioner could not understand the same and approached the 3rd respondent and on being approached, the 3rd respondent served final assessment order said to have been passed by the 2nd respondent on 31.08.2016 and the petitioner received the same on 23.10.2016.

5. The material available on record further discloses that the petitioner herein filed an appeal against the final assessment on 26.10.2016. While referring to the above said dates, it is the further submission of the learned counsel for the petitioner that though the petitioner herein filed his appeal within three days from the date of receipt of the final

assessment order, as indicated supra, there is absolutely no justification on the part of the 3rd respondent to reject the appeal on the ground of delay. It is the further submission of the learned counsel for the petitioner that the petitioner herein has also paid the amount covered by the impugned demand notice.

6. A perusal of the order under challenge in the writ petition discloses that without assigning any reasons and without even adverting to the contents of the appeal filed by the petitioner herein, the 3rd respondent passed the order under challenge and rejected the appeal.

7. Having regard to the nature of controversy and the submissions of the learned counsel for the petitioner and the averments mentioned in the affidavit filed in support of the writ petition, this Court is of the considered opinion that the ends of justice would be served, if the matter is remanded, by setting aside the order, with a direction to the 3rd respondent to pass appropriate orders on the appeal filed by the petitioner, on merits, by fixing some timeframe.

8. For the aforesaid reasons, this writ petition is allowed, setting aside the letter bearing Lr.No. Lr.No.SE/A/VSP/ADE/A/VSP/D.No.290/2016/Dt.31.10.2016, passed by the 3rd respondent and the appeal filed by the petitioner stands restored to file and the matter is remanded to the

3rd respondent for fresh disposal, in accordance with law, after giving notice and opportunity of hearing to the petitioner herein, within a period of three months from the date of receipt of a copy of this order.

9. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

27.02.2017
SS

A.V.SESHA SAI, J

