

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.2807 OF 2017

ORDER:

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

“to issue writ, more particularly in the nature writ of Mandamus declaring the impugned action of the 7th respondent in disconnecting the power connection and removing electricity meter no.11891 against registration no.NR.107161901041 (domestic category) pertaining to the petitioner in site admeasuring 3947 sq yards covered by Plot no's 1 to 9 situated in Sy.no.35 Part, 36 Part, 37 to 43, 64 and 65 Part (Phase 1) at Kompally Village, Qutbullapur Mandal, Medchal, Ranga Reddy District, by ignoring the explanation dt.4-1-2017 submitted by the petitioner and without following the due procedure established under Indian Electricity Act, 2003 as highly arbitrary illegal and violative of Article 14 & 300-A of Constitution of India and consequentially set-aside the 3 days notice dt.30-12-2016 and disconnection notice dt.21-1-2017 respectively of the 7th respondent .”

2. Heard Sri T.M.K.Chaitanya, learned counsel for the petitioner, learned Government Pleader for Energy appearing for respondent No.1 and Sri R.Vinod Reddy, learned Standing Counsel appearing for respondent Nos.2 to 9 apart from perusing the material available on record.

3. The Assistant Engineer, Operation, TSSPDCL, Kompally, Medchal issued a notice bearing Memo No.AE/OP/Kompally/F.No.31D.No.892/A/2016, dated 30.12.2016, asking the petitioner to produce the link documents and No Objection Certificate within three days. In response to the said memo, the petitioner herein submitted explanation on 04.01.2017. Thereafter, the Assistant Engineer, Operation,

TSSPDCL, Kompally issued a notice, dated 21.01.2017, ordering disconnection and removal of the meter.

4. According to the learned counsel for the petitioner, the respondent Assistant Engineer issued a notice asking the petitioner to furnish certain documents and despite the submission of elaborate explanation, without considering the contents of the same, the impugned notice came to be issued by the Assistant Engineer.

5. A perusal of the notice, dated 21.01.2017, clearly discloses that the Assistant Engineer, in the impugned notice, did not refer to anyone of the contentions urged in the explanation offered by the petitioner on 04.01.2017. Thus, the mode and manner adopted by the Assistant Engineer in consideration of the issue is highly objectionable and it is illegal and arbitrary. When the explanation is submitted by the petitioner to the notice issued by the Assistant Engineer, it is the bounden duty of the Assistant Engineer to consider the contents before resorting to further action in the matter. This is specifically absent in the present case.

6. In view of the above reasons, the Writ Petition is allowed, setting aside the notice, dated 21.01.2017, issued by respondent No.7 and the matter is remanded to respondent No.7 for fresh consideration in accordance with law after considering the explanation offered by the petitioner and after giving opportunity of hearing to the petitioner herein. There shall be no order as to costs.

7. Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

15.02.2017
AMD



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Date: 15.02.2017

AMD