

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

Writ Appeal No.429 of 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.213 of 2006 dated 16.06.2016. The appellant herein filed the Writ Petition seeking a writ of certiorari to quash the proceedings of the Chief General Manager-3rd respondent dated 30.11.2005 demanding payment of Rs.1,39,420/-, after deducting the amount already paid, within 30 days.

Facts, to the limited extent necessary, are that, on inspection on 26.11.2003, the Divisional Engineer, Warangal found certain incriminating points which read thus:

“The meter chamber seal, meter terminal cover seal and two seals (bottom left and bottom right) of meter cover are in tampered condition. The seals of CT chambers, CT's incoming and outgoing chambers are also found in tampered condition. The consumer has tampered the seals so as to meddle with the meter so that the energy consumed can be prevented by inserting foreign material inside the meter. The consumption is not commensurate with the production which shows that the consumer has pilfered energy.”

A notice was issued calling upon the petitioner to pay Rs.2,85,722/-, which resulted in his invoking the jurisdiction of this Court filing W.P.No.565 of 2005. The said Writ Petition was disposed of directing the appellate authority to dispose of the appeal and, thereafter, the Chief General Manager passed the impugned order levying pilferage charges of Rs.1,39,420/-, which the petitioner was called upon to pay, after deducting the amount already paid, within 30 days of receipt of the proceedings.

On the petitioner invoking the jurisdiction of this Court, the Learned Single Judge has, in the order under appeal, held that the petitioner's contention that the finding recorded by the 3rd respondent suffered from contradictions was unsustainable; the 3rd respondent had appreciated the report in seriatum and had spelt out reasons for his conclusion; as the petitioner had already paid a substantial amount, he was given three months time to pay the balance amount; and, in case the petitioner paid the balance amount within three months, the respondents should not levy interest for delayed payment. Aggrieved thereby, the present Writ Appeal.

Sri Ch.Jagannatha Rao, Learned Counsel for the petitioner, would contend that, since the order calling upon the petitioner to pay a sum of Rs.1,39,420/- is on the basis of a report which suffers from self-contradictions, the impugned order is perverse; even otherwise the very same charges were dismissed by the Special Judge for Electricity Cases-cum-I Additional Sessions Judge, Warangal, by its order dated 23.03.2011; and, therefore, the order demanding payment of Rs.1,39,420/- is liable to be set aside.

On the other hand the Learned Standing Counsel for the respondents would submit that the order passed by the Chief General Manager does not suffer from any self-contradictions; the criminal case instituted against the petitioner was not dismissed on merits, but solely on account of the inordinate delay of more than 1½ years in filing the charge-sheet; and in proceedings under Clause 15 of the Letters Patent interference would be justified only if the order under appeal suffers from a patent illegality.

The contention of Sri Ch.Jagannatha Rao, Learned Counsel for the petitioner, that the order passed by the Chief General Manager suffers from self-contradictions, is not tenable. In the order

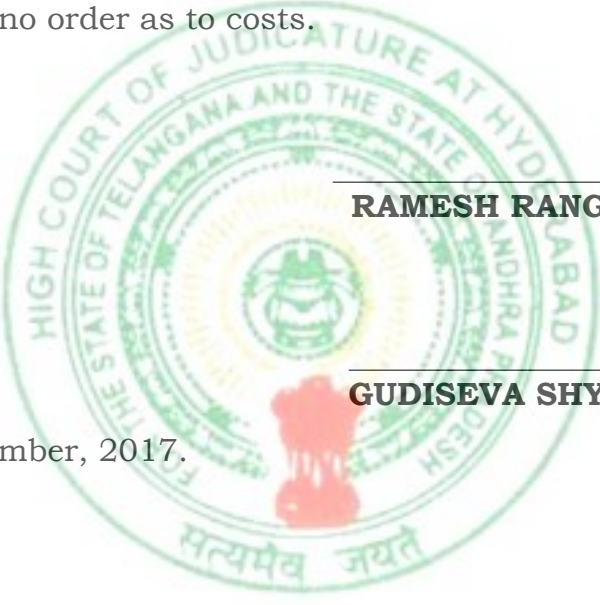
impugned in the Writ Petition dated 30.11.2005, the Chief General Manager has observed that, as per the MRT reports, the meter chamber seals were in a tampered condition; there was an impression on the seal bits; and after the meter body was opened, while no foreign material was observed, some scratches were found on and under the disc. It is evident that the meter chamber seals, and impression on the seal bits, were outside the meter body. On opening the meter body, some scratches were found on and under the disc. It is evident, therefore, that, while the seals were found in a tampered condition, scratches were found on and under the disc inside the meter body after the meter body, was opened. The contention that the order suffers from self-contradictions is, therefore, only to be noted to be rejected.

The other contention, that the petitioner's acquittal in a criminal case would necessitate the earlier order passed by the Chief General Manager to be set aside, is also not tenable. Firstly, the order passed the Special Judge for Electricity Cases-cum-I Additional Sessions Judge, Warangal, in CrI.M.P.No.310 of 2008 in Crime No.6549 of 2003 of Vigilance and APTS, Warangal, dated 23.03.2011, was on the ground that the delay, in filing the charge-sheet, was more than 1½ years i.e. for 593 days. The petitioner was not honourably acquitted. On the other hand, the entire proceedings were set aside on the ground of belated filing of the charge-sheet. Even otherwise, the order passed by the Special Judge for Electricity Cases-cum-I Additional Sessions Judge, Warangal, is dated 23.03.2011 whereas the order passed by the Chief General Manager is dated 30.11.2005, more than five years before the order of the Criminal Court. It is well settled that an earlier order of penalty

imposed by the competent authority cannot be set at naught on the basis of a subsequent acquittal by the Criminal Court.

Exercise of jurisdiction, under Clause 15 of the Letters Patent, is extremely limited and, save patent illegality in the order under appeal, no interference is called for. We are satisfied that the order under appeal does not suffer from any such infirmity. In any view of the matter, we see no reason to interfere with the order of the Learned Single Judge.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J.

Date: 04th December, 2017.
cs