

HON'BLE SRI JUSTICE A.V.SESHA SAI

Writ Petition No.46096 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, challenging the letter No.AAE/ O/ D1/ VZM/ F.No:Misc/ D No.791/ 15 dated 04.12.2015 of the Assistant Engineer, Distribution-I, APEPDCL, Vizianagaram-3rd respondent herein, asking the petitioner to arrange for payment of alleged malpractice arrear amount pending towards SC No.G500-502703, Category-5A.

2. Heard Sri C.M. Krishna, learned counsel for the petitioner and Sri M. Ravindra, learned standing counsel for the respondents.

3. According to the petitioner, he is the owner of the premises bearing No.G7, Sai Durga Shopping complex, Railway Station road, Vizianagaram and he purchased the said premises in the year 2004 and acquired an electricity service connection bearing SC No.019134/ 0200 in the year 2005 for the said premises. It is stated that the petitioner herein is running a sweet shop by name 'Sweet India' in the said premises and has been regularly paying the electricity bills. It is further stated that the petitioner herein also has agricultural land in Sy.No.178/ 1 at Nellimarla, Vizianagaram, in an extent of Ac.0.84 cents and he used to grow vegetables and grass for his cattle in the said land and that he has agricultural service connection bearing SC No.G500-502703 Category 5A on the said land. It is further stated by the petitioner that he sold his agricultural land in Sy.No.178/ 1 to one Rajendra Prasad on 28.03.2014 vide a registered sale deed and possession of the property was also delivered to the purchaser.

4. The 3rd respondent herein issued the impugned letter No.AAE/ O/ D1/ VZW F.No:Misc/ D No.791/ 15 dated 04.12.2015, asking the petitioner herein to pay an amount of Rs.73,478/- and Rs.5900/- towards alleged malpractice case.

5. Learned counsel for the petitioner submitted that the impugned letter is highly arbitrary and unreasonable. It is further submitted by the learned counsel for the petitioner that the respondents herein ought to have issued a notice to the petitioner, calling upon him to submit explanation towards the alleged malpractice by provisionally assessing the amount and ought to have passed the final order before resorting to coercive action, in accordance with law and that the respondent-authorities directly issued the impugned letter, demanding to pay the alleged malpractice amount and the same is violative of principles of natural justice.

6. There is absolutely no evidence to show that the respondents herein issued any such notice as pointed out by the learned counsel for the petitioner before resorting to the impugned action. In the considered opinion of this court, the action of the respondents is highly arbitrary and violative of principles of nature justice. The respondent-authorities ought to have issued a notice to the petitioner herein calling upon his explanation before resorting to coercive action directly. In view of the above reason, the impugned action cannot be sustained in the eye of law.

7. For the aforesaid reasons, the writ petition is allowed and the impugned letter No.AAE/ O/ D1/ VZW F.No:Misc/ D No.791/ 15 dated 04.12.2015, is set aside. However, it is open for the respondent-authorities to issue a notice to the petitioner herein calling upon him to

submit his explanation before taking any action in accordance with law, in the matter. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

A. V. SESA SAI, J

Date: 16.03.2017
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