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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5477/2018**

SHRI TEJ PAL

..... Petitioner

Through: **Mr. S. C. Singhal, Adv.**

versus

BSES RADHANI POWER LTD.

..... Respondent

Through: **Mr. Sunil Fernandes, Standing
Counsel with Mr. Arnav Vidyarthi,
Adv.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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09.07.2018

CM No. 25813/2018 (for early hearing)

This is an application for early hearing of the petition.

Learned counsel appearing for the respondent has no objection in allowing the application for early hearing.

The application is allowed and disposed of.

W.P.(C) 5477/2018

With the consent of the counsel for the parties, the writ petition is taken up for hearing. It is the case of the petitioner that an electricity connection, non-industry (LT) having CA No. 100165803 was sanctioned during the lifetime of the father of the petitioner and the same continued till date. According to the petitioner there is a minimum consumption of the electricity on the said meter and all the bills were paid in due time. Surprisingly, a bill dated December 29, 2017 shown to be "other charges"

has been received by the petitioner. It is the case of the petitioner that when he met the officers of the respondent, he was informed that the category of the connection was converted from industrial to non-domestic/commercial and additional security was asked for. It is the case of the petitioner that he had never applied for conversion of industrial connection to non-domestic/commercial connection, nor his consent was obtained. The demand of additional security is against law. A reference is made in the writ petition to the legal notice got issued by the petitioner.

On July 3, 2018 this Court had passed the following order:-

“Mr. Sunil Fernandes, learned Standing Counsel appearing for the respondent has drawn my attention to a communication dated November 2, 2017 sent by the respondent to the petitioner wherein reference has been made to DERC tariff order dated August 31, 2017 effective from September 1, 2017 which makes it mandatory for all industrial consumers to have a valid factory licence in the absence of which non-domestic tariff shall be chargeable from the consumer. Mr. S.C. Singhal learned counsel for the petitioner states, the petitioner has not received the said communication.

Be that as it may, Mr. Singhal to take instructions from the petitioner, whether the petitioner is in possession of a valid factory licence as contemplated under the tariff order dated August 31, 2018 within a week.

List on July 9, 2018.”

Today, Mr. Singhal states, that, the petitioner does not have the factory license. Rather, it is his submission that the petitioner was running a “Atta Chakki” which he had closed down. He also states, the property has been leased out and being used for Godown purposes. In substance, it is his submission the tariff order of the DERC could not be given retrospective effect and the change of connection from industrial to non-

domestic/commercial is illegal.

Learned counsel appearing for the respondent reiterates the submissions as made on July 3, 2018.

Having heard the learned counsel for the parties, it is noted, there is no dispute that connection granted to the petitioner was industrial. By the impugned action the connection has been converted to non-domestic (commercial). The effect thereof would be that the consumer needs to pay a higher tariff and additional security deposit. It is stated by Mr. Vidyarthi that if the property is being used for godown purposes, then it shall necessarily be for non-domestic purpose. Even on that ground, the connection liable to be converted to non-domestic (commercial). The submission of Mr. Singhal that such an action cannot be without hearing the petitioner is appealing.

On consideration of above peculiar facts, this Court is of the view that appropriate for the respondent is to cause an inspection of the property and thereafter issue a show-cause notice to the petitioner for the conversion of the connection from industrial to non-domestic/commercial within two weeks from today. On receipt of such notice, petitioner shall be at liberty to give reply to the same by relying upon such material as is available with him. On receipt of the reply, respondent shall consider the same and pass a speaking order. Pending the aforesaid action, the respondent shall restore the electricity forthwith and the petitioner shall deposit the charges claimed through impugned bill within one week. Suffice to state, if the petitioner is aggrieved by the order to be passed, liberty is with the petitioner to seek such remedy as available in law.

It goes without saying, the payment of charges to be deposited by the

petitioner shall be subject to the order to be passed by the respondent.

The petition stands disposed of.

Dasti.

V. KAMESWAR RAO, J

JULY 09, 2018/jg