

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 888 OF 2023

Between:

M/s.HES Infra Pvt., Ltd., Rep.by its Managing Director, I.V.R. Krishnam Raju,
S/o.I.Janaki Rama Raju, Aged about 60 years, Occ . Business, R/o.1-89/A/13,
Plot No.13, Shilpi Enclave, Gafoor Nagar, Madhapur, Hyderabad.

...PETITIONER

AND

1. The Telangana State Southern Power Distribution Corporation Limited,
Rep.by its Managing Director, Vidyut Soudha, Beside Eenadu Building,
Somajiguda, Hyderabad.
2. The Superintending Engineer, Operation TSSPDCL, Nagarkurnool.
3. The Divisional Engineer Electrical, Operation TSSPDCL, Nagarkurnool.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare the action of the 2nd respondent in converting the power supply made to the petitioner from HT Category-I to HT Category-VII under Letter No .DEE/OP/NGKL/Comml ./F.No./D.No.2725/2021, dt.07/12/2021with retrospective effect from 28/06/2018, done unilaterally, as illegal, arbitrary and unconstitutional and to set aside the same and to issue a consequential direction not to take any coercive steps including disconnection of the power supply to the petitioner on the ground of nonpayment of the back billing amount of Rs.54,04,794/- pertaining to retrospective back billing consequent upon conversion of the power supply to the petitioner from HT Category-I to HT Category-VII, done unilaterally by the 2nd respondent in Letter

No.DEE/OP/NGKL/Comm1 /F.No./D.No.2725/2021, dt.07/12/2021 and to direct the refund of the amount erroneously paid by the petitioner of Rs. 1.35 Crores.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents not to take any coercive steps including disconnection of the power supply to the petitioner on the ground of nonpayment of the back billing amount of Rs.54,04,794/- pertaining to retrospective back billing consequent upon conversion of the power supply to the petitioner from HT Category-I to HT Category-VII, done unilaterally by the 2nd respondent in Letter No.DEE/OP/NGKL/Comm IF.No./D.No.2725/2021, dt.07/12/2021, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI. VEDULA SRINIVAS, FOR SMT. VEDULA

CHITRALEKHA

Counsel for the Respondents: SRI. R.VINOD REDDY, SC FOR TSSPDCL

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.No.888 of 2023

ORDER

This Writ Petition is with the following prayer;

"to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare the action of the 2nd respondent in converting the power supply made to the petitioner from HT Category-I to HT Category-VII under Letter No.DEE/OP/NGKL/Comm1/F.No/D.No. 2725/2021 dt.07-12-2021 with retrospective effect from 28-06-2018 done unilaterally as illegal, arbitrary and unconstitutional and to set aside the same and to issue a consequential direction not to take any coercive steps including disconnection of the power supply to the petitioner on the ground of non-payment of the back billing amount of Rs.54,04,794/- pertaining to retrospective back billing consequent upon conversion of the power supply to the petitioner from HT Category-I to HT Category-VII done unilaterally by the 2nd respondent in Letter No.DEE/OP/NGKL/Comm1/F.No/D.No.2725/2021 dt 07-12-2021 and to direct the refund of the amount erroneously paid by the petitioner of Rs.1.35 Crores".

2. Learned Senior Counsel Mr. Vedula Srinivas, representing Smt. Vedula Chitralekha, learned counsel for the petitioner, submits that the petitioner is having a stone crushing unit at Nagar Kurnool and it applied for supply of electricity with TSSPDCL and an agreement was entered into between the petitioner and respondent No.2 on 22-06-2018, whereby respondent No.2 has agreed to supply electricity with a maximum load of 1000 KVA under HT category-I and the petitioner has been availing the power supply under the said category and paying the bills regularly. He submits that a show cause notice was issued to the petitioner on 07-12-2021 stating that the respondents have inspected the premises and found that the supply was availing for stone crusher and the material produced is being

utilized for construction of canal work and the service was being utilized for stone crusher where the complete production was being utilized for construction of PRLS-11 reservoir (Watem Project) and as per the tariff order, any service pertaining to construction activity falls under HT cat-VII and hence, they have asked the petitioner to mention the reasons as to why this service should avail supply under HT-IA category, failing which the service will be converted to HT cat-VII and the bills issued may be corrected as per tariff order since release of service i.e., 28-06-2018. Learned Senior Counsel submits that thereafter, the petitioner has requested the respondents for reasonable time and thereafter, under the impression that the petitioner has to pay the amount as per the said category from 2018, he has addressed a letter to the respondents on 05-02-2022 requesting them for installments from January Bill onwards and to arrange monthly consumption bills as usual and he will pay within the schedule time and also requested to process for reducing the demand load from 1000 kva to 500 kva as they have minimized their machinery load. Learned Senior Counsel further submits that thereafter, as the demanded amount was Rs.1,89,04,794/-, so far the petitioner has paid an amount of Rs.1,35,00,000/- and thereafter, petitioner came to know that with regard to the very same back billing and the payment of charges, a batch of writ petitions are pending before this Court and as such, the petitioner has come up before this Court. Learned Senior Counsel further submits that the respondents cannot raise the demand from

2018 and he has relied on the interim orders passed by this Court in W.P.Nos.8675, 23418, 23628, 27240 of 2019 and 8143 of 2021.

3. Learned Standing Counsel for respondent Nos.1 to 3 Mr. R. Vinod Reddy submits that initially in one of the writ petitions, an order was passed observing that the learned Standing Counsel seeks time to get instructions and no coercive steps will be taken by them. It is submitted that basing on this order, several interim orders were passed in a batch of writ petitions. He submits that he will come up with a counter affidavit.

4. When the petitioner is using the service connection for stone crusher, the respondents have issued a notice asking him to submit his reply as to why it cannot be converted from HT-IA category to HT -VII category. Though initially the petitioner sought time, thereafter, he has stated that he is ready to pay the amount, however, he has requested for installments and taking into consideration the said request, no final orders are passed. Now, basing on a batch of writ petitions pending before this Court, the petitioner has come up before this Court. Looking at the interim orders passed by this Court, in none of the orders, no reason is recorded for grant of such interim direction. In the facts and circumstances where the petitioner has not submitted a reply and accepted for the payment in installments, this Court deems it appropriate to dispose of the writ petition directing the petitioner to submit his reply to the notice dated 07-12-2021 and considering the same, the respondents shall pass final order. It is submitted that the

petitioner has to pay an amount of Rs.54 lakhs and odd. Hence, the respondents may take steps to recover the same. However, the respondents shall not take coercive steps for recovery of the said amount of Rs.54 lakhs and odd till final orders are passed by respondent No.2.

5. Accordingly, the Writ Petition is disposed of. No order as to costs.

6. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

SD/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Managing Director, Southern Power Distribution Corporation Limited, Vidyut Soudha, Beside Eenadu Building, Somajiguda, The Telangana State Hyderabad.
2. The Superintending Engineer, Operation TSSPDCL, Nagarkurnool.
3. The Divisional Engineer Electrical, Operation TSSPDCL, Nagarkurnool.
4. One CC to Sri. Vedula Chitralekha, Advocate [OPUC]
5. One CC to Sri. R.Vinod Reddy, SC for TSSPDCL [OPUC]
6. Two CD Copies

TJ
GJP

HIGH COURT

DATED:10/01/2023

ORDER

WP.No.888 of 2023



DISPOSING THE WRIT PETITION
WITHOUT COSTS.

(8)
MA
30/1/23