

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO: 6069 OF 2022

Between:

Bhagyalakshmi Communication, Rep. by the Cable Operator Surendranath Reddy, Aged. 60 Years S/o.G.Siddreddy, #3-2, lbs road, Piler-517214.

...Petitioner

AND

1. The State of Andhra Pradesh, rep by its Secretary, Legal affairs, Legislative affairs And Justice, A.P. Secretariat, Velgapudi, Guntur District.
2. State of Andhra Pradesh, rep by its Prl. Secretary, Energy Infrastructure and Investment Department, A.P. Secretariat, Velgapudi, Guntur District.
3. Chairman & Managing Director, APTRANSCO 48-12-4/1, Eluru Road, Gunadala, Vijayawada- 520008, Andhra Pradesh.
4. Southern Power Distribution Company of A.P Limited, APSPDCL rep by its Chairman and Managing Director, Kesavayagunta, besides SrinivasaKalyanaMantapam, TiruchanuruRoad, Tirupathi, Andhra Pradesh.
5. Chief General Manager, Operation, APSPDCL, Kesavayagunta, besides Srinivasa, KalyanaMantapam, Tiruchanuru Road, Tirupathi, Andhra Pradesh.
6. The Superintendent Engineer, Operation, APSPDCL, Kesavayagunta, besides SrinivasaKalyana Mantapam, Tiruchanuru Road, Tirupathi, Andhra Pradesh.
7. Divisional Engineer, Operations, APSPDCL, Piler, Piler town, Chittoor District, State of Andhra Pradesh.
8. The Assistant Divisional Engineer, APSPDCL, Piler, Piler town, Chittoor District, State of Andhra Pradesh.
9. The Assistant Engineer, Electrical (operations) APSPDCL, Piler, Piler town, Chittoor District, State of Andhra Pradesh.
10. The Assistant Accounts Officer, Electricity Revenue Office, APSPDCL, Piler, Chittoor District, State of Andhra Pradesh.
11. Electrical Line Men, Electric Revenue office, APSPDCL, Tirupathi Road, Piler, Chittoor District, State of Andhra Pradesh.
12. Union of India, rep by Ministry of Information and Broadcasting -A-Wing, ShastriBhawan, New Delhi-110001.
13. Telecom Regulatory Authority of India (TRAI), Mahanagar, Door Sanchar Bhawan, JawaharLal Nehru Marg, Old Minto Road, New Delhi-110002.

...Respondents

is filed
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 similar writ or direction to the Respondents, 7 to 11, declaring the action of resorting to disconnection of power supply to my service connection vide SC No. 5711100011533, without any prior notice on 23/02/2022 for nonpayment of pole rental charges and for restoration of power supply on the same day only on payment of a part amount of Rs.10,000/- towards pole rental arrears of Rs.1,82,771/- billed in the monthly electricity consumption bills despite suspension of G.O.Ms. No.15 dt.11-06-2018 passed by the second respondent seeking to collect rental charges at Rs.50 per pole per month in Municipalities and Municipal Corporations and Rs.35/- in Mandal Headquarters by this Hon'ble Court vide orders dt. 18-08-2018 in WP No. 27815 of 2018 and with similar such orders being passed in many other WPs i.e, WP No.33989 of 2018, WP. 34809/2018, WP 11850/2019, WP 19199/2019, WP 2034/2020, WP.12106/2020, WP 13847/2020, and WP 1204, 2034, 12106 of 2020, filed by similarly aggrieved cable operators, and despite there being a restraint order passed in WP No.19199 of 2019 against the respondents from insisting for pole rental charges as illegal, unjust, ultravires the powers and in gross violation of S.4B of the Cable Televisions Network (Regulation) Act, 1995, and violative of Article 15, of Constitution of India, besides amounting to imposing unreasonable conditions on the grant of Row to

the operators being not in consonance with the guidelines prescribed by the 12th Respondent under Section 4B(5) of the Cable Televisions Network (Regulation) Act, 1995.

IA NO: 1 OF 2022

is filed
Petition under Section 151 CPC, praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondents 9 to 11 not to disconnect power supply to the service connection of the petitioner bearing USCNo. 5711100011533 in future for nonpayment of pole rental charges billed in the monthly electricity bills other than monthly electricity consumption charges and or insist for payment of the pole rental charges billed in the form of arrears/other charges in the monthly electricity bills raised on the service connection of the petitioner, pending disposal of WP 6069 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri A Tulsi Raj Gokul, Advocate for the Petitioner, GP for Law Legislative Affairs for the Respondent No.1, GP for Energy for Respondent No.2, Sri Y Nagi Reddy, Standing Counsel for Respondent Nos.3 to 11 and Sri N Harinath, Asst. Solicitor General for Respondent Nos.12 & 13, the Court made the following;

ORDER:

“Heard the learned counsel for the petitioner and Sri Siva Ramakrishna for Sri Y.NagiReddy learned counsel for the respondents.

Learned counsel for the petitioner argues that the issue raised in this writ petition is similar to the issue in number of writ petitions which are pending before this court.

The issue raised in all these writ petitions is about the right of the respondents to collect electrical pole rental charges. The learned counsel for the petitioner argues that the entire GO on the basis on which the rental charges have been levied is suspended. He also draws the attention of this court to an order passed in WP.No.11850 of 2019, wherein the Chief General Manager of the respondents issued a memo stating that as the GO itself is suspended. All the field officers are directed not to insist the rental charges on the electric poles. Similar orders are passed in other matters also.

Therefore, the learned counsel relying on these orders and also the provisions of The Cable Television Networks (Regulation) Act, 1995 argues that the demand for rental charges is beyond the competence of the respondents which has been opposed by the earlier interim order.

In response to this, Sri Siva Rama Krishna, learned counsel for the respondents argues that the GO which was suspended with regard to enhancement of earlier charges. According to him by a process of misinterpretation, the petitioner has not paid the pole charges which are in force earlier. In a letter given by the petitioner dated 22.03.2022, he had actually undertaken to pay the arrears in instalments. It is also submitted that pursuant to the said letter, the petitioner paid Rs. 10,000/- and the service connection was restored. He submits that the second letter dated 22.03.2022 issued by the petitioner is an afterthought. Therefore, he submits that it is not a case where the Interim order should be granted.

In reply the learned counsel for the petitioner submits that the first letter was issued under compulsion.

Considering all the submissions made, this Court notices that there is a distinction in this case. The petitioner is an experienced business man and has given a letter agreeing to pay the outstanding and in fact paid an amount of Rs.10,000/-, pursuant to the letter which was accepted. However, the larger issues raised also merit consideration and in the opinion of this Court, all the writ petitions would be decided together. Therefore as an interim measure, the petitioner is directed to pay Rs.81385/- within a period of two weeks from the date of receipt of a copy of this order, to avoid further disconnection.

It is made clear that this order being passed in peculiar facts and circumstances of this case and in view of the fact that the petitioner himself has addressed a letter agreeing to pay the amount in instalment and has also paid an amount of Rs.10,000/- pursuant to the said letter.

List on 14.04.2022."

SD/- CHITTI JOSEPH
ASSISTANT REGISTRAR.

//TRUE COPY//

SECTION OFFICER

Ft

To,

1. The Secretary, Legal affairs, Legislative affairs And Justice, State of Andhra Pradesh, A.P. Secretariat, Velgapudi, Guntur District.
2. The Prl. Secretary, Energy Infrastructure and Investment Department, State of Andhra Pradesh, r A.P. Secretariat, Velgapudi, Guntur District.
3. The Chairman & Managing Director, APTRANSCO 48-12-4/1, Eluru Road, Gunadala, Vijayawada- 520008, Andhra Pradesh.
4. The Chairman and Managing Director, Southern Power Distribution Company of A.P Limited, APSPDCL Kesavayagunta, besides SrinivasaKalyanaMantapam, TiruchanuruRoad, Tirupathi, Andhra Pradesh.
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11. Electrical Line Men, Electric Revenue office, APSPDCL, Tirupathi Road, Piler, Chittoor District, State of Andhra Pradesh.
12. The Ministry of Information and Broadcasting -A-Wing, ShastriBhawan, Union of India, New Delhi-110001.
13. Telecom Regulatory Authority of India (TRAI), Mahanagar, Door Sanchar Bhawan, JawaharLal Nehru Marg, Old Minto Road, New Delhi-110002.
(1 to 13 by RPAD)
14. One CC to Sri. A Tulsi Raj Gokul, Advocate [OPUC]
15. One CC to Sri N. Harinath, Asst. Solicitor General [OPUC]
16. One CC to Sri Y Nagi Reddy, Standing Counsel [OPUC]
17. Two CCs to GP for Energy, High Court of AP [OUT]
18. Two CCs to GP for Law Legislative Affairs, High Court of Andhra Pradesh. [OUT]
19. One spare copy.

MSB

HIGH COURT

DVSS,J

DATED:24/03/2022

ORDER

LIST ON 14.04.2022

WP.No.6069 of 2022

INTERIM DIRECTION

