

IN THE HIGH COURT FOR THE STATE OF TELANGANA
WEDNESDAY ,THE TWENTY THIRD DAY OF SEPTEMBER TWO THOUSAND AND
TWENTY
:PRESENT:
THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY
WRIT PETITION NO: 15726 OF 2020

Between:

1. M/s. Mancheril Cement Company Pvt. Ltd., Regd Office at H.No. 8-2-120/86/1/101. Flat No. 101. Padmaja Residency Road No. 2. Banjara Hills, Hyderabad 500034. Rep by its Managing Director Sri. P. Narotham Rao. Factory-Mancheril. Mancheril District- 504209
 HT Service Connection No. ADB-028/MCL-008
 HT Service Connection No. MCL - 014
 LT Service Connection No. 190300063.
2. Sri P. Narotham Rao, S/o Sri P. Prakash Rao. Aged about 60 years. H.No. 8-2-120/86/1/101, Flat No. 101, Padmaja Residency Road No. 2. Banjara Hills. Hyderabad - 500034

Petitioners**AND**

1. Northern Power Distribution Company of Telangana State Ltd., Corporate office at H.No. 2-5-31/2, Vidyuth Bhavan, Nakkalagutta, Hanumakonda, Warangal, 506000, represented by its Chairman and Managing Director.
2. The Chief General Manager, Commercial, Northern Power Distribution Company of Telangana State Ltd. Corporate office at Nakkalagutta.Hanamakonda, Warangal-5060001.
3. The Superintendent Engineer, Operation Circle, Northern Power Distribution Company Telangana State Ltd., Mancherial, Mancherial District.
4. The Assistant Accounts Officer, ERO Mancherial. Northern Power Distribution Company of Telangana State Ltd. Mancherial. Mancherial District

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 pass an order or orders or direction more particularly. one in the nature of a writ of mandamus (a)declare the action of respondents in terminating the HT Agreement in respect of HTSC.No.ADB-028/MCL-008 and HTSC.No.MCL-014 vide Lr.No.SE/OP/MNCL/SAO/JAO/No.454/20 and Lr.No.SE/OP/ MNCL/SAO/JAO/HT/ D.No. 455/20 even dated 25M7.2020 issued by 3rd respondent purported to be under Clause 5.9.4.2 of General terms and Conditions of Supply (herein after referred to as "GTCS") as nullius juris, Arbitrary, illegal, contrary to GTCS, Electricity Supply Code Reg. 07 of 2013 and being violative of Article 14 and 19(1)(g) of Constitution of India and consequently set-aside the same (b)declare the action of respondents in not derating the petitioner's HT SC.No.ADB-028/MCL-008 from 5000 KVA to 500 KVA in pursuance of petitioners application/notice dated 05.09.2019 purportedly fbr non payment of arrears as demanded by L.r.No. CGM(comm)GM(C) -DE(C) /ADE(C) /AE(C) /F.No.MCC/D.No. 307 / 20-21 dated 08.07.2020 issued by 2nd respondent as arbitrary. illegal. contrary to clause 5.9.4,2 of GTCS and provisions of Electricity Act. 2003 and consequently direct the respondents to derate the CMD from 5000 KVA to 500 KVA with effect from 04.10.2019 and revise the CC Bills issued for the subject period (c)declare the action of the respondents in not implementing the orders dated 07.03.2018 passed in C.G. No. 251 of 2017 by the Consumer Grievances Redressal Forum. Nirmal and revising the CC Bills for the period January. 2015 to June. 2017 in respect of SC. No. ADB-028/MCL-008 by reconciling all the CC Bills issued since May. 2015 and resorting to coercive action of disconnection of 251 LT services as set out in letter Nos. AAA/ERO/MNCL/JAO(B) D.No.296/20 and letter No.AAA/ERO/MNCL/JAO(B) D.No.301/20 even dated 02-09-2020 issued by the 4th respondent as arbitrary. illegal. unconstitutional. contrary to Electricity- Supply Code Reg. 07 of 2013 and the provisions of Electricity Act. 2003 besides being violative of Article 14. 19 (1) (g). 21 and 300-A of constitution of India and consequently set-aside the impugned letters;

IA NO: 1 OF 2020:

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 suspend the operation of Lr.No.SE/OP/MNCL/SAO/ JAO/HT/D.No.454/20 and Lr.No.SE/OP/MNCL/SAO/JAO/HT/D.No. 455/20 even dated 25.07.2020 issued by the 3rd Respondent, pending disposal of the 15726 of 2020, on the file of the High Court.

IA NO: 2 OF 2020:

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 against the petitioner's LT service connection No. 190300063 of Mulkala Distribution and 251 LT services, as per statement enclosed. including the disconnection of the same in pursuance to the impugned notices L.r.Nos. AAA/ERO/MNCL/JAO(B)D.No.296/20 and L.r.No.AAA/ERO/MNCL/JAO/ (B)D.No.301/20 even dated 02-09-2020 issued by the 4th Respondent, pending disposal of the WP 15726 of 2020, on the file of the High Court.

IA NO: 3 OF 2020 :

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 to restore the power supply in respect of Service Connection No. MCL-008 and MCL -014 belonging to the 1st petitioner company, pending disposal of the WP 15726 of 2020, 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.Sudershan Reddy, Senior Counsel appearing on behalf of Sri CHALLA GUNARANJAN Advocate for the Petitioners, SRI G VIDYA SAGAR, Senior Counsel appearing on behalf of SRI ZAKIR ALI DANISH (S.C.) for the Respondents, the Court made the following.

ORDER:

Sri A. Sudershan Reddy, the learned Senior Counsel appearing on behalf of Sri Challa Gunaranjan, learned counsel for the petitioners, has stated that the HT Agreements entered into by petitioner No.1 – Mancherla Cement Company Private Limited with the Telangana State Northern Power Distribution Company Limited were terminated, and the Department is contemplating to disconnect the LT Service Connection of 251 quarters, in which the employees of the petitioner-company and also some Government officials are residing. The counsel has stated that there are no dues as on date in respect of connection to the 251 quarters. The Department has demanded an amount of Rs.10,35,47,605/- and Rs.9,69,219/- towards outstanding arrears, petitioner No.1 – company has given a reconciliation statement along with several representations, but the respondent authorities are not taking any action on these representations and trying to take coercive steps to disconnect the 251 LT Service Connections. That the letters are issued only to arm-twist the petitioners into paying the amounts due to the Department, which are under dispute. The learned Senior Counsel has further stated that petitioner No.1-company has been shut down due to various problems and it has made a representation to the Government to grant necessary rehabilitation package, and they are awaiting the orders from the Government. The learned Senior Counsel has requested this Court to pass an interim order directing the respondents not to disconnect the power supply to 251 LT Service Connections.

Sri G. Vidya Sagar, the learned Senior Counsel appearing on behalf of the respondents, has vehemently opposed the grant of any interim order by this Court. The learned Senior Counsel has stated that the petitioner No.1- company is due an amount of Rs.10,35,47,605/- and Rs.9,69,219/-, and has stated that in spite of making several demands, the petitioner No.1 – company is not paying the

said amount. As a matter of fact, petitioner No.1 - company is earning more than Rs.50,00,000/- per month from letting out the 251 quarters. As a matter of fact, the petitioner No.1 through their own letter dated 22.07.2020 have admitted that they are due an amount of Rs.5,51,40,000/-.

Without going into the merits of the case as to whether the termination of the HT Agreements is arbitrary, illegal or whether the Department is entitled to disconnect the 251 LT Service Connections, this Court is of the opinion that the ends of justice would be met if the respondents are directed not to take any coercive steps against the petitioners subject to the following conditions:

As petitioner No.1-company have themselves given a reconciliation statement admitting that only Rs.5,51,40,000/- (Rupees five crores fifty one lakhs and forty thousand only) is the actual amount liable to be paid by the company, the petitioner No.1-company is directed to pay the said amount of Rs.5,51,40,000/- in the following manner:

The petitioner No.1-company shall pay an amount of Rs.51,40,000/- within a period of ten days from today. The petitioner No.1-company shall pay the balance amount of Rs.5,00,00,000/- in five equal monthly instalments in the following manner:

First instalment shall be paid on or before 23.10.2020 and the subsequent instalments shall be paid on or before 23rd of every succeeding month i.e., (2) 23.11.2020, (3) 23.12.2020, (4) 23.01.2021, and (5) 23.02.2021.

The above said payment is subject to the result of the writ petition. However, it is made clear that in case petitioner No.1-company makes any default in payment of the said amount, the Department is entitled to take action in accordance with law. In addition to the above instalments, the petitioner No.1-company shall continue to pay the monthly future electricity charges as levied by the Department.

The learned Standing Counsel requests time for filing a counter.

Post on 09.11.2020.

SD/- K. AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman and Managing Director, Northern Power Distribution Company of Telangana State Ltd., Corporate office at H.No. 2-5-31/2, Vidyuth Bhavan, Nakkalagutta, Hanumakonda, Warangal, 506000.
2. The Chief General Manager, Commercial, Northern Power Distribution Company of Telangana State Ltd. Corporate office at Nakkalagutta. Hanamakonda, Warangal-5060001.
3. The Superintendent Engineer, Operation Circle, Northern Power Distribution Company Telangana State Ltd., Mancherial, Mancherial District.
4. The Assistant Accounts Officer, ERO Mancherial. Northern Power Distribution Company of Telangana State Ltd. Mancherial. Mancherial District (1 to 4 by RPAD)
5. One CC to SRI. CHALLA GUNARANJAN Advocate [OPUC]
6. One spare copy

HIGH COURT

AARJ

DATED:23/09/2020

POST ON 09.11.2020

ORDER



WP.No.15726 OF 2020

DIRECTION