

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.26711 of 2006

**29.12.2006**

Between:

Chilamkur Suresh Babu, S/o.Sri Chinna Raghavaiah

... Petitioner

AND

Southern Power Distribution Company of Andhra Pradesh,

Operation Circle-Ongole, represented by its Divisional Manager

... Respondent

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

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ORDER:

The petitioner challenges the action of the respondent, namely, Southern Power Distribution Company Limited (SPDPCL), in disconnecting power supply to Service Connection (SC) No.3805 (Category-I) of the petitioner, as illegal and arbitrary.

The petitioner is statedly residing in a portion of premises bearing house No.2-214-4 belonging to Malipeddi Subba Rao. The petitioner's portion is having electricity supply with SC No.3805 (domestic, category-I) whereas the portion of Subba Rao allegedly has SC No.1175 (commercial, category-II). The petitioner alleges that he has nothing to do with SC No.1175. On 07.10.2006, Inspector of Vigilance checked the premises of Subba Rao and registered Crime No.4959 of 2006 under Section 135 of the Electricity Act, 2003 (the Act, for brevity) pertaining to SC No.1175 on an allegation that there was theft of energy. The petitioner alleges that pursuant to such inspection a notice was also issued to Subba Rao but no notice is issued to the petitioner. Despite the same, the petitioner's service connection was disconnected. Alleging that without prior notice disconnection of the power supply is illegal, the present writ petition is filed.

When the matter was called for preliminary hearing on 22.12.2006, learned Counsel for the petitioner relied on Section 56 of the Act and submits that any disconnection for any reason without prior notice is illegal. **Opposing** the writ petition learned Standing Counsel for SPDPCL sought time for instructions. When the matter is called today, he submits that after inspection, the Assistant Divisional Engineer (Operation), Y.Palem (ADE), issued two provisional assessment orders in respect of premises pertaining to different categories of service connections and, therefore, the writ petition is not maintainable.

Learned Standing Counsel has placed before this Court a Xerox copy of the provisional assessment order/notice issued by the ADE in respect of SC No.3805 (category-I) and Xerox copy of such notice in respect of SC No.1175 (category-II). A perusal of these two would show that the ADE inspected both the premises on 07.10.2006. The premises with SC No.3805 was inspected at 11.45 hours and other

premises at 12 Noon on 07.12.2006 when it was found that the incoming and outgoing phase terminals from the meter are joined together to control the consumption of the meter. From this, he provisionally concluded that the consumer is indulging in theft of energy and provisionally calculated the amount in respect of SC No.1175 at Rs.98,952/- and in respect of SC No.3805 at Rs.3,577/-.

In view of the evidence produced before this Court, this Court holds that the writ petition is filed on factual foundation, which is not correct. Therefore, any interference would amount to putting premium on an alleged illegality and alleged theft of energy. Therefore, liberty is given to the petitioner to raise all objections before the final assessment authority or Special Court by filing appropriate application, as and when the case is referred for determining the civil liability. If the petitioner seeks to avail power supply, it is also open to him to pay amount as per demand and avail benefit under Section 126(4) of the Act.

In the result, giving liberty to the petitioner to approach the Final Assessment Authority/Special Court and file appropriate application, the writ petition is dismissed. No costs.

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December 29, 2006. (**V.V.S.RAO,J**)

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