

(2014) 04 KAR CK 0248

In the Karnataka High Court

Case No : Writ Petition No. 103782/2014 (GM-KEB)

Balappa

APPELLANT

Vs

Karnataka Power Transmission Corporation Ltd.

RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:

Citation : (2014) 04 KAR CK 0248

Hon'ble Judges : Aravind Kumar, J

Bench : Single Bench

Advocate : S.B. Hebballi, Advocate for the Appellant; B.S. Kamate, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Aravind Kumar, J.—Heard Sri S.B. Hebballi, learned counsel appearing for petitioner and Sri B.S. Kamate, learned counsel appearing for respondents. Perused the case papers.

2. This writ petition is directed against a notice dated 16.12.2013 Annexure-E whereunder respondents have demanded a sum of Rs. 2,44,586/- as the amount due for electricity consumed in respect of Meter No. ANDIP- 18. It is not in dispute that on an earlier occasion by order dated 30.04.2002, similar demand was made by respondents which came to be affirmed by the appellate authority by order dated 30.04.2002 in Appeal No. 1409/2013. Said order was under challenge before this Court in W.P. No. 2868-2870/2003 and writ petition came to be allowed by this Court by order dated 03.11.2004 and demand notice issued as per Annexures-A, B and C dated 17.04.1999 referred to in the said writ petition was ordered to be read down as show cause notice and petitioners were permitted to file their objections to the said notices within four weeks. Order passed by this Court reads as under:

The demand notices at Annexure-:"A", "B" and "C" dated 17.04.1999 shall in the circumstances be read down as show cause notices to the petitioners

permitting the petitioners to file their objections to the said notices within four weeks from the date of receipt of certified copy of this order.

3. Sri Hebballi, learned counsel for the petitioner submits that since the respondents did not precipitate the matter, objections to the notices was not filed by petitioners and suddenly without adjudicating the notice, impugned demand notice has been issued which is in violation of natural justice.

4. Per contra, Sri Kamate, learned counsel appearing for the respondents would submit that despite direction having been issued by this Court, petitioner did not file the objections and as such, demand has been confirmed and impugned notice has been issued.

5. A perusal of the impugned notice would indicate that a sum of Rs. 2,44,586/- has been demanded from the petitioner for alleged misuse of electricity supplied to the petitioner-IP set namely for being used in brick kiln. This Court in the normal circumstances would have remitted the matter back to respondents for adjudication by extending an opportunity to the petitioner. In the instant case, it is noticed that petitioner himself had approached this Court earlier challenging similar notices and to extend an opportunity to him, this Court had ordered that notice dated 07.04.1999 is to be read as show cause notice and as such had permitted the petitioner to file his objections to the said notice within four weeks from the date of receipt of said certified copy of the order. Neither there is any whisper in the petition about such objection having been filed nor an attempt made by the petitioner in this regard to file said objections before respondent-authorities within 4 weeks as directed. Petitioner has kept quite for 10 long years. Now, after the respondents have issued a fresh notice on 16.12.2013 vide Annexure-E, he is attempting to challenge the said notice on the ground of violation of principles of natural justice. When this Court had given a specific direction to the petitioner to file objections to the notice and to treat the said notice as show cause notice, petitioner has not utilised that opportunity. He has slept over the matter and there has been inordinate delay of 10 years on the part of the petitioner. In view of the fact that respondents allege that petitioner has diverted the electricity supplied to him, petitioner would be bound to deposit the electricity so consumed for a different purpose than for what it was supplied for. In view of the fact that petitioner has not complied with the earlier direction issued by this Court, question of exercising extra-ordinary jurisdiction by this Court does not arise. Writ petition dismissed with cost of Rs. 5,000/- payable by petitioner to respondents. Ordered accordingly.