
(2011) 11 AP CK 0159

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22107 of 2011

Sri Ganesh Agro Services, Rayavaram, East Godavari District APPELLANT

Vs

Eastern Power Distribution Company of A.P., Limited, RESPONDENT
Visakhapatnam and others

Date of Decision : 11-11-2011

Acts Referred:

Citation : (2012) 4 ALT 734

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : D.V. Nagarjuna Babu, for the Appellant; Jyothi Eswar Gogineni, for the Respondent

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a Mandamus to declare the action of the respondents in demanding unconnected minimum charges upto 21.05.2011 i.e., the period prior to release of power supply, as illegal and arbitrary. I have heard Sri D.V. Nagarjuna Babu, learned counsel for the petitioner and Smt. Jyothi Eswar Gogineni, learned Standing counsel appearing for the respondents.

2. The petitioner applied for release of HT service connection for a contracted maximum demand of 80 KVA. The supply was released on 13.05.2011. By impugned letter, dated 01.07.2011, respondent No. 3 called upon the petitioner to pay a sum of Rs. 1,17,121/- towards the unconnected minimum charges for the period upto 21.05.2011. This demand is questioned by the petitioner on the ground that the same is not in compliance with clause No. 5.9.2.1 of the general terms and conditions of supply.

3. In the counter affidavit filed on behalf of the respondents, it is inter alia stated that a notice was issued vide letter No. SE (O) RJY/Comml./F.UCM/D. No. 1339/10, dated 12.10.2010, to the petitioner, wherein it was informed that the

supply has been sanctioned and that if the petitioner does not avail the same within three months, the same will attract levy of monthly minimum charges as specified in clause 5.9.2.1.

4. In the reply affidavit filed by the petitioner, the claim of the respondents that such a notice was served on it is specifically denied.

5. It is not in dispute that a consumer is liable to pay unconnected minimum charges only if a notice, as envisaged under clause 5.9.2.1 is served and supply is not availed within three months from the date of receipt of such notice. At the hearing, the learned Standing counsel fairly conceded that there is no proof of service of letter, dated 12.10.2010. In my opinion, the burden lies on the respondents to show that a notice, as envisaged under clause 5.9.2.1 is served on the petitioner. In the absence of any proof of such service, it cannot be said that the respondents have complied with the said clause. Therefore, levy of unconnected minimum charges against the petitioner cannot be sustained.

6. For the abovementioned reasons, the impugned demand is set aside and the Writ Petition is accordingly allowed. As a sequel to disposal of the Writ Petition in the manner indicated above, WPMP. No. 26950 of 2011 and WVMP. No. 3590 of 2011 are disposed of as infructuous.