IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

C C. No. 845 of 2021

IN

W.P. No 7668 of 2020

Between:

T. Chandrakala  
W/o T. Yakaiah, Age 49 years, Occ: House wife, R/o: 4940/P251 Sri Nilayam Priyadarshini Colony, Bagh Hayath Nagar, Ranga Reddy District-501505  
 … Petitioner/Petitioners

And

1. Sri G. Raghuma Reddy, Chairman and Managing Director Southern Power Distribution Company of Telangana Ltd  
A Govt of Telangana Undertaking, Corporate Office 6-1-50 Mint Compound HYDERABAD 500 063, Telangana India

2.Sri J. Srinivas , Divisional Engineer/ Operation, Telangana State Southern Power Distribution Company Limited Saroornagar, Hyderabad

3. Sri C. Rajendar Reddy, Assistant Divisional Engineer/ Operation, Telangana State Southern Power Distribution Company Limited Hayathnagar, Ranga Reddy District

4. Sri Srinivas, Assistant Engineer Telangana State Southern Power Distribution Company Limited   
Operation, Pedda Amberpet, Ranga Reddy District

5. Sri Karunakar Babu, Superintending Engineer, Operation, Saroornagar circle Telangana State Southern Power Distribution Company Limited, Saroornagar, Hyderabad.   
 ...Contemnors/Respondents

COUNTER AFFIDAVIT FILED BY RESPONDENTS No.1 to 5

I, , S/o aged about , Occ: Superintending Engineer, Operation, Saroornagar circle, TSSPDCL, R/o Hyderabad do hereby solemnly affirm and state on oath as follows:

1. I am the 5th  Respondent herein. I have been working Superintending Engineer, Operation, Saroornagar circle, TSSPDCL and as such I am well acquainted with the facts of the case. I am authorized to swear this affidavit on my behalf and on behalf of respondents 1 to 4.

2. It is submitted that these Respondents have utmost respect towards the orders of this Honorable Court and have always implemented the orders in its true spirit.

3. It is submitted that the petitioners have filed the writ petition in   
W.P.No.7668 of 2020 praying the Hon’ble Court to declare the impugned Sanction Memo No DEE/OP/SRNR/COMML/FCAP/D.N0.2489/19-20 dated 20- 02-2020 issued by the 3rd Respondent according approval for sanction for an estimate of Rs2,70,799.31ps/- treating the Petitioners application for service connection as Nondomestic purpose instead of Domestic Purpose for providing supply of power to Plot No 24A in Sy No 196 Kuntloor village Abdullapur Mandal Pedda Amberpet Municipality in terms of Section 431 of the Electricity Act 2003 and not providing supply of electricity even after lapse of more than a year from the date of making application i.e. 29.05.2019 as arbitrary, illegal, without jurisdiction, and violative of Article 14 and 21 of the Constitution of India and also contrary to the object and provisions of the Electricity Act 2003 and consequently to set aside the same by directing the 3rd Respondent to forthwith provide domestic service connection free of cost and supply power to the Petitioners Plot No 24A in Sy No 196 Kuntloor village Abdullapur Mandal Pedda Amberpet Municipality with all consequential orders and reliefs.

4. It is submitted that the Hon’ble Court by order dated 31.08.2020 while setting aside the impugned Sanction Memo No DEE/OP/SRNR/ COMML/FCAP/ D.N0.2489/19-20 dated 20- 02-2020 issued by 3rd respondent, directed respondent authorities to consider the application dated 29.05.2019 submitted by the petitioner and to provide service connection for construction of house in strictly in accordance with Regulation No.4 of 2013 dated 29.07.2013, Electricity Act and Tariff Rules; prepare fresh estimates and provide service connection to the petitioner on payment of necessary charges by the petitioner as per fresh estimates within a period of one (01) month from the date of receipt of a copy of the order.

5. In reply to Para 3 of the affidavit under reply, it is submitted that in obedience to the orders of the Hon’ble High Court, the officer concerned of the TSSPDCL/respondent No.5 herein prepared a fresh estimate strictly in accordance with Regulation No.4 of 2013 dated 29.07.2013, Electricity Act and Tariff Rules for Rs.1,43,800/- for laying of service line duly excluding the Distribution Transformer from the sanction. Hence the averments of this paragraph that the estimate of Rs.1,43,800/- is against Regulation No. 4 of 2013 and the same is issued in violation of the order of the Hon’ble Court dated 30-08-2020 is absolutely false and baseless. Hence denied by these respondents.

6. In reply to Para 4 of the affidavit under reply, it is submitted that the allegation of the petitioner that these respondents to avoid contempt proceedings got issued a fresh sanction Memo SE/OP/SRNR/COMML/DR.N0.445/20-21, D.No.3577/20-21 dated 27- 01-2021 through the respondent NO.5 herein who is not the respondent to the writ petition for an amount of Rs.1,43,800/- which includes the service line charges apart from the development charges in violation of the order of the Hon’ble Court dated 30-08-2020 and thereby failed to implement the order of the Hon’ble Court dated 30-08-2020 is absolutely false, incorrect and baseless. Hence denied by these respondents.

7. In reply to Para 5 of the affidavit under reply, it is submitted that the contention of the petitioner that the sanction Memo impugned in the writ petition included installation of transformer and service line charges and that the Hon’ble Court set aside the impugned sanctioned Memo since such charges shall not be charged and directed to issue revised sanction Memo is absolutely false, incorrect and misguiding in so far as the service line charges are concerned.

7.1 The Hon’ble Court has categorically held at the end of paragraph 23 of the order in WP.No.7668 of 2020 that the 3rd respondent cannot claim an amount of Rs.62,802/- towards development charges from the petitioner who has applied for power supply, which is a temporary supply for construction of a house. The Hon’ble Court was therefore pleased to set aside the impugned sanctioned Memo dated 20.02.2020 and directed the authorities concerned to consider the application of the petitioner dated 29.05.2019 for providing service connection in accordance with Regulation 4 of 2013, dated 29.07.2013, Electricity Act and Tariff Rules; prepare fresh estimates. In such view of the matter the contention raised by the petitioner in this paragraph 5 that respondents 1 to 4 in violation of the order of the Court dated 30.08.2020, deliberately got issued revised sanction Memo dated 27.01.2021 through respondent No.5 adding Rs.1,41,584/- towards service line charges does not stand to the legal scrutiny and in fact amounts to misrepresentation of the facts requiring severe action against the petitioner.

8. In reply to Para 6 of the affidavit under reply, it is true that the petitioner got issued legal notice dated 22.03.2021 but not dated 27.03.2020 which was received on 30.03.2021 and the same was suitably replied. Copy of the reply dated 03.05.2021 to the notice got issued by the petitioner is submitted as Annexure –I.

8.1 The respondents in there reply notice stated as follows:-

“5. The fresh estimate is strictly in accordance with Regulation No.4 of 2013 dated 29.07.2013, Electricity Act and Tariff Rules.

5.1 As per Clause 7.37 of the Tariff Order construction activities of structures of height less than 10 meters will fall under LT-II and HT-II category. Since the construction activity of your client at present is of structures of height less than 10 meters, the same is registered has LT-II category and estimates were prepared accordingly.

5.2 As per Regulation 6(2) of Regulation No.4 of 2013 dated 29.07.2013 the Distribution License/Transmission Licensee is authorized to recover from an applicant, requiring supply of electricity, any expenses that the Distribution/Transmission Licensee shall be required to reasonably incur to provide an electric line specifically for the purpose of giving supply to the applicant.

5.3 As per Regulation 6(3) of Regulation No.4 of 2013 dated 29.07.2013, before taking of the erection electric line required for extending supply to the applicant, the Distribution/Transmission Licensee shall estimate the Service Line charges for erecting such electric line as per the cost data and present the same to the applicant for making payment to the Distribution License.

5.4 As per Regulation 7(1) of Regulation No.4 of 2013, in case of applications for new connections, where such supply requires extension of line from the existing distributing main to the consumer’s promises, the Distribution/ Transmission Licensee shall estimate the cost of Service Line excluding the cost of terminal and metering arrangements at the promises of the consumer. The Distribution/Transmission Licensee shall estimate the cost of Service Line as per the latest cost data based on actual survey and line length. The Distribution/Transmission Licensee shall commence the work after receipt of estimated charges from the applicant.

5.5 As per Regulation 8(1) of Regulation No.4 of 2013, Distribution Licensee shall collect development charges subject to the provisions of Act and this Regulation and subject to such directions, orders or guidelines, the Commission may issue time to time. The Distribution Licensee is authorized to recover from an applicant, requiring supply of electricity, expenses on normative basis towards part of upstream network cost that the Distribution Licensee has already incurred or to be incurred in extending power supply to the applicant.

6. The fresh estimate (Copy enclosed) contains Service Line charges of Rs.1,41,584/-, development charges of Rs.1200/- and security deposit of Rs.800/- as per the aforementioned provisions of Regulation No.4 of 2013.

7. In reply to paragraph 3 of the notice under reply, this is to inform that fresh estimate as per the orders of the Hon’ble High Court is issued to provide service connection to Plot No.24A in Sy.No.196, Kuntloor Village, Abudullapurmet Mandal, Pedda Amberpet Municipality as per the request of your client. It is immaterial whether the service connection so provided is with the Transformer or without the Transformer. The duty of the Distribution Licensee comes to end, once the supply as requested is provided. Your client is not supposed to insist for Transformer. It is the look out of the Distribution Licensee to take a decision as to the requirement of the Transformer.

8. In the facts and circumstances mentioned above your contention that the officers concerned have deliberately and willfully did not sanction the transformer and that such act of the officers concerned is over-reaching the order of the Hon’ble High Court and the same amounts to interfering with the administration of justice and is in utter violation of the directions of the Hon’ble High Court is nothing but threatening the officials to get the desired object of your client fulfilled under the guise of the order of the Hon’ble High Court.

9. In these circumstances you are hereby requested to advise your client to desist from getting such notice issued by wrongly interpreting the order of the Hon’ble High Court. In spite of that if your client proceeds further, she will be doing so at her risk and she will be held responsible for the costs and consequence thereof.”

9. It is respectfully submitted that the revised Memo dated 27.01.2021 is strictly in accordance with Regulation No.4 of 2013, dated 29.07.2013, Electricity Act and Tariff Rules and thus the contention of the petitioner that the said Memo is issued in violation of the order of the Hon’ble Court dated 30.08.2020 is absolutely false, baseless, incorrect and misleading.

10. In reply to Para 8 of the affidavit under reply, it is submitted that though respondent No.5 was not party to the writ petition but he is the superior authority concerned to issue such revised Memo and hence the petitioner cannot find fault with it. Consequently the petitioner cannot contend that issuance of revised Memo by respondent No.5 is violation of the order of the Hon’ble Court.

11. It is submitted that the Petitioner shall be provided, the service connection if the charges are paid, as stipulated in regulation 4 of 2013. The petitioner cannot insist for a transformer, as a transformer is not required to provide power supply to one individual consumer. The petitioner is misinterpreting orders of this Hon’ble Court.

12. It is submitted that the TSSPCDL has been established by the State Government with the main object of providing electricity to the citizens at large on no profit no loss basis. Regulation 4 of 2013 has been framed by the TSERC and if the petitioner is aggrieved by any provision of Regulation the petitioner has to approach the TSERC.

13. It is submitted that the TSSPDCL has to create infrastructure keeping in view the demand for electricity in future. TSSPDCL has to create distribution capacity by planning ahead. The Regulation 4 of 2013 empower distribution companies to recover from an applicant the expenses on normative basis towards part of upstream network cost that the distribution licensee has already incurred or to be incurred in extending power supply to the applicant.

It is submitted that all the allegations made by the petitioner that are not specifically dealt with herein are denied and the petitioner is put to strict proof of the same.

It is therefore prayed that this Honorable Court may be pleased to close the present contempt case in the interest of Justice.

Sworn and signed before me On this day of August, 2021 DEPONENT  
At Hyderabad

Advocate: Hyderabad

VERIFICATION

I, , S/o aged about ,   
Occ: Superintending Engineer, Operation, Saroornagar circle, R/o Hyderabad do hereby verify and declare that the facts stated in the above paragraphs of the affidavit are true to my personal knowledge, belief, information and also legal advice from my counsel.

Hence verified on this the day of August, 2021 at Hyderabad.

DEPONENT

Counsel for the Respondent