IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

WP. No. of 2021

Between:

1. The ADE/OP/Mamidipally /TSSPDCL/Hyderabad.

2. The SAO/OP/Rejendra Nagar Circle/TSSPDCL/Hyderabad.

3. The SE/OP/ Rejendra Nagar Circle/TSSPDCL/Hyderabad.

…Petitioners

//AND//

1. Vidut Ombudsman for the state of Telangana,

First floor 33/11 KV Substation, Hyderabad Boats Club Lane

Lumbini Park, Hyderabad – 500 045.

2. M/s.Shrinath Rotopack Pvt.Ltd. represented by Sri, A. Narendar Babu,

Director Plot.No. 35D, IDA, Kattedan, Hyderabad-500 077,

Cell. No : 8886602137, 9705588773.

…Respondents

AFFIDAVIT

I, W/o , aged: years Occ: , Hyderabad do here by solemnly affirm and state on oath as follows:

I am working as and well acquainted with the facts of the case and I am authorized to swear this affidavit.

1. It is submitted that the present Writ Petition is filed aggrieved by the orders of the 1st Respondent dated: 18-09-2018 in Appeal No. 18/2018 to declare the order passed as unjust, illegal, arbitrary and without sanction of law and to quash the same.

2. It is submitted that the 2nd respondent has been provided with a service connection bearing RRS. No.1160. The 2nd respondent has filed a complaint before the Consumer Grievances Redressal Forum (CGRF) bearing C.G. No. 560/2017-18/Rajender Nagar Circle and the same is disposed off by order dated. 16-01-2018. Against the said orders 2nd Respondent has filed the Appeal.No. 18/2018 before the 1st Respondent and the Appeal was partially allowed.

3. It is submitted that earlier the Petitioner has restricted the power supply to the industrial consumers due to non-availability of power and had imposed “Restriction and control Measures” with the Approval of erest while Andhra Pradesh Electricity Regulatory Commission (APERC) from July-2012. If any Consumer violates the R & C Measures they were liable to pay penalties.

3. It is submitted that the Respondent.No.2 is an Open Access Consumer. Due to shortage of power the Petitioner had introduced the power holiday from 03-03-2014 and were applicable till 30-08-2017 and the same was Published in all the News papers on 02-03-2014 to bring it to the notice of the consumers at large. The Petitioner has introduced weekly power holiday to evenly distribute the power to all the consumers. The 2nd Respondent cannot avail power for 1 day of the week from 06:00 AM to 06:00 PM if the power is availed during the said period by more than 10% of the Contracted Maximum Demand (CMD) they are liable to pay 5 times as Penalty over the normal tariff. The 2nd Respondent has also given a undertaking dated.13-03-2014 not to draw power on the power holidays and if the conditions imposed on the power holidays are violated they have undertaken to pay the 5 times Penalty over and above the tariff applicable.

4. It is submitted that the 2nd Respondent has violated the Power holiday Restrictions by drawing excess power on 26-03-2014, 14-05-2014, 28-06-2014 and 09-08-2014 there by violated the power holiday restrictions and is liable to pay 5 times the tariff i.e., Normal tariff consumed+ 4 times penalty. A demand notice dated. 15-10-2014 was issued to the 2nd Respondent to pay the penalty of Rs. 25,40,155. The Petitioner’s were perusing with the 2nd Respondent to pay the demanded Amount.

5.It is submitted that aggrieved by the demand notice dated 15-10-2014 the 2nd Respondent filed a complaint before the CGRF bearing C.G.No. 560/2017-18/Rejender Nagar Circle and the same was disposed off by order dated 16-01-2018 by rejecting the complaint of the 2nd Respondent and directed them to pay the outstanding arrears with regard to penalty imposed for exceeding the power holiday limit to avoid the disconnection.

6. It is submitted that the 2nd Respondent filed the Appeal bearing. No. 18/2018 before the 1st Respondent by order dated 18-09-2018 has partially allowed the appeal by holding that the Petitioners are not entitled to collect higher tariffs than that is prescriber in the Tariff Orders.

It is submitted that aggrieved by the said orders the present writ petition is filed on the following grounds:

GROUNDS

1. That the orders passed by the 1st Respondent is contrary to law and the Circulars and proceedings issued by the Telangana State Southern Power Distribution Company Limited (TSSPDCL).

2. The 1st Respondent failed to take into consideration that the imposition of power holiday was informed to all the consumers at large by widely publishing the same in all the News Papers on 02-03-2014 and the said Restrictions were in the knowledge of the 2nd Respondent hence they are liable to comply with the same.

3. The 1st Respondent failed to take note of clause 16 of the general terms and conditions of the supply which empowers the TSSPDCL to impose Restrictions on the consumption of the power for maintaining efficient supply and securing equitable distribution of electricity.

4. The 1st Respondent erred in not taking into consideration the undertaking of the 2nd Respondent dated 13-03-2014 where in they have acknowledge the imposition of power holiday and there liability to pay Five times Tariff.

5. It is submitted that as per TSERC Regulation.No. 3 of 2015 the 1st Respondent is entitled to initiate action against the Petitioner’s and the Petitioners have a good case and if the Operation of the orders dated 18-09-2018 in Appeal No.18 of 2018 passed by the 1st Respondent are not suspended pending the Writ Petition the Petitioner’s shall suffer irreparable injury.

13. It is submitted that there is no forum provided to appeal against the orders of the 1st respondents to the Telangana State Southern Power Distribution Company limited (TSSPDCL), hence the only remedy available to the petitioner is to approach this Honorable Court under Article 226 of the Constitution of India.

14. It is submitted that the petitioners have no other alternative or efficacious remedy except to invoke the Jurisdiction of the Hon’ble court by way of filling the Writ petition under Article 226 of the constitution of India.

15. It is submitted that the Petitioners have not filed any writ petition, suit any other proceedings before any court of law in respect of the relief sought for in this writ petitioner.

Main Prayer:For the above stated facts and circumstances it is therefore prayed that this Hon’ble High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari by calling for the records and quash the orders dated: 18-09-2018 in Appeal No. 18 of 2018 passed by the 1st Respondent as arbitrary, illegal, unjust and contrary to the law and facts of the case and pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.

Interim Prayer:Pending disposal of the writ petition it is therefore prayed that this Hon’ble Court may be pleased to stay the operation of the orders of the 1st respondent dated : 18-09-2018 in Appeal No. 18 of 2018 and pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.

Sworn and signed before me DEPONENT

On this day of May, 2021

At Hyderabad

Advocate: Hyderabad

VERIFICATION

I W/o , aged: years Occ: , 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 advise from my counsel.

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

DEPONENT

Counsel for the Petitioner