

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL NO: 866 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 13-06-2024 in W. P. No. 30721 of 2024. on the file of the High Court.

Between:

Shaik Azam, S/o. Sri Shaik Karimuddin, Age. 32 years, Occ. Private Employee, R/o. H. No. 9-1-1/B/36, Defense Colony, Langer House, Hyderabad - 50008

...APPELLANT/PETITIONER

And

1. The State of Telangana, Rep. by its Principal Secretary, Electricity Department, Secretariat, Hyderabad.
2. The Chairman and Managing Director, TSSPDCL, O/o. # 6-1-50, Mint Compound, Hyderabad - 500063
3. The Divisional Engineer/ASM-I, O/o. B-Block, Mint Compound, Hyderabad
4. The Divisional Engineer/Operation, Nanal Nagar, TSSPDCL, Hyderabad
5. The Asst. Engineer/Operation, Langer House, TSSPDCL, Hyderabad
6. The Asst. Divisional Engineer/Operation, Golkonda, TSSPDCL, Hyderabad
7. The Superintending Engineer/Op/Golkonda/TSSPDCL, Hyderabad
8. ADE (Assistant Divisional Engineer), DPE, Hyd Central Circle, DPE Office, near Paradise, Secundrabad
9. Inspector of Police, Vigilance and APTS, Team II PS, Central Circle, Hyderabad

...RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to continue the Interim Orders, Dt.02-09-2022 in I.A. No. 1 of 2021 in W.P. No. 30721 of 2021 wherein categorically directed that no coercive steps to be taken in respect of the disconnection of the Petitioners Seri Connection Nos. D9021254, D9018422, and D9011843 by suspending the orders of the learned single judge of this Hon'ble Court by Order, Dt. 13/06/2024 passed in W. P. No.30721 of 2021 pending disposal of the above Writ Appeal.

Counsel for the Appellant: SRI VINOD KUMAR KETHEPALLY

**Counsel for the Respondent No.1: SRI G. THIRUPATHI REDDY,
GP FOR ENERGY**

**Counsel for the Respondent Nos.2 to 8: SRI R. VINOD REDDY, SC FOR
TELANGANA STATE SOUTHERN POWER DISTRIBUTION COMPANY LIMITED**

Counsel for the Respondent No.9: SRI MAHESH RAJE, GP FOR HOME

The Court Delivered the following: JUDGMENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL No.866 of 2024

JUDGMENT: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. Vinod Kethepally, learned counsel appears for the appellant.

Mr. G. Thirupathi Reddy, learned Government Pleader for Energy appears for respondent No.1.

Mr. R. Vinod Reddy, learned Standing Counsel for Telangana State Southern Power Distribution Company Limited (hereinafter referred to as 'TSSPDCL') appears for respondent Nos.2 to 8.

Mr. Mahesh Raje, learned Government Pleader for Home appears for respondent No.9.

2. In this intra court appeal, the appellant has assailed the validity of the order dated 13.06.2024 passed by the learned Single Judge in Writ Petition No.30721 of 2021 by which the learned Single Judge has relegated the appellant to approach the Special Court constituted under Section 154(5) of the

Electricity Act, 2003, to assess the civil liability of the appellant for the offence under Section 135 of the aforesaid Act.

3. Facts giving rise to filing of this appeal briefly stated are that the appellant is a resident of Defense Colony, Langer House, Hyderabad. The father of the appellant obtained four Service Connections for supply of electricity. The premises of the appellant were inspected by the Officers of the Electricity Department on 12.04.2018 wherein it was found that the meter installed in the premises of the appellant was tampered. Thereupon, the order of assessment was issued to the appellant on 09.06.2021. The mother of the appellant paid a sum of Rs.3,000/- on 10.06.2021.

4. The Inspector of Police, Vigilance & APTS, Team II PS, Central Circle, Hyderabad, registered Crime No.1060 of 2021 for pilferage of electricity in respect of Service Connection No.S9042424 against the appellant and a sum of Rs.1,16,004/- was demanded from the appellant. On failure of the appellant

to pay the aforesaid amount, the electricity Service Connections provided to the premises of the appellant were disconnected. Thereupon, the appellant approached this Court by filing the aforesaid Writ Petition in which a prayer was made to declare the action of respondent Nos.2 to 7 in disconnecting the electricity supply to the appellant's premises as barred by limitation, illegal, arbitrary and violative of Articles 21 and 300A of the Constitution of India.

5. It is not in dispute that during pendency of the Writ Petition, since the appellant had paid a sum of Rs.20,000/-, the electricity supply to the premises of the appellant has been restored. The learned Single Judge by an order dated 13.06.2024 disposed of the aforesaid Writ Petition directing the appellant to approach the Special Court so as to assess the civil liability and the appellant was granted the liberty to raise all the pleas before the Special Court. In the aforesaid factual background, this intra court appeal has been filed.

6. Learned counsel for the appellant has submitted that the demand notice has been issued beyond the period of three (3) years and therefore, neither any amount can be recovered from the appellant nor the criminal case can be lodged against the appellant. It is further submitted that the impugned action has been taken in violation of Section 468 of the Code of Criminal Procedure, 1973. Therefore, this Court under Article 226 of the Constitution of India has the right to quash the provisional order of assessment as well as the criminal proceedings. In support of aforesaid submission, reliance has been placed on the decision of the three Judge Bench of the Supreme Court in **PHR Invent Educational Society v. UCO Bank and others¹**.

7. On the other hand, learned Standing Counsel for TSSPDCL has supported the order passed by the learned Single Judge and submitted that action for disconnection of electricity supply shall be taken in accordance with General Terms and Conditions of Supply.

¹ 2024 SCC OnLine SC 528

8. We have considered the submissions made by the learned counsel for the parties and have perused the record.

9. The prayer made in the aforesaid Writ Petition is extracted below for the facility of reference.

“.....Writ of Mandamus, to declare the action of the Respondent Nos.2 to 7 in disconnecting the petitioners electrical house service connections vide. S.Nos.D9021254, D9018422, and D9011843 though there is no any due to the said Service connections and in spite of having paid Rs.3000/- as per demand notice Dt.9/06/2021 which reveals that date of inspection is 12.04.2018 by the 9th Respondent by mentioning Cr.No.1060/21 that there was theft was identified in the service connection vide SC.No.59042424, in fact there is no any theft or due for the said service connection, the authorities have no power to disconnect service connection beyond two years limitation period if any due as per judgment of the Hon'ble Supreme Court in CIVIL APPEAL No.1672 of 2020 and without following due process of law is as being illegal, arbitrary and violation of Article 21 and 300-A of the Constitution of India and consequently direct the Respondent Nos.2 to 7 not to disconnect service connections.”

10. Thus, the grievance of the petitioner in the aforesaid Writ Petition was confined only to the disconnection of electricity supply. Therefore, the learned Single Judge has

travelled beyond the scope of the Writ Petition and has directed the appellant to approach the Special Court. The impugned order insofar as it directing the appellant to approach the Special Court is set aside. It is noteworthy that during pendency of the Writ Petition, on payment of a sum of Rs.20,000/-, the electricity supply to the premises of the appellant has been restored. Therefore, the learned Single Judge ought to have appreciated that the grievance of the appellant with regard to the disconnection of electricity supply does not survive for consideration. In view of the prayer made in the aforesaid Writ Petition, it is not necessary for us to advert to the contentions raised by the learned counsel for the appellant in this Writ Appeal. Needless to state that TSSPDCL shall take action for disconnection of electricity supply to the premises of the appellant in accordance with General Terms and Conditions of Supply. Needless also to state that the appellant shall be at liberty to take recourse to such remedy as may be available to him in law.

11. Accordingly, the order dated 13.06.2024 passed by the learned Single Judge in Writ Petition No.30721 of 2021 is modified.

12. In the result, the Writ Appeal is disposed of.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

SD/-T. KRISHNA KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Electricity Department, Secretariat, The State of Telangana, Hyderabad.
2. The Chairman and Managing Director, TSSPDCL, O/o. 6-1-50, Mint Compound, Hyderabad - 500063
3. The Divisional Engineer/ASM-I, O/o. B-Block, Mint Compound, Hyderabad
4. The Divisional Engineer/Operation, Nanal Nagar, TSSPDCL, Hyderabad
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7. The Superintending Engineer/Op/Golkonda/TSSPDCL, Hyderabad
8. ADE (Assistant Divisional Engineer), DPE, Hyd Central Circle, DPE Office, near Paradise, Secundrabad
9. Inspector of Police, Vigilance and APTS, Team II PS, Central Circle, Hyderabad
10. One CC to Sri Vinod Kumar Kethepally, Advocate [OPUC]
11. One CC to Sri R. Vinod Reddy, SC for Telangana State Southern Power Distribution Company Limited[OPUC]
12. Two CCs to GP for Energy, High Court for the State of Telangana, at Hyderabad [OUT]
13. Two CCs to The GP for Home, High Court for the State of Telangana, at Hyderabad[OPUC]
14. Two CD Copies

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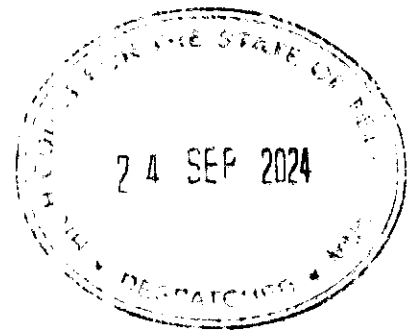


HIGH COURT

DATED:23/07/2024

JUDGMENT

WA.No.866 of 2024



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

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03/09/24
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