

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.1366 OF 2024

Between:

Mr. Mir Amjad Ali Khan

... **Petitioner**

And

State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 30.07.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

- 1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes**
- 2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes**
- 3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes**

MRS JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.1366 OF 2024****% 30.07.2024****Between:**

Mr. Mir Amjad Ali Khan

... **Petitioner****And**

\$ State of Telangana & others

... **Respondents**< **Gist:**> **Head Note:**

! Counsel for the Petitioner : Sri A.Satyasiri

^ Counsel for Respondents : G.P. for Energy for R1,
Sri R.Vinod Reddy, for R2 to R7**? Cases Referred:**

- (1) (1981) 1 Supreme Court Cases 664
- (2) 1978 (1) SCC 248
- (3) (2009) 12 SCC 40
- (4) (2004) 2 SCC page 447

HON'BLE MRS. JUSTICE SUREPALLI NANDA**WRIT PETITION No.1366 OF 2024****ORDER:**

Heard the learned counsel Sri A.Satyasiri, appearing on behalf of the petitioner and the learned standing counsel Sri R. Vinod Reddy, appearing on behalf of the Respondent Nos.2 to 7, and learned Government Pleader on behalf of 1st Respondent.

2. The petitioner approached the court seeking prayer as under:

"To issue Writ, Order or Direction more in the nature of Writ of Mandamus, declaring

(a) The impugned letter Lr.No.AAO/ERO.VIII/Saidabad/JAO-Billing/D.No.158/23 dated 08.05.2023 of the 4th Respondent to the Chairperson of the Consumer Grievance Redressal Forum of TSSPDCL, without any basis, as illegal, arbitrary, irrational, unconstitutional and contrary to the award of The Consumer Grievances Redressal Forum of TSSPDCL (Greater Hyderabad Area) 30.01.2023 in C.G.No.312/2022-23.

(b) The Notices bearing No.19608 and 19609 dated 06.01.2024 for disconnection of electricity on the

basis that there are electricity dues with regard to connection SC No.P-12970 and SC No.P-12966, as illegal, arbitrary, unconstitutional; and

- (c) And pass such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. The case of the petitioner in brief as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition, is as under:

(a) The Petitioner's mother was the owner of the H.No. 16-9-407/A, old Malakpet, Wahed Nagar, Chaderghat, Hyderabad, 500036 with five (05) electricity service connections in the premises with SC. Nos.' P1012966, P1012967, P1012968, P1012969 and P1012970 and the petitioner was paying the electricity bills promptly.

(b) During the period of 2012 to 2021, the petitioner's mother received excess and incorrect bills for the electricity connections SC. Nos. P1012966, P1012969 and P1012970. Subsequently, the petitioner's mother passed away and the petitioner filed a complaint vide C.G No. 312/2022-23 dated 21.11.2022 before the Consumer Grievance Redressal Forum of TSSPDCL seeking a direction from the forum to direct the

respondent authorities to withdraw the excess bills. Thereafter, an award dated 30.01.2023 was passed by the forum directing the respondents therein to revise the bills of the aforesaid service connections within fifteen (15) days from the date of receipt of the award and also directed the respondents to collect the revised bill from the petitioner herein in ten (10) equal instalments.

(c) It is further submitted that the petitioner herein, in compliance with the award passed by the forum dated 30.01.2023, has paid Rs. 1,15,000/- till date and despite the same, in October, 2023, the Respondents cancelled the electricity connection of the petitioner. Thereafter, the 4th respondent herein issued vide Lr. No. AAO/ERO.VIII/Saidabad/JAO-Billing/D.No.158/ 23 dated 08.05.2023 to the Chairperson of the Consumer Grievance Redressal Forum of TSSPDCL, stating that an amount of Rs. 1,33,780/- is reduced from the amount due towards Service No. P1012966, an amount of Rs. 74,143/- from S.No. P1012969 and an amount of Rs. 11,896/- from S.No. P1012970. However, the said communication was never served on the petitioner herein and the same does not state on what basis the said amount was reduced and the remaining amount is said to be liable to be paid.

(d) It is submitted that, the petitioner again received a receipt dated 06.01.2024, for electricity connections S.No. P1012966 and P1012970 stating that there are amounts of Rs. 3,86,420/- and Rs. 1, 70, 967/-, against electricity dues for the said connections respectively, which are again excess and incorrect bills and the respondents failed to explain how and on what basis the respondents revised the bills. Following the same, the respondents issued a notice bearing Nos. 19608 and 19609 dated 06.01.2024 for the disconnection of electricity on the basis that there are electricity dues pending. Aggrieved by the letter dated 08.05.2023 and the notice dated 06.01.2024 the present Writ Petition is filed.

PERUSED THE RECORD :

4. The Counter Affidavit filed on behalf of Respondent

No.6 – Paras 2, 3, 4, 9 and 10 read as under :

"2. It is to submit that the petitioner i.e., Sri Mir Amjad Ali Khan, S/o. Mukaram Ali Khan is owner of the H.No. 16-9-407/A, Old Malakpet, Wahed Nagar, Chaderghat, Hyderabad 500036 and provided with five electricity service connections to the premises bearing SC.No.P1012966, P1012967, P1012968, P1012969 and P1012970. The service connections were released on 25.11.2012.

3. It is submitted that the Assistant Engineer, Operation, Chaderghat has inspected the above premises on 23.12.2022 and observed that none of the five meters are existing in the panel board, which are supposed to be available in the premises. On questioning the petitioner he refused to give any reply and threatened the Respondents to leave the premises immediately. The past records of the petitioner reveal that he is in the habit of indulging in theft of energy, for which cases have been filed earlier. As a theft case was booked, for the "SECOND TIME" by the AAE/SD-1/DPE Hyderabad on 18-11-2021 under section 135 (1) of Indian Electricity Act, 2003 the criminal case has been filed and the petitioner has been arrested. The Required provisional assessment notice were also issued under Section 135 of the Electricity Act, 2003 for a sum of Rs 21,530/- against SC No P 1012967 and Rs 921/- against the SC No P1012968. That a similar theft of energy case was booked against the Petitioner on 28-01-2021 and a provisional assessment notice dated 29-01-2021 was issued for an amount of Rs 19,304/-.

4. It is submitted that the petitioner is repeatedly indulging in theft of energy by directly tapping the power from the LT Cable wire and removing the meters. The petitioner is a habitual offender and necessary action is being initiated against him repeatedly.

9. It is submitted that as the petitioner failed to pay the balance amount in respect of two service connections, a notice was sought to be served on the petitioner in respect

of the two service connections but as he refused to receive the same, the same was pasted near the meters of the connections. As the petitioner did not pay the pending dues, both the service connections bearing Sc.No.P1012966 and P1012970 were disconnected.

10. It is submitted that the petitioner is in the habit of indulging theft of energy, removing the meters in order to prevent the meter reader from noting the meter readings and also preventing the officials of the TSSPDCL from entering the premises. The petitioner cannot be showed any indulgence and it is a fit case where proceedings can be initiated for perjury."

5. The Reply Affidavit filed on behalf of the Petitioner –

Paras 4, 5 and 6 read as under :

"4. It is respectfully submitted that the Respondent No.6/answering Respondent's assertion that the Petitioner is repeatedly involved in the theft of energy is false and baseless. This statement is contrary to the submission made by the Divisional Engineer, Operations, Asmangadh before the Consumer Grievances Redressal Forum in C.G. No.312/2022-23/Hyderabad South Circle. In that submission, the Divisional Engineer has clearly stated that "there were no theft cases booked against the service connections of the Consumer bearing S.C. No's. P1012966, P1012969, and P1012970'. Despite this, the answering Respondent has repeatedly reiterated the same false

statement throughout his Counter Affidavit wrongly labelling the Petitioner as a habitual offender.

5. It is respectfully submitted that the answering respondent has made several false statements in the counter affidavit before this Hon'ble Court. The Respondent alleges that the Petitioner has prevented meter readers from entering his premises to record the meter reading. This allegation is factually incorrect, as the electricity meters are located precisely beside the main gate, allowing the meter readers to access them without requiring any permission. Therefore, the claim that the Petitioner has restricted access to the meter readers is false and baseless. To substantiate his claim, the Petitioner is submitting photographs of the electricity meters on his premises along with this reply affidavit, demonstrating their easy accessibility.

6. It is respectfully submitted that the Petitioner has paid all the amount due to date. The specific case of the Petitioner is that the Respondents have revised the electricity bills without any basis. This unwarranted revision of the bills is being challenged before this Hon'ble Court in the present Writ Petition.

6. This Court passed interim orders in favour of the Petitioner on 22.01.2024, directing the Respondents herein not to interfere and interrupt the electricity connection of the Petitioner in Service Connection

S.C.Nos. P1012966 and P.1012970 in the premises of H.No.16-9-407/A, Old Malakpet, Wahed Nagar, Chaderghat, Hyderabad.

DISCUSSION AND CONCLUSION:

7. It is the specific case of the Petitioner that in pursuance of the Forum Award dated 30.01.2023 passed in C.G. No.312/2022-23/Hyderabad South Circle, by the Consumer Grievances Redressal Forum of TSSPDCL (Greater Hyderabad Area) in favour of the Petitioner herein the Petitioner had paid Rs.1,15,000/- in January 2024, but however, Petitioner received excess and incorrect bills to the Service Connections bearing SC No.P1012966, P1012969, and P.1012970 and that the Petitioner did not receive any regular electricity bills from the past 3 years and therefore the Petitioner requested the Forum to direct the Respondents there under i.e., the Official Respondents herein to do the needful and solve Petitioner's problem and to withdraw the excess bill at the earliest.

8. The relevant portion of the order dated 30.01.2023 allowing the grievance complaint filed on 21.11.2022 with

certain specific directions to the Respondents there under is extracted hereunder :

- (i) The respondents are hereby directed to revise the bills of the service connections of the Complainant/Consumer bearing SC No's P1012966, P1012969 and P1012970 from date of supply i.e., 07/2012 to 01/2021 within (15) days from the date of receipt of this Order and shall file the compliance report.**
- (ii) The Respondents are also directed to collect the demand after revision of bills with respect to all three service connections of the Consumer by granting (10) instalments as per Clause 4.6.1 of Regulation No.7 of 2013 of the Hon'ble APERC, which has been adopted by TSERC by commencing the first instalment in the month of February, 2023, failing which the Respondents are at liberty to take necessary steps as per rules in vogue.**
- (iii) The Licensee/Respondents are hereby directed to take disciplinary action against erring staff for suppression of meter readings and file action taken report to this Forum within (30) days from the date of receipt of this Order."**

9. The counter affidavit has been filed with a specific stand stating that the Petitioner repeatedly indulges in theft of energy by directly tapping the power from the LT

cable wire and removing the meters and the Petitioner is a habitual offender and the Petitioner removes the meters in order to prevent the meter reader from noting the meter readings and also preventing the officials of TSSPDCL from entering the premises and further the Respondents justify their stand that the Respondents are entitled to disconnect the service connection as per Section 56(1) of the Electricity Act, 2003 and the action initiated by the Respondents is in accordance with law.

10. Reply affidavit has been filed by the Petitioner disputing the averments made against the Petitioner in the counter affidavit filed on behalf of Respondent No.6 in particular the allegations pertaining to the Petitioner being an habitual offender indulging in theft of energy and further the Petitioner having had prevented the meter readers from entering into Petitioner's premises to record the meter reading.

11. A bare perusal of the Forum Award dated 30.01.2023 clearly indicates an observation in favour of the Petitioner stating that the Divisional Engineer/OP/Asmangadh/TSSPDCL/Hyderabad, by name Sri P.Hanmanth Reddy

stated that there were no theft cases booked against three service connections of the consumer bearing S.C.Nos.P1012966, P1012969 and P.1012970 and there were two theft cases booked against other two service connections of the consumer bearing S.C.No.P1012967 and P.1012968 which stands in the name of Mrs. Noorjahan Begum and beneficiary Mr. Mir Mansoor Ali Khan and he had not paid the theft case amount of Rs.21,530/- against S.C.No.P1012967 and Rs.19,304/- against P.1012968, however the compounding fee had been paid by the consumer.

12. It is true that the proceedings impugned of the 4th Respondent dated 08.05.2023 is in compliance to the orders dated 30.01.2023 passed in C.G.No.312/2022-23/Hyderabad South Circle of the Consumer Grievances Redressal Forum of TSSPDCL (Greater Hyderabad Area), but a bare perusal of the said proceedings dated 08.05.2023 indicates that a letter dated 18.03.2023 had been sent to the Assistant Engineer/Operation/ Chaderghat requesting to submit Check Reading letters of S.C.No.P1012966, P.1012969 and P.1012970 and present meter status and final reading of the meter to revise the

bills as per the orders of the Hyderabad South Circle in C.G.No.312/2022-23, dated 30.01.2023 and as on 08.05.2023 the check reading letters had not been sent to the Electricity Revenue Office – VIII, Chanchalguda, Hyderabad, but however, the Assistant Accounts Officer, ERO-8, Saidabad, Hyderabad i.e., the 4th Respondent herein proceeded and revised the bills of S.C.No.P1012966, P1012969 and P1012970 from date of supply i.e., 17.07.2012 to January 2021.

13. A bare perusal of the order impugned dated 08.05.2023 clearly indicates that as on the said date admittedly the check reading letters had not been sent to the ERO and without the said information however, the amounts had been altered without any prior notice or intimation to the Petitioner herein, since admittedly as borne on record it is evident that the Petitioner had no prior intimation or notice to the alteration of the amounts prior to issuing the impugned proceedings dated 08.05.2023 of the 4th Respondent addressed to the Chairperson of the Consumer Grievance Redressal Forum of TSSPDCL.

14. Law is well settled that when an action is proposed to be taken, which is likely to adversely affect the interest of a party he or she is entitled to a notice.

(A) In a decision of a three-Judge Bench of Apex Court reported in (1981) 1 Supreme Court Cases 664 in "SWADESHI COTTON MILLS v. UNION OF INDIA", the issue was whether the Central Government was required to comply with the requirements of *audi alteram partem* before it took over the management of an industrial undertaking under Section 18-AA(1)(a) of the Industries (Development and Regulation) Act, 1951. R.S. Sarkaria, J. speaking for the majority consisting of himself and D.A. Desai, J. laid down the following principles of law: (SCC p. 689, para 44) observed as under:

"44. In short, the general principle - as distinguished from an absolute rule of uniform application seems to be that where a statute does not, in terms, exclude this rule of prior hearing but contemplates a post- decisional hearing amounting to a full review of the original order on merits, then such a statute would be construed as excluding the *audi alteram partem* rule at the pre-decisional stage. Conversely, if the statute conferring the power is silent with regard to the giving of a pre-decisional hearing to the person affected and the administrative decision taken by the authority involves civil consequences of a grave nature,

and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as excluding the duty of affording even a minimal hearing shorn of all its formal trappings and dilatory features at the pre-decisional stage, unless, viewed pragmatically, it would paralyse the administrative progress or frustrate the need for utmost promptitude. In short, this rule of fair play 'must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands'. The court must make every effort to salvage this cardinal rule to the maximum extent possible, with situational modifications. But, to recall the words of Bhagwati, J., the core of it must, however, remain, namely, that the person affected must have reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise."

B) The Apex Court in the judgment reported in (2009) 12 SCC 40 in "UMA NATH PANDEY & OTEHRS Vs. STATE OF UTTAR PRADESH & ANOTHER" at paras 10 & 11 observed as under :

"Para 10: The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is

commonly known as *audi alteram parte* rule. It says that no one should be condemned unheard. Notice is the best limb of this principle. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vocate, interrogate and adjudicate". In the celebrated case of *Cooper v. Wandsworth Board of Works* the principle was thus stated: (ER p.420). "Even God himself did not pass sentence upon Adam before he was called upon to make his defence. 'Adam' (says God), 'where art thou? Hast thou not eaten of the tree whereof I command thee that thou shouldst not eat'".

Since then the principle has been chiseled, honed and refined, enriching its content. Judicial

treatment has added light and luminosity to the concept, like polishing of a diamond.

Para 11 : "Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice".

C) In "MANGILAL Vs. STATE OF M.P., reported in (2004) 2 SCC page 447, a two-Judge Bench of Apex Court held that the principles of natural justice need to be observed even if the statute is silent in that regard. In other words, a statutory silence should be taken to imply the need to observe the principles of natural justice where substantial rights of parties are affected: (SCC pp.453-54, para 10) observed as under:

"10. Even if a statute is silent and there are no positive words in the Act or the Rules made thereunder, there could be nothing wrong in spelling out the need to hear the parties whose rights and interest are likely to be affected by the orders that may be passed, and making it a requirement to follow a fair procedure before taking a decision,

unless the statute provides otherwise. The principles of natural justice must be read into unoccupied interstices of the statute, unless there is a clear mandate to the contrary. No form or procedure should ever be permitted to exclude the presentation of a litigant's defence or stand. Even in the absence of a provision in procedural laws, power inheres in every tribunal/court of a judicial or quasi- judicial character, to adopt modalities necessary to achieve requirements of natural justice and fair play to ensure better and proper discharge of their duties. Procedure is mainly grounded on the principles of natural justice irrespective of the extent of its application by express provision in that regard in a given situation. It has always been a cherished principle. Where the statute is silent about the observance of the principles of natural justice, such statutory silence is taken to imply compliance with the principles of natural justice where substantial rights of parties are considerably affected. The application of natural justice becomes presumptive, unless found excluded by express words of statute or necessary intendment. Its aim is to secure justice or to prevent miscarriage of justice. Principles of natural justice do not supplant the law, but supplement it. These rules operate only in areas not covered by any law validly made. They are a means to an end and not an end in themselves.

15. Taking into consideration:

- (i) The aforesaid facts and circumstances of the case,**
- (ii) The view of the Apex Court in the Judgments (referred to and extracted above), i.e.,**

(A) (1981) 1 Supreme Court Cases 664 in "Swadeshi Cotton Mills v. Union of India",

(B) (2009) 12 SCC 40 in "Uma Nath Pandey & others v. State of Uttar Pradesh & another",

(C) (2004) 2 SCC Page 447, in "Mangilal v. State of M.P.",

the writ petition is allowed as prayed for. It is however observed that the Respondents can proceed as per the directions dated 30.01.2023 issued by the Consumer Grievance Redressal Forum of TSSPDCL (Greater Hyderabad Area) in C.G.No.312/2022-23/Hyderabad South Circle, in accordance to law, on prior intimation to the Petitioner, after receiving the check reading letters of S.C.No.P1012966, P1012969 and P1012970 with present meter status and final reading of the meter as per the letter dated 18.03.2023 to revise the bills.

Miscellaneous petitions, if any, pending in this Writ
Petition, shall stand closed.

MRS. JUSTICE SUREPALLI NANDA

Date: 30.07.2024.

Note: L.R.Copy to be marked
(B/o) *Yvkr*