

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI
C.P. No.D-2251 of 2014

Date Order with Signature(s) of Judge(s)

Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Abdul Maalik Gaddi

M/s VSH News.....Petitioner

V E R S U S

Federation of Pakistan & othersRespondents

31.01.2017

Mr. M. Ovais Iqbal Baloch, Director of Petitioner present.
Mr. Amel Khan Kasi, Advocate for Respondent Nos.9 to 12.
Mr. Muhammad Javed KK, Standing Counsel.

Muhammad Ali Mazhar-J. The petitioner is a television news channel which was on aired in the month of September 2009. On 22.04.2014, electricity supply of the petitioner's office was disconnected. Apparently, electricity was disconnected due to non-payment of electricity charges. The record reflects that before filing this constitution petition, the same petitioner filed Suit No.1270/2011 for declaration, damages and permanent injunction. In the suit, they had also filed two interlocutory applications, which were disposed of on 04.6.2013. At that time, the DGM KESC appeared and submitted a bill showing arrears as on 14.5.2013 in the sum of Rs.18,83,670 and by consent it was agreed that the electricity connection will be restored subject to furnishing bank guarantee

equivalent to the arrears with the Nazir of this court. In para 2 of the same order, it was observed that since the matter relates to the billing dispute, therefore, the plaintiff had agreed to file application before the Electric Inspector under Section 26 of the Electricity Act, which will be decided in accordance with the law within three months.

2. Learned counsel for KE submits that despite passing clear order, the petitioner did not approach to the Electric Inspector and also failed to furnish any bank guarantee. He further pointed out page 373 of this petition, which is, in fact, an application moved under Section 151 CPC in the pending suit to grant permission to the same petitioner/ plaintiff to adopt separate appropriate remedy for supplementary issues including constitution petition for restoration of electric power.

3. Learned counsel for KE argued that two remedies cannot be availed simultaneously. The suit is pending in the trial court when by consent an order was passed, which was not complied with. He has also produced statement today in court along with the computer generated statement to show that at present, the liability of petitioner is in the sum of Rs.82,14,867/-. He further argued that since in terms of the order passed in this petition on 15.3.2016, the petitioner failed to pay the amount, therefore, the electricity was disconnected.

4. We have also seen the initial order dated 29.4.2014, when the notice was issued to the other side and conditional order was passed

that upon depositing the amount, KE shall restore the petitioner's electric supply instantly.

5. The petitioner's Director argued that they approached various times for correction of bill to the concerned office of the KE. They also suspect that meter is not showing the proper reading and according to the petitioner's observation it is running fast. He also approached the department for the laboratory test of the meter to examine as to whether it is working properly or not, but no such action was taken on the application of the petitioner. So far as the non-compliance of the earlier order passed in the suit, in which they agreed to approach to the Electric Inspector, the Director informs that since certain issues had been further cropped up, therefore, they have approached this court and filed this petition.

6. Be that as it may, the metering or apparatus disputes cannot be decided in the writ jurisdiction and the proper approach and remedy is to invoke the statutory authority created for deciding such type of disputes. This petition is pending since 2014 and it is an admitted fact that electricity connection of the petitioner's establishment is disconnected, so the ultimate sufferer in this petition is the petitioner, who has achieved nothing except protracted litigation and for last considerable period according to the petitioner's Director, they are running their establishment on generator.

7. After arguing the matter at some length, the petitioner's representative submits that some amount has been deposited with the

Nazir of this court, which according to his information is around Rs.7,00,000/- while the counsel for the KE submits that the petitioner has deposited a sum of Rs.3,00,000/-. The petitioner and the counsel for the respondent Nos.9 to 12 have agreed that the matter may be referred to the Electric Inspector for proper determination of the arrears as well as metering dispute, therefore, this petition is disposed of alongwith pending applications in the following terms:

1. The petitioner will file appropriate application to the Electric Inspector, in which all issues pertaining to the electric meter and billing may be raised.
2. The petitioner will file the application before the Electric Inspector within a week with advance copy to the concerned branch of KE.
3. The respondent Nos.9 to 12 will also produce the proper calculation of arrears payable by the petitioner before the Electric Inspector who will also examine as to whether the arrears have been calculated properly and in accordance with the law or not including the metering dispute. It is further clarified that the amount deposited with the Nazir may be refunded back to the K-Electric but subject to the final outcome of Electric Inspector's order on proper verification and identification.

4. The parties shall be provided ample opportunity of hearing by the Electric Inspector.
5. Upon filing this complaint, the Electric Inspector shall decide the same within ninety days in accordance with law.
6. At present the electricity connection of the petitioner's establishment is disconnected and in case any arrears are determined by the Electric Inspector and the petitioner fails to pay the same, the K-Electric will be at liberty to recover the amount in accordance with the law.

Judge

Judge

asim/pa