

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2020

PRESENT

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

WRIT PETITION NO.6686 OF 2020 (GM-KEB)-PIL

BETWEEN :

1 . P C RAO

S/O LATE P SHRINIVAS RAO
AGED ABOUT 65 YEARS
MANTHRI GREENS
A1004, SAMPIGE ROAD
MALLESWARAM
BENGALURU – 560 003

2 . K GANESH NAYAK

S/O K PADMANABHA NAYAK
AGED ABOUT 46 YEARS
NO.303, 7TH MAIN
9TH CROSS, BHUVANESHWARI NAGAR
R T NAGAR EXT.
BENGALURU – 560 032

...PETITIONERS

(By SRI DINESH S, ADVOCATE)

AND :

1 . THE STATE OF KARNATAKA

REPRESENTED BY ITS UNDER SECRETARY
ENERGY DEPARTMENT
GOVT. OF KARNATAKA
BANGALORE-560 001

2 . THE CHAIRMAN

KARNATAKA ELECTRICITY REGULATORY
COMMISSION (KERC)
37, MAHATMA GADNHI ROAD
YELLAPPA GARDEN

YELLAPPA CHETTY LAYOUT
HALASURU, BENGALURU
KARNATAKA-560001
AND ALSO AT
NO.16, C-1, MILLERS TAND BED AREA
VASANTH NAGAR
BENGALURU-560052
KERC-KA @ NIC.IN

3. BESCOM
(BANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED)
REPRESENTED BY ITS
MANAGING DIRECTOR
BESCOM K R ROAD
BANGALORE-560001
MD@BESCOM.CO.IN

4. MESCOM
(MANGALORE ELCECRICITY SUPPLY
COMPANY LIMITED)
REPRESENTD BY ITS
MANAGING DIRECTOR
MESCOM BHAVAN
KAVOOR CROSS ROAD, BEJAI
POST BOX NO.1130
MANGALORE-575004
MDMESCOM@REDIFFMAIL.COM

5. HESCOM
(HUBLI ELECTRICITY SUPPLY
COMPANY LIMITED)
REPRESENTED BY ITS
MANAGING DIRECTOR
CORPORATE OFFICE, NAVANAGAR
P B ROAD, HUBBALLI-58002
MD@HESCOM.CO.IN

6. GESCOM
(GULBARGE ELECTRICITY SUPPLY
COMPANY LIMITED)
REPRESENTED BY ITS
MANAGING DIRECTOR
CORPORATE OFFICE, STATION ROD
KALABURAGI-585102
MDGESCO@GMAIL.COM

7 . CESC
(CHAMUNDESHWARI ELECTRICITY SUPPLY
CORPORATION)
REPRESENTED BY ITS MANAGING DIRECTOR
NO.29, VIJAYANAGARA 2ND STAGE
HINKAL, MYSORE-570017
MD@CESCMYSORE.ORG

8 . KPTCL
KAVERI BHAVAN, KG ROAD
BENGALURU-560009

... RESPONDENTS

(SRI M.DHYAN CHINNAPPA, ADDITIONAL ADVOCATE GENERAL
ALONG WITH SRI VIKRAM HUILGOL, AGA FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE CIRCULAR WITH DIRECTIONS BEARING NO. ENERGY 111 PSR 2020, DATED 03.04.2020 ISSUED BY THE RESPONDENT TO THE ESCOMS IN RESPECT OF GENERATION AND DISTRIBUTION OF MONTHLY ELECTRICITY BILLS TO THE CONSUMERS ON THE BASIS OF THE PREVIOUS MONTH'S BILL OR AVERAGE BILL AND FOR ANY REASON IF THE COURT COMES TO CONCLUSION THAT THE PRAYER SOUGHT ABOVE CANNOT BE GRANTED, MAY BE PLEASED TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO.2 TO CONSIDER THE REPRESENTATION MADE IN THIS REGARD VIDE EMAIL DATED 08.04.2020 AT ANNEXURE-F AND PASS ORDERS ON THE REPRESENTATION BEFORE IMPLEMENTING THE CIRCULAR AT ANNEXURE-A ON OR BEFORE 15.04.2020 BEING THE DUE DATE TO PAY SUCH PAYMENT AND TO GRANT SUCH OTHER RELIEF.

THIS PETITION COMING ON FOR ORDERS THIS DAY,
CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

This writ petition under Article 226 of the Constitution of India is purportedly filed in public interest praying for quashing the Government circular dated 3rd April 2020. The Government circular contains the directions to all the Electricity Supply

Companies (for short 'ESCOMs'). The Government circular refers to the extraordinary situation created due to the spread of COVID – 19 and the lockdown. It takes note of the fact that the consumers are unable to pay their electricity bills to the electricity distribution companies which is affecting the liquidity of the distribution companies. The direction of the Government in the said circular is to issue bills for April 2020 on the basis of the average electricity consumption. The circular contains a direction to make available various modes to enable the citizens to obtain copies of the bills through e-mails, Whatsapp, SMS, etc. The avenues for making payments by different modes have also been ordered to be created such as online payment on ESCOMs website, payment through the Karnataka One Website/App, BBPS payment by use of all banks debit cards, credit cards, internet banking, wallet payment, UPI payments, PayU App etc. and IMI mobile App.

2. The circular specifically states that what is provided therein is only a one time measure for the current month keeping in view the COVID – 19 regulations in place and for the safety of the consumers. It is further clarified that the regular meter reading, billing and collection activities shall be made as before from 1st May 2020 onwards and any difference

in the average bill and the actual reading may be adjusted in the following month's bill. Thus, the circular which is impugned in this writ petition appears to be issued in public interest.

3. The learned counsel appearing for the petitioners tried to submit that such a circular could not have been issued by the Government of Karnataka and it ought to have been issued by the Karnataka Electricity Regulation Commission (for short 'KERC'). He submitted that in the other states, moratorium has been issued for payment of the electricity bills. He submitted that the petitioners have made a representation on 8th April 2020 (Annexure-F) making a grievance about the circular dated 3rd April 2020 and praying for grant of moratorium for payment of the electricity bills for three months.

4. We have perused the Government circular dated 3rd April 2020. The Government circular in fact facilitates payment of the electricity bills by the citizens sitting at their respective homes by use of various modes as specified therein. Considering the present situation, a decision has been taken to issue the average bills for the month of April 2020 with a clarification that the exercise of issuing the regular electricity bills after taking the metre readings will commence from 1st

May 2020. The notification takes care of the excess payments made by the consumers in terms of the bills issued for April 2020, by providing that any difference in the average bill and the bill issued on the basis of the actual reading will be adjusted in the following month's bill. Thus, we find that the act of the State Government of issuing the circular dated 3rd April 2020 which is impugned in this petition, is itself in the public interest.

5. The petitioners made a representation on 8th April 2020 at 11.50 a.m. and even without waiting for a single day, the petitioners filed the present petition via e-mail on the very day at 1.31 p.m. and sought a direction to the Authorities to consider the representation.

6. It is not the case of the petitioners that there are instances of disconnection of the electricity connection during the present period of lockdown. The impugned circular dated 3rd April 2020 does not even refer to any such measure of disconnection of the electricity supply. Moreover, the issue of grant of moratorium to pay the electricity bills involves policy decision.

7. This Court is dealing with the very important issues such as non-availability of the food and necessities of life to the weaker sections of the society. In our view, the petitioners ought not to have filed the present petition. Firstly, because no public interest is involved in this petition and secondly, a petition seeking a writ in the nature of mandamus is filed on the very day on which a representation was made to the State Government and other Authorities.

8. We are constrained to observe that the filing of such petition is abuse of process of law and, therefore, while we dismiss the petition, the petitioners will have to be saddled with costs. We quantify the costs amount at Rs.50,000/-. The costs amount shall be payable to the Chief Minister's Relief Fund COVID – 19. The learned Additional Advocate General who is present here states that even the online payment can be made to the Chief Minister's Relief Fund COVID-19.

9. We, accordingly, dismiss the petition and direct the petitioners to pay the costs quantified at Rs.50,000/- (Rupees fifty thousand only) to the Chief Minister's Relief Fund COVID-19. A copy of the receipt evidencing the payment of costs shall be forwarded by the petitioners by e-mail to the Registrar

(Judicial) of this Court within two weeks from today. We make it clear that this order will not prevent the KERC and the Government of Karnataka from considering the representation at Annexure-F in accordance with law.

(Sd/-)
CHIEF JUSTICE

(Sd/-)
JUDGE

AHB

