

A.Guruvaiah Vs. the Superintending Engineer

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Court : Chennai

Decided On : Feb-22-2012

Judge : R.Sudhakar, J.

Appeal No. : W.P.No.17340 of 2002

Appellant : A.Guruvaiah

Respondent : The Superintending Engineer

Advocate for Pet/Ap. : Mr.J.Pothiraj, Adv.

Judgement :

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the second respondent in L.R.No.EE/D/VDR/AEIER/F.Doc/D.24/2002 dated 20.4.2002 and quash the same.

ORDER

1. This Writ Petition is filed praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the second respondent in L.R.No.EE/D/VDR/AEIER/F.Doc/D.24/2002 dated 20.4.2002 and quash the same.

2. At the time of admission, this Court granted interim stay on 21.5.2002 and the same was made absolute on 25.8.2003.

3. M/s.G.Vasudeven and P.Gunaraj, learned counsel appearing for the respondents states that the impugned order passed by the second respondent Executive Engineer provides for an appeal to the first respondent Superintending Engineer, Virudhunagar Electricity Distribution Circle, Virudhunagar. They brought to the attention of the court para 3 of the counter-affidavit and it reads as follows:-

3. At the outset the writ petition is not maintainable either in law or on facts. The petitioner has an alternative remedy of filing appeal before the appellate authority (Viz.) the First correspondent herein and as such this writ petition is liable to be dismissed in limini, on this short ground. Further disputed question of facts are involved in this case and hence the petitioner cannot invoke remedy under Article 226 of the Constitution of India.

4. As pointed out by M/s.G.Vasudeven and P.Gunaraj, learned counsel appearing for the respondents as above and in view of the Division Bench order dated 5.2.2008 passed in W.A.(MD)Nos.378 and 379 of 2005 and 107 of 2007 and W.A.Nos.895 and 1736 of 2005, petitioner will have to pursue the appeal remedy in accordance with the provisions prevailing then.

5. In view of the above, petitioner is directed to file appeal within three weeks from the date of receipt of a copy of this order before the appellate authority. Thereafter, the appellate authority will decide the issue in accordance with the provisions of law. The period during which the matter was pending before this Court shall be eschewed for the purpose of limitation. The interim order granted by this court shall continue till the appeal is finally decided by the appellate authority.

6. The Writ Petition is disposed of as above. No costs.

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