

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.9828 of 2015

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Date: 08-4-2015

Between

M/s. KDA Ispat Ltd.,
Sy.No.358/5, Pragnapur village,
Gajwel Mandal, Medak district,
Rep. by its Director Sushil Kumar Agarwal

... Petitioner

and

The Southern Power Distribution
Company of Telangana Ltd.,
Rep. by its Chairman and MD,
Mint Compound, Hyderabad;
and 3 others

... Respondents

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Order:

Heard Sri D.V.Nagarjuna Babu, learned counsel
appearing for the petitioner and Sri O.Manohar Reddy,
learned Standing Counsel appearing for the respondents -
SPDCTL.

2. This writ petition is filed seeking to declare

the levy and collection of the development charges by the respondents 1 to 3 for the release of 4950 KVA CMD to the petitioner pursuant to the proceedings Lr.No.SE/OP/MDK/ADE/Comml./F.No. HT/D.No.1042/ 08, dated 07-6-2008, of the 2nd respondent as highly illegal, arbitrary, irrational and contrary to Sections 43 and 46 of the Electricity Act, 2003, if necessary by declaring the order of the 4th respondent in R.P.Nos.1 to 4/2005 dated 24-8-2005 as illegal, arbitrary, irrational and void and further direct the respondents 1 to 3 to refund the development charges of Rs.59,40,000/- to the petitioner together with interest @ 24% per annum from the date of collection till the date of refund.

3. The learned counsel appearing for the petitioner submits that the issue involved in the present writ petition is squarely covered by the common order dated 05-10-2005 in W.P.No.4010 of 2005 and batch passed by the learned single Judge of this Court, wherein the batch of writ petitions were allowed observing as under:

“From the above, it is clear that Clauses 5 to 11 stand deleted from the date of Regulation 3 of 2004 i.e. with retrospective effect. It is settled principle of law that a subordinate legislation can never be made with retrospective effect even assuming that the said deletion amounts to amendment of the rules/regulations. Further, the Distribution Companies were directed to file all relevant data with the Commission within 60 days of the issue of the order, till a separate regulation under Section 46 of the Act is made. Since the clauses in question are not notified as required under Section 181 and were not placed before the

Legislature of the State for its approval, the deletion shall be treated as *non est* in the eye of law. Therefore, applying such a law and making demands for payment of notional developmental charges for new connections and for additional loads is arbitrary and illegal.”

4. In the aforesaid circumstances, the present writ petition is also allowed in terms of the ratio laid down by the learned single Judge of this Court in the said common order dated 05-10-2010 in W.P.No.4010 of 2005 and batch. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

08th April, 2015.
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