

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.15722 of 2011

Date:22.7.2015

Between:

M/s Radha Smelters Ltd.,
Ch.Shankaram Pet Village and Mandal,
Medak District, repled by its Managing
Director-Sunil Saraf

..... **Petitioner**

And

The Central Power Distribution Company of
A.P. Ltd., Hyderabad, repled by its Chief
Managing Director and four others.

.....**Respondents**

Counsel for the Petitioner: Sri D.V.Nagarjuna Babu

Counsel for Respondent Nos.1 to 4: Sri R.Vinod Reddy

Counsel for Respondent No.5: Sri P.Srinivasa Rao

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare Condition No.5.3.3 of the General terms and conditions of supply of respondent No.1 and the action of respondent Nos.1 to 3 in levying and collecting development charges for release of 7,000 KVA CMD to the petitioner as illegal and contrary to the provisions of Sections-43, 46, 181 and 182 of the Electricity Act, 2003.

At the hearing, Sri D.V.Nagarjuna Babu, the learned counsel for the petitioner, submitted that this Court by common order, dated 05.10.2010, in Writ Petition No.4010 of 2005 and batch, decided the issues identical to that raised in this Writ Petition and held that collection

of development charges based on deletion of Clauses-5 to 11 of the A.P. Electricity Regulatory Commission (Licensees, Duty for supply of electricity on request) Regulation, 2004 with retrospective effect by the Andhra Pradesh Electricity Regulatory Commission (for short 'APERC') is illegal. The learned judge has, accordingly, allowed the said Writ Petitions quashing the demand notices issued for collection of development charges. Learned counsel has further submitted that another learned judge of this Court has allowed Writ Petition No.13725 of 2015 and batch by common order, dated 01.5.2015, following the above-mentioned common order in Writ Petition No.4010 of 2005 and batch. He has also stated that though a Writ Appeal was filed by the licensee, no interim order has been passed in the said Writ Appeal; and that APERC has later issued a fresh Regulation i.e., Regulation 4 of 2013, notified in the gazette, dated 29.7.2013, modifying the previous provision for collection of development charges. He has, however, requested for giving liberty to the petitioner to question the said Regulation if need be in future.

On the above facts, the learned counsel for the petitioner submitted that this Writ Petition deserves to be allowed following the above-mentioned two orders.

Sri R.Vinod Reddy, the learned Standing Counsel for respondent Nos.1 to 4, has not disputed any of the above-noted submissions of the learned counsel for the petitioner.

In the light of the above facts, I am of the opinion that since by two separate orders, this Court has allowed the above-mentioned Writ Petitions, wherein the pleas similar to that raised in the present Writ Petition were

adjudicated, following those orders, this Writ Petition deserves to be allowed.

Accordingly, the Writ Petition is allowed with liberty to the petitioner in terms of the prayer made.

As a sequel to the disposal of the Writ Petition, W.P.M.P.No.18833 of 2011 is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*22nd July 2015
DR*