

HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.No.12449 of 2015

ORDER

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents.

It is represented by the learned counsel appearing for the petitioner as well as the learned Standing Counsel for the respondents that the issue raised in the writ petition is squarely covered by a common order of this Court in W.P.No.4010 of 2005, and batch dated 05.10.2010, 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.”

In the aforesaid circumstances, the 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. No order as to costs.

The miscellaneous petitions, if any, pending in the writ petition shall stand closed.

R. KANTHA RAO, J

27th April, 2015

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