

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NOs.26348, 26362 AND 26363 OF 2015

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents in these three Writ Petitions. With the consent of both the learned counsel, these three Writ Petitions are taken up together for disposal at the admission stage.

Petitioners are HT consumers of electricity. Since the respondents were unable to supply the contracted demand and due to imposition of restricted supply and declaration of power holidays, they opted to take power through open access under section 42 (2) of the Electricity Act ("the Act" for brevity). The petitioners entered into agreement with the trader for purchase of power. The trader has to pay the union charges, transmission charges and transmission loss to the distribution companies. However, the open access of power is subjected to surcharge under first proviso to Section 42 (2) of the Act. The said surcharge amount is payable by the consumer. There was a dispute with regard to payment of other charges consequent to the demand made by the respondents. The matter was referred to the Consumer Grievance Redresal Forum-I in November 2014. When the matter was not disposed of, the petitioners filed W.P.No.33381, 33293 and 33378 of 2014 and this Court, by order dated 15.12.2014, directed the Forum to dispose of the dispute in accordance with law duly recording specific finding on merits on various contentions made by the petitioners.

It appears that the matter underwent several adjournments and ultimately, an order was passed on 22.07.2015. Though the petitioners filed appeals with Vidyut Ombudsman on 04.08.2015, since the appeals before the Vidyut Ombudsman were not disposed of, the present Writ Petitions are filed.

This Court perused the order of the Consumer Forum passed on 22.07.2015, which reads as follows:

“Forum issued fresh notices of hearing and conducted four hearings by giving ample opportunity to the complainant and the respondents to put further their views and after going through the detailed information furnished by both parties, the forum issued the following orders.

The contention of the Respondents on levy of other charges is in order, as the complainant had violated the undertaking furnished by him on account of open access.

The complaint is disposed accordingly.

The Order shall be implemented within 15 days from the date of its receipt and compliance furnished to the Forum within a week thereafter.

The Complainant, if aggrieved by the above Order, may approach the Vidyut Ombudsman, situated at 1st Floor, 33/11 KV Sub-Station, Hyderabad Boats Club Lane, Lumbini Park, Hyderabad-500 063 within 30 days from the date of receipt of this order as per Clause 9(1) of Regulation 1 of 2004 of APERC.”

The Forum passed the order with a single line stating that the contention of the respondents on levy of other charges was in order, as the complainant had violated the undertaking furnished by him on account of open access. The order does not disclose any reason for coming to the said conclusion and in the absence of any reason, this Court is constrained to set aside the order dated 22.07.2015 passed by the Forum and remand the matter to the Forum for passing a reasoned order afresh in accordance with law for which purpose a notice be issued to the petitioners within fifteen (15) days from the date of receipt of a copy of this order directing the petitioners to appear before it within fifteen (15) days thereafter. The Forum shall pass a reasoned order within thirty (30) days thereafter. In view of remand of the matter, till the matter is decided by the Forum, the respondents shall not disconnect the power supply.

The three Writ Petitions are, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in three Writ Petitions shall stand closed.

(A.RAMALINGESWARA RAO, J)

20th August 2015
RRB