

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT.JUSTICE T. RAJANI

Writ Appeal No.1022 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 3309 of 2012 dated 1.6.2017. It is wholly unnecessary for us to examine the facts except to note that the 2nd appellant (2nd petitioner in W.P. No.3309 of 2012) was originally allotted a 33 KV dedicated feeder line for their unit. As it was found insufficient, the 2nd appellant requested the respondent-company for a new 132 KV dedicated feeder line to be extended to them; and, on permission being accorded by the respondent-company, the earlier 33 KV dedicated feeder line was no longer utilised by them. The 2nd appellant requested the respondent-company to permit the earlier dedicated 33 KV feeder line to be utilised by their sister concern ie the 1st appellant (1st petitioner in W.P. No. 3309 of 2012). On the ground that, despite pendency of their representation, the respondent-company was using it as a common feeder line, the appellants have invoked the jurisdiction of this Court.

In the order under appeal, the learned Single Judge has, placing reliance on Clause 5.3.2.2 of the General Terms and Conditions of Supply (GTCS), held that the respondent-company was justified in treating it as a common feeder line. The submission of Sri M.P. Chandra Mouli, learned counsel for the appellants-writ petitioners, however is that it is Clause 3.2.2.2 which relates to a dedicated feeder line, and Clause 5.3.2.2 is inapplicable. Learned counsel would also draw our attention to the letters addressed by the Divisional Engineer, Electrical Operation to the Superintending Engineer, Operation dated 10.8.2009, and the letter from the Superintending Engineer to the 1st appellant-writ petitioner on 19.8.2009, to contend that permission was accorded to the appellants for the vacant 33 KV line to be treated as a dedicated feeder

line for the 1st appellant. This, Sri R.Vinod Kumar Reddy, learned Standing Counsel for the respondent-company, would contend is not the decision of the respondent-company. When we asked him whether a decision has been taken by the respondent-company in this regard, learned Standing Counsel would fairly state that, while no order has been passed by the respondent-company, the counter affidavit filed by them, before the learned Single Judge, would show that the appellants-writ petitioners were not entitled to claim the 33 KV vacant line as a dedicated feeder line for the 1st appellant.

The question whether the 33 KV line should or should not be treated as a dedicated feeder line for the 1st appellant is required to be considered by the respondent-company in the first instance after taking note of the earlier representations submitted by the appellants in this regard. It would be wholly inappropriate for this Court to take upon itself the task of adjudicating whether or not the aforesaid two letters, the first addressed by the Divisional Engineer to the Superintending Engineer and the second by the Superintending Engineer to the 1st appellant, constitute permission to treat the 33 KV line as a dedicated feeder line for the 1st appellant. Sri M.P. Chandra Mouli, learned counsel for the appellants, would request this Court to permit the appellants to file an additional representation bringing forth all these facts to the notice of the 2nd respondent. He would submit that such a representation would be filed within two weeks from today. While permitting the appellants-writ petitioners to do so, we direct the 2nd respondent to consider the appellants-writ petitioners' request, for the 33 KV line to be treated as a dedicated feeder line to the 1st appellant, with utmost expedition and, in any event, within three months from the date of receipt of the appellants-writ petitioners' representation. The 2nd respondent shall communicate his decision to the appellants herein within the aforesaid period of three months.

The order of the learned Single Judge is modified as indicated hereinabove, and the writ appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T. RAJANI, J)

25th July, 2017

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Date: 25.7.2017

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