

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.23887 of 2018

ORDER:

Heard the learned Advocate General for the State of Andhra Pradesh appearing for Sri N.Siva Reddy, learned counsel for petitioners and Sri L.Ravichander, learned Senior Counsel appearing for Sri G.Arun, learned counsel for 2nd respondent.

2. Petitioners have assailed the order of the 1st respondent in Petition No.91/MP/2018 dt.31-05-2018 at the instance of the 2nd respondent and seek to contend that 1st respondent has no jurisdiction to entertain and admit the application of the 2nd respondent.

3. It is the contention of the petitioners that under Section 64(5) of the Electricity Act, 2003 (for short "the Act") r/w Section 86(1)(f) thereof, it is only the APERC which has jurisdiction to entertain the disputes of the nature raised by 2nd respondent.

4. Other contentions are also advanced by the learned Advocate General in support of his stand that 1st respondent has no jurisdiction to entertain the issue raised by 2nd respondent in its Petition No.91/MP/2018.

5. This contention is refuted by 2nd respondent's counsel, who contended that under Section 79(1)(f) of the Act, the 1st respondent is

conferred with jurisdiction to decide the issue raised by the 2nd respondent and that sub-Section (5) of Section 64 of the Act would not apply.

6. After hearing the learned Advocate General for the petitioner and learned Senior Counsel for respondents at length, I am of the opinion that the issue as to whether the 1st respondent has got jurisdiction to entertain the above petition filed by 2nd respondent could as well be raised by petitioners before the 1st respondent.

7. Therefore petitioners are directed to file appropriate pleadings before the 1st respondent raising the plea about the lack of its jurisdiction to entertain the petition filed by 2nd respondent within ten (10) days from the date of receipt of copy of the order, and if such application is filed, the 1st respondent shall decide the said issue after giving notice to petitioners as well as 2nd respondent and communicate its decision to both of them.

8. The Writ Petition is disposed of with the above directions. No costs.

9. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 31-07-2018

Note :- Issue C.C. three (03) days.

B/o.

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