

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT APPEAL Nos.124, 125, 126, 127, 129, 130, 131 and 132 of 2019

08.07.2019

Between:

The Southern Power Distribution Company
of Telangana State, rep. by its Chairman
& Managing Director, Mint Compound,
Hyderabad and others.

...Appellants

and

M/s. Radha Smelters Limited and another

...Respondents

Counsel for the appellants : Mr. R. Vinod Reddy
(SC for TSTRANSCO)

Counsel for the respondent No.1 in W.A.Nos.124, 125, 126, 130,
131 and 132 of 2019: Mr. D.V.Nagarjuna Babu

Counsel for the respondent No.1 in W.A.Nos.127 and 129 of 2019:

Mr. M. P. Chandramouli

Counsel for the respondent No.2 : Mr. J. Ashvini Kumar

(SC for TSERC)

The Court made the following:

COMMON JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The first respondent, in all the writ appeals, filed the subject writ petitions challenging the orders passed by the Telangana Electricity Regulatory Commission determining cross subsidy under Sections 39, 40 and 42 of the Electricity Act, 2003, for HT-1 Industrial Segregated category open access consumers in 11 kV, 33 kV and 132 kV categories. They have also challenged the demand for surcharge contained in the revised C.C bills. The said issue came up for consideration before this Court in W.P.Nos.26609 and 26623 of 2015, and the learned Single Judge, by order dated 29.10.2018, set aside the order of the Telangana Electricity Regulatory Commission, and allowed the writ petitions by declaring that, fixation of cross-subsidy surcharge for HT-1 Industry General category for 33 kV supply at the rate of Rs.1.29 ps was contrary to law, and holding that the cross-subsidy surcharge for HT-1 Industry General for 33 kV supply was Rs.0.30 ps per Kwh as was sought by the Discom for the financial year 2015-2016. The learned Single Judge also declared the demands raised by the Discoms on the petitioners therein, on the basis of the order passed by the Commission, as illegal and set aside the same.

The first respondent in the present appeals are consumers of 33 kV, 11 kV and 132 kV electricity supply. For 33 kV, the proposed demand made by the Discom was Rs.0.30 ps, whereas the Regulatory Commission fixed at Rs.1.29 ps; for 11 kV the proposed demand made by the Discom was Rs.1.13 ps., whereas the Regulatory Commission fixed at Rs.2.07 ps; and for 132 kV the

proposed demand made by the Discom was Rs.0.11 ps, whereas the Regulatory Commission fixed as Rs.0.93 ps. Following the earlier decision of the learned Single Judge, referred to above, the subject writ petitions were also allowed and the Discom was directed to levy only Rs.0.30 ps for 33 kV, Rs.1.13 ps for 11 kV and Rs.0.11 ps for 132 kV. As it was also brought to the notice of the learned Single Judge that some of the writ petitioners had deposited higher amount quantified by the Regulatory Commission, and the said amounts should be adjusted in the future bills. Taking into consideration the amount suggested by the Discom, the learned Single Judge also observed in the impugned orders that, wherever, the writ petitioners had deposited higher amount demanded by the Discom, the amounts should be adjusted in the future bills in their respective categories, as per the proposal given by the Discom to the Regulatory Commission.

Challenging the said orders of the learned Single Judge in the writ petitions, the present writ appeals are filed.

When the appeals came up for hearing, Mr. R. Vinod Reddy, the learned Standing Counsel for the appellants, Mr. D. V. Nagarjuna Babu, and Mr. M. P. Chandramouli, the learned counsel appearing for respondent No.1 in the appeals, and Mr. J. Ashvini Kumar, the learned counsel for respondent No.2 in all the appeals, submit that the issue raised in the present appeals is squarely covered by the judgment of the learned Coordinate Bench in W.A.No.1683 of 2018 and batch, dated 11.03.2019.

A perusal of the order in W.A.No.1683 of 2018 and batch, dated 11.03.2019, would show that the learned Coordinate Bench dismissed the appeals observing that the learned Single Judge

exercised the judicial authority to arrive at the conclusion on the basis of lack of reasons for the Commission to have fixed the rate of cross subsidy surcharge higher than that which was proposed by DISCOM, to which proposal, the consumers had no objection. In view of the same, there was no illegality or improper exercise of jurisdiction by the learned Single Judge in having passed the impugned orders.

In view of the above, this Court is of the opinion that these writ appeals can also be disposed of in similar terms as was done in W.A.No.1683 of 2018 and batch, dated 11.03.2019.

The writ appeals are, accordingly, disposed of. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

DR. SHAMEEM AKTHER, J

08th July, 2019
JSU

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(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

Date: 08.07.2019

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