

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.12390 OF 2019

ORDER:

This writ petition is filed challenging the action of the respondents in issuing letter No.CGM(Rev.)/GM(R)/SAO(R)/AO(HT)/AAO/JAO/D.No.05/19, dt.04.04.2019, whereby the petitioner was asked to furnish Bank Guarantee for the period 2003-2004 to 2018-2019 towards Transmission Charges, Wheeling Charges, Cross Subsidy Surcharge and Additional surcharge, as per the orders of the Hon'ble Supreme Court in S.L.P.No.14941-14976 of 2003 and batch dt.26.08.2003.

The case of the petitioner is that it has given a reply on 02.05.2019 to the impugned letter dt.04.04.2019 stating that in the interim order passed by the Hon'ble Supreme Court dt.26.08.2003 in S.L.P.No.14941-14976 of 2003, there is no such order regarding Cross Subsidy Surcharge by which the petitioner is directed to furnish Bank Guarantee; that the subject matter of the appeal before the Supreme Court is with respect to determination of wheeling charges and transmission charges, but not regarding Cross Subsidy Surcharge and Additional Surcharge; and that the petitioner was never asked to give Bank Guarantee in the said appeal pending before the Supreme Court.

Learned Counsel for the petitioner submits that basing on a non existing order the impugned letter is issued and that the subject matter of the appeal pending before the Supreme Court pertains to Wheeling and Transmission Charges, but not Cross Subsidy Charges and Additional

Surcharge. He also stated that the petitioner was never asked to furnish any Bank Guarantee when the matter was pending before the High Court. Learned Counsel also referred to the interim order passed by the Supreme Court and submits that there is no such direction to furnish Bank Guarantee as stated in the impugned letter. He further submits that all these aspects were stated in the reply submitted by the petitioner to the impugned letter, but, the respondents without considering the same and passing any orders are taking coercive steps.

On the other hand Sri R.Vinod Reddy, learned Standing Counsel for respondents submits that the Hon'ble Supreme Court while granting interim order observed that Bank Guarantee should be kept alive, as such, the impugned letter is issued.

In this case it is to be seen that the order of the High Court in WP.Nos.4770 and 4771 of 2002 and CMA.No.1931 and 1025 of 2003 shows that it pertains to only wheeling charges and against the said order SLP Nos.14941-14976 of 2003 were filed before the Hon'ble Supreme Court. Copy of the said interim order passed in SLP Nos.14941-14976 of 2003 is also filed in the material papers which goes to show that the respondents have not applied their mind while issuing impugned letter. But any how since the petitioners have already submitted their representation dt.02.05.2019 against the impugned letter dt.04.04.2019, it is for the competent authority to consider the said aspect and take a decision.

Having regard to the aforesaid facts and circumstances, the writ petition is disposed of directing the competent authority to consider the

representation of the petitioner keeping in view the above facts and take a decision within a period of four weeks from the date of receipt of a copy of this order. Till then no coercive steps shall be taken by the respondents including settlement of energy generation CC bills. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

21.06.2019
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A.RAJASHEKER REDDY, J



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