

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.A.Nos.546, 547, 549 and 552 of 2019

COMMON JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Learned counsel for the parties have drawn the attention of this Court towards the judgment passed in W.A.No.338 of 2021 on 05.11.2021. The said judgment reads as under:-

“The present writ appeal is arising out of an order dated 26.12.2019 passed in W.P.No.6109 of 2016.

Learned counsel for the parties have fairly stated before this Court that the issue involved in the present appeal stands concluded on account of a judgment delivered by the Division Bench of this Court dated 24.02.2020 passed in W.A.No.9 of 2020 and batch.

Learned counsel for the appellants further stated that against the order dated 24.02.2020, the appellants have preferred SLP and therefore, in the present case also they intend to prefer an SLP.

The judgment passed by the Division Bench is reproduced as under:

“Both the learned counsel for the parties submit that the issue in the present writ appeals is the same issue as was raised in W.A.No.121 of 2019 and batch, dated 21.10.2019, whereby this Bench had disposed of the Writ Appeals basing its decision on W.A.No.1683 of 2018 and batch, which were dismissed by the judgment, dated 11.03.2019.

The first respondent in W.A.No.121 of 2019 and batch filed the 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 also challenged the demand for surcharge contained in the revised C.C. bills. The said writ petitions were allowed following the earlier decision of the learned Single Judge in W.P.Nos.26609 and 26623 of 2015, wherein the learned Single Judge set aside the similar order of the Telangana Electricity Regulatory Commission, and also declared that, fixation of cross-subsidy surcharge for HT-1 Industry General category for 33 kV supply at the rate of 1.29 ps was contrary to law; the learned Single Judge held 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, in W.P.Nos.26609 and 26623 of 2015, 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.

By order, dated 21.10.2019, this Court disposed of the said appeals in W.A.No.121 of 2019 and batch in similar terms as was done in W.A.No.1683 of 2018 and batch, dated 11.03.2019, wherein 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, and 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.

Since the issue raised in the aforesaid appeals is identical to the present case, 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.121 of 2019 and batch, dated 21.10.2019.

The writ appeals are, accordingly, disposed of.

The miscellaneous petitions pending in these appeals, if any, shall stand closed. There shall be no order as to costs.”

In the light of the aforesaid judgment, the present appeal is also dismissed, as identical appeals have been dismissed. The judgment delivered in W.A.No.9 of 2020 and batch shall be applicable *mutatis mutandis* to the present case also.

The miscellaneous applications pending in this appeal, if any, shall stand closed. There shall be no order as to costs.”

The aforesaid judgment shall be applicable *mutatis mutandis* to the present cases also.

Accordingly, the present writ appeals are dismissed. The miscellaneous applications pending in these appeals, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

A.RAJASHEKER REDDY, J

24.11.2021

vs