APHC010585482026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-6 [3584]

WRIT APPEAL NO: 1250 of 2026

M/s. Lanco Kondapalli Power Limited ...Appellant

Vs.

Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL) and others ...Respondent(s)

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CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 4th November 2026

Present:

Advocate for Appellant:	SRI AVINASH DESAI, Ld.Senior counsel, representing Mr.D. S. SIVADARSHAN.
Advocate(s) for Respondent(s):	Ld.Advocate-General; Mr.VENKATA RAMA RAO KOTA SC FOR APSPDCL, and Mr.BACHINA HANUMANTHA RAO (CENTRAL GOVT COUNSEL)

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JUDGMENT:(per Hon'ble Sri Justice Challa Gunaranjan)

Present appeal is directed against order, dated 15.10.2026, in I.A. No.2 of 2026 in W.P.No.30450 of 2026, whereby learned Single Judge granted interim orders in favour of respondents 1 to 4 herein/writ petitioners.

2. Writ petition was filed seeking following relief:

> "…..to issue a Writ of Mandamus or any other appropriate writ, order or direction, declaring the Revised Standard Operating Procedure

issued by Respondent No 1 vide Letter No.F.No.10/03/2022-UR&SI-II-(E-263775), dated 11.04.2023, to the extent it seeks implementation of the Electricity Late Payment Surcharge and Related Matters Rules, 2022 for invoices other than regular invoices and communications, dated 02.09.2026, 07.09.2026 and 08.09.2026, issued by Respondent No.2 through the PRAAPTI Portal, as arbitrary, illegal, without jurisdiction and *ultra vires* the Electricity Act, 2003 the said Rules and Article 14 of the Constitution of India, and consequently, set aside and quash the same declaring that the supplementary invoices raised by Respondent No.4 pursuant to the Order, dated 02.06.2026 of CERC in Petition No.250/MP/2022 towards Finance and Procurement Charges and consequential interest, namely Invoice Nos.LKPL/CERC/FPC/005, 006 and 013 and LKPL/CERC/INT/007, 008 and 014 and any other invoice raised on that footing by whatever category described on the PRAAPTI Portal do not fall within the scope of "due" or "outstanding dues" under the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 and that the said Rules (including Rules 6(3) and 7 cannot be invoked or enforced against the Petitioners or the Andhra Pradesh Distribution Licensees in respect of such invoices, and to pass…."

3. **(a)** Case of respondents 1 to 4/writ petitioners before learned Single Judge was that in pursuance to Power Purchase Agreement ("PPA"), dated 31.03.1997, entered into between appellant and erstwhile Andhra Pradesh State Electricity Board, dispute arose on account of reimbursement of finance and procurement costs incurred due to operation of generating plant using Naphtha as fuel during period from 22.06.2000 to 10.08.2001. Said issue eventually got decided in favour of appellant by virtue of order, dated 02.06.2026, passed by Central Electricity Regulatory Commission ("CERC") in Petition No.250/MP/2022, whereby claim for reimbursement

of finance and procurement costs along with interest for delayed payment in terms of PPA was allowed.

(b) Appellant stated to have raised invoices, dated 15.06.2026 for an amount of ₹10,78,80,926/- and ₹33,91,06,068/- towards finance and procurement costs and interest on delayed payment, respectively. The said bills were uploaded in PRAAPTI Portal by categorizing the same as regular invoices, as mandated under the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (for short, "LPS Rules") read with revised Standard Operating Procedure ("SOP") instructions issued by Communication, dated 11.04.2023, by Ministry of Power, Government of India. Respondents 1 to 4/writ petitioners disputed aforesaid invoices on various grounds.

(c) Nevertheless, 6th respondent proposed to proceed with processing of invoices in terms of SOP. Interregnum, writ petitioners filed appeal challenging the order of CERC before Appellate Tribunal for Electricity ("APTEL") in DFR No.431 of 2026, in which notice was ordered on 23.09.2026.

4. Before Writ Court, it was contended that Communication, dated 11.04.2023, which is an administrative instruction, since enlarged the applicability of LPS Rules, encompassing even invoices concerning other than regular supply bills, lacks statutory authority and, therefore, is unsustainable. That, since claim of generator was by way of

supplementary bill for reimbursement of finance and procurement cost along with interest relating to the period from June, 2000 to August 2001, the same would not come within the purview of “dues” envisaged under Rule 2(f) r/w. Rule 2(h) of LPS Rules relating to supply of electricity, thus, the method and procedure adopted to include supplementary invoice claims by invoking revised SOP circular was impermissible.

5. Appellant, however, objected to passing of any interim order by contending that respondent/writ petitioners, having preferred appeal against order of CERC and being unsuccessful in securing any interim order there, have come up with writ petition in a way directly or indirectly challenging invoices raised. Further, invoices raised would clearly fall within scope and ambit of Rule 2(g) and 2(h) of LPS Rules, thus, rightly invoice arrears were sought to be recovered by following LPS Rules.

6. Considering aforesaid submissions, Writ Court came to *prima facie* view that revised SOP, dated 11.04.2023, issued by way of executive instructions, in a way, enlarged the scope and enforceability of LPS Rules; that, legality and validity of such communication, since can only be examined by Writ Court and not by Appellate Authority, stayed implementation of said communication, *qua* supplementary invoices as uploaded by appellant in PRAAPTI portal. Assailing the same, present appeal is preferred.

7. Heard Sri Avinash Desai, learned Senior Counsel, appearing for Mr.D.S. Sivadarshan, learned counsel for appellant and learned Advocate General appearing for respondents 1 to 4/writ petitioners.

8. Learned Senior Counsel appearing for appellant mainly contended that even in the absence of revised SOP, nonetheless, invoices raised by appellant would qualify and fall within the scope and ambit of LPS Rules, thus, learned Single Judge committed error in staying execution of the invoices in all respects. In other words, learned Senior Counsel submits that invoices other than regular invoices also do qualify to be “outstanding dues” for one to invoke LPS Rules.

9. Learned Advocate General appearing for respondents 1 to 4/writ petitioners, while supporting order under challenge, contended that revised SOP specifically refers to five categories of invoices, such as regular, supplementary, change in law, LPS, and others, which are not forming part of LPS Rules, therefore, supplementary bills claimed by petitioners in terms of revised SOP cannot be processed treating the same as charges for supply of power beyond due date. It is further contended that prayer in writ petition is merely confined to challenge to revised SOP, and not order of CERC, appellant, therefore, is not precluded from resorting to remedy as otherwise provided under the provisions of the Act

for the purpose of executing order of CERC. Thus, urged for dismissal of appeal.

10. We have gone through the record and considered the submissions made above.

11. Brief facts narrated above are not in dispute. Supplementary bills raised by appellant were in consequence to adjudication of claim for reimbursement of finance and procurement charges by CERC, vide its order, dated 02.06.2026. Appeal against said order, as well as stay petition, are stated to be pending before APTEL. Interregnum, appellant uploaded supplementary invoices on PRAAPTI portal in order to recover the same. Respondents 1 to 4/writ petitioners opposed the same by raising an objection that amounts claimed under supplementary bill, since do not constitute regular power supply charges, are not amenable for recovery, particularly revised SOP, which recognized other categories of invoices, expanding scope and ambit of original LPS Rules.

12. Learned Single Judge, having regard to contentions raised, expressed *prima facie* opinion that legality of impugned revised SOP, which in a way expanded the scope and ambit of principal rules, required examination, inasmuch as, being mere executive instructions, whether it would have any statutory force and backing, besides clarification to statutory rules.

13. We do not find any infirmity in the view expressed. Further, it is also to be noticed that revised SOP sought to recognize five categories of invoices such as regular, supplementary, change in law, LPS, and others, which are not envisaged in LPS Rules. The question whether appellant is entitled to recover the amounts as determined by CERC by resorting to LPS Rules in the form of supplementary bills, read with revised SOP instructions, definitely requires examination, for which purpose pleadings are required to be completed. Incidentally, the question whether substantive provisions of Electricity Act, 2003, empower Central Government to issue LPS Rules and revised SOP for the purpose of recovery of dues from Utilities dehors other remedies such as Section 142, etc., also needs to be gone into.

14. We find that serious consequences have been envisaged under LPS Rules in case of default, which include denying the respondents 1 to 4/writ petitioners procurement of power through short-term open access as well as regulating long-term and medium-term open access.

15. Be that as it may, learned Senior Counsel appearing for appellant stated that their claim for processing supplementary invoices since was not on the basis of revised SOP, appellant should be permitted to pursue their claim *de hors* impugned revised SOP.

16. Learned Advocate General, in response, stated that impugned order under challenge merely stayed implementation of revised SOP, *qua* supplementary invoices raised by appellant, and not the invoices in entirety. It is further stated that appellant has other remedies for enforcement of orders issued by CERC.

17. Given the above facts and circumstances, we see no reason to interfere with the order under challenge. However, it is made clear that order of learned Single Judge shall not be treated as staying supplementary invoices, and it is open for appellant to pursue remedies as available under law for execution of order of CERC. There is no expression of opinion on the merits of the matter.

18. Accordingly, writ appeal stands disposed of. No order as to costs.

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

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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