

APHC010150162014



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3328]

TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NO: 14286/2014

Between:

1.M/S. SIRI COLD STORAGE PVT. LTD.,, POTTEPALEM VILLAGE,
NELLORE RURAL MANDAL, SRI POTTI SRIRAMULU NELLORE
DISTRICT, REP. BY ITS MANAGING DIRECTOR, SMT. KOTESWARI.

...PETITIONER

AND

- 1.THE SUPERINTENDENT ENGINEER, OPERATION CIRCLE, THE
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD., NELLORE, SRI POTTI SRIRAMULU NELLORE
DISTRICT.
- 2.THE DIVISIONAL ENGINEER, OPERATION CIRCLE, THE
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD., NELLORE, SRI POTTI SRIRAMULU NELLORE
DISTRICT.
- 3.THE ASSISTANT DIVISIONAL ENGINEER, OPERATION CIRCLE, THE
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD., NELLORE RURAL, SRI POTTI SRIRAMULU
NELLORE DISTRICT.
- 4.THE SENIOR ACCOUNTS OFFICER, OPERATION CIRCLE, THE
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD., NELLORE, SRI POTTI SRIRAMULU NELLORE
DISTRICT.
- 5.THE ASSISTANT ACCOUNTS OFFICER, OPERATION CIRCLE, THE
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA
PRADESH LTD., NELLORE RURAL, SRI POTTI SRIRAMULU

NELLORE DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner:

1.K MURALIDHAR REDDY

Counsel for the Respondent(S):

1.Venkata Rama Rao Kota SC FOR APSPDCL

The Court made the following:

ORAL ORDER:

No representation on behalf of the Writ Petitioner.

2. Heard Ms. Jyothi Ratna A, learned Junior Standing Counsel representing Sri Venkata Rama Rao Kota, learned Standing Counsel for APSPDCL.

3. The prayer sought in the present Writ Petition is as under:

“In view of the facts and circumstances, it is prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction, particularly one in the nature of the Writ of Mandamus, declaring the action of the respondents in directing the Petitioner Unit to pay total amount of Rs.96,536/- towards Fuel Surcharge Adjustment for the period from October, 2013 to March, 2014 on the ground that the said amount is not pending in the Court even though the demand of Fuel Surcharge Adjustment amount for the earlier period from the month of December, 2010 to September, 2013 was stayed pursuant to the orders of this Hon’ble Court dated 9-01-2014 made in WPMP No.711 of 2014 in WP No. 645 of 2014 is arbitrary, unreasonable and accordingly set aside the impugned proceedings of the 5th respondent in Lr.No.AAO/ERO/R/NLR/JAO.II/NS/D.No.402-14, dated 26-4-2014 and consequently direct the respondents not to recover the alleged Fuel Surcharge Adjustment (FSA) amount of Rs.96,536/- on the LT Category connection of the Petitioner Unit No.1085 including the subsequent period till finalization of the impugned order and to pass such other and further orders as this

Hon'ble Court deems fit and proper in the circumstances of the case."

4. It transpires from the above extract of the prayer that the Respondents raised a claim of Rs.96,536/- towards Fuel Surcharge Adjustment for the period from October, 2013 to March, 2014.

5. Ms. Jyothi Ratna A, learned Junior Standing Counsel for APSPDCL, submits that the claim of the Writ Petitioner is covered by the Order of the Hon'ble Supreme Court in Civil Appeal No.5542 of 2016 and batch dated 05.07.2016. She would also submit that the claim of the Writ Petitioner herein squarely falls within the teeth of the Order of the Hon'ble Supreme Court mentioned above.

6. It transpires from the Docket that this Writ Petition was listed on two earlier occasions (29.04.2014 & 15.05.2014). *Vide* Order dated 15.05.2014 in W.P.M.P.No.17777 of 2014, this Hon'ble Court had stayed the demand made by the Respondents on the condition that the Writ Petitioner pays sum of Rs.48,000/- to Respondent No.5 within two weeks from 15.05.2014.

7. Ms. Jyothi Ratna A, learned Junior Standing Counsel would submit that insofar as the first quarter for the Financial Year 2010-2011, the matter is subjudice before the Hon'ble Supreme Court. The learned Junior Standing Counsel would submit that in respect of other periods, the Judgment of the Hon'ble Supreme Court in ***Sai Bhaskar Iron Ltd., vs. A.P. Electricity Regulatory Commission & Ors: (2016) 9 SCC 134*** governs the field and therefore, for such of the periods, the Order of the Hon'ble Supreme Court has already been implemented.

8. Learned Single Judge of this Court in W.P.No.34450 of 2012 and batch had taken note of the pendency of the Special Leave Petitions before the Hon'ble Supreme Court insofar as the first quarter of the financial year 2010-2011 is concerned and had issued the following directions:

(1) The orders dated 20.09.2012 of the Commission pertaining to the FSA for the 1st quarter of the financial year 2010-2011 shall not be enforced on any of the consumers of the four DISCOMs, till disposal of the SLPs pending before the Supreme Court.

(2) The enforceability or otherwise of the orders of the commissions for the 1st quarter of the financial year 2010-2011 shall depend on the result of the SLPs.

(3) In the event of the Supreme Court confirms the judgment of the Division Bench dated 20.09.2012, the FSA for the 1st quarter of the financial year 2010-2011 will become unenforceable. In a converse situation, the petitioners shall be entitled to question the orders of the Commission in respect of both the financial years 2010-2011 and 2011-2012.

(4) If any of the DISCOMs have collected the FSA for the first quarter of the financial year 2010-2011 from any consumers, including the petitioners, they shall adjust the same in the future electricity bills immediately falling due. This adjustment shall also be subject to the outcome of the SLPs pending before the Supreme Court.”

9. Learned Counsel for both sides have no objection for the disposal of present Writ Petition basing on the above directions of the learned Single Judge in W.P.No.34450 of 2012 and batch dated 09.12.2024.

10. In this view of the matter, the present Writ Petition is disposed of in terms of the above extract in W.P.No.34450 of 2012 and batch dated 09.12.2024. No Order as to Costs.

11. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 02.12.2025

Vns