

APHC010619852012



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

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 40045 OF 2012

Between:

1. M/s.Solid Ply P. Ltd., Dakamarri Village, Bhimunipatnam (M), Visakhapatnam. Rep. By its Director, Ashish Garg, Service Connection No.VSP-476.

...Petitioner

AND

1. Andhra Pradesh Electricity Regulatory Commission, Singareni Bhavan, Red Hills, Hyderabad, represented by its Chairman.

2. Eastern Power Distribution Company of Andhra Pradesh Ltd, represented by its Managing Director, Sai Shakti, Opp Saraswati Park, Daba Gardens, Visakhapatnam 530 020.

3. The Superintendent Engineer Operation Circle, Eastern Power Distribution Company of Andhra Pradesh Ltd, Visakhapatnam, Visakhapatnam District.

4. The Senior Accounts Officer, Eastern Power Distribution Company of Andhra Pradesh Ltd, Visakhapatnam, Visakhapatnam District.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly in the nature of Mandamus declaring the action of the respondents in determining and approving fuel surcharge adjustments (FSA) for the financial year 2010-2011 and 2011-2012 and three quarters of 2012-13 pursuant to the orders of 1st respondent is illegal, arbitrary, contrary to the principles of natural

justice and provisions of A.P. Reforms Act, 1998 and Electricity Act, 2003 and consequently to pass an order to adjust the amounts collected towards fuel surcharge adjustments in future bills

IA NO: 1 OF 2012(WPMP 50834 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent distribution licensee(s) not to demand or collect any amounts towards fuel surcharge adjustment for the year 2010-2011 or 2011-2012 pursuant to any of the impugned orders of the 1st Respondent Commission dated 20.09.2012 or otherwise, and not to disconnect electricity supply or Take any coercive step whatsoever for nonpayment of any such amounts or for adjustment in subsequent bills of payments of such amounts;

IA NO: 1 OF 2013(WVMP 900 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders passed on dated 28-12-2012 in W.P.M.P. No. 50834 of 2012 in W.P.No. 40045 of 2012 and pass

IA NO: 1 OF 2014(WPMP 46683 OF 2014)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

Counsel for the Petitioner: SRINIVASULA REDDY KOMMASANI

Counsel for the Respondents: V.V.Satish (SC FOR APEPDCL)

Counsel for the Respondents: METTA CHENDRA SEKHAR RAO

The Court made the following order:

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 40045 of 2012

ORDER:-

The present Writ Petition has been filed under Article 226 of the Constitution of India seeking the following main prayer:

“...to issue an appropriate Writ, Order or Direction, more particularly in the nature of Mandamus declaring the action of the respondents in determining and approving fuel surcharge adjustments (FSA) for the financial year 2010-2011 and 2011-2012 and three quarters of 2012-13 pursuant to the orders of 1st respondent is illegal, arbitrary, contrary to the principles of natural justice and provisions of A.P. Reforms Act, 1998 and Electricity Act, 2003 and consequently to pass an order to adjust the amounts collected towards fuel surcharge adjustments in future bills and to pass...”

2. Heard the learned counsel for the writ petitioner as well as Ms. Iswarya Chowdary, counsel representing Sri V.V. Satish, learned Standing Counsel for APEPDCL.

3. The counsel for the petitioner as well as learned Standing Counsel for APEPDCL jointly placed reliance on the Common order passed by the learned Single Judge of this Court in W.P.No.34450 of 2012 and batch dated 09.12.2024. Learned Counsels would submit that insofar as the first quarter for the Financial Year 2010-2011, the matter is subjudice before the Hon'ble Supreme Court. Learned 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.

4. As such in the identical facts and circumstances, the Coordinate Bench of this Hon'ble Court on 09.04.2024 disposed of batch of cases. In view of the above undisputed facts as well as law, this Court is constrained to dispose of the present writ petition which is identical in nature in the very same terms.

5. 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.”

6. Learned counsel for both parties 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 of this Court.

7. 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.

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

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 30.04.2026
Rns/GVK

Note: Registry is hereby directed to enclose a copy of orders dated 09.12.2024 made in W.P.No.34450 of 2012 and batch along with the copy of instant orders.

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 40045 of 2012

30.04.2026

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Rns/GVK