

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2023
[Arising from SLP (C) No(s). 14047-14066/2019]

THE SOUTHERN POWER DISTRIBUTION
COMPANY OF TELANGANA STATE

APPELLANT(S)

VERSUS

M/S AGARWAL FOUNDARIES
PVT LTD. & ANR. ETC.

RESPONDENT(S)

WITH

CIVIL APPEAL NOS. OF 2023
(Arising from SLP(C) Nos. 14120-14127/2019)

CIVIL APPEAL NOS. OF 2023
(Arising from SLP(C) Nos. 23542-23549/2019)

O R D E R

Leave granted.

2. The issue relates to Cross Subsidy Surcharge (CSS) and other charges with respect to HT-1 Industrial Category of 11 KV and 33 KV for the Tarriff/Financial Year 2015-2016. The Telangana State Electricity Regulatory Commission (TSERC) vide order dated 27th March, 2015 determined the said subsidy. The respondents herein, aggrieved by the same,

approached the High Court. The learned Single Judge by a detailed order dated 29th October, 2018 allowed the petitions.

3. The finding recorded by the learned Single Judge was that the Commission on the proposal given by the licensee and at the rate mentioned by the licensee without issuing any public notice and without affording any opportunity to the respondents herein had increased the same. In our opinion, the appropriate course for the learned Single Judge in that situation ought to have been to remit the matter(s) back to the Commission. However, learned Single Judge allowed the petition and determined the rate of CSS. The said detailed order was followed by learned Single Judge in other petitions and the same were also allowed in the same terms vide subsequent order dated 19th November, 2018.

4. The orders of the learned Single Judge were challenged by way of intra-court appeals by the present appellant which appeals have been dismissed by order dated 11th March, 2015, giving rise to the present appeals.

5. Having considered the aforesaid facts and

also the findings of the learned Single Judge that no opportunity had been given and no public notice had been issued while increasing the CSS, we find that the view taken by the learned Single Judge as affirmed by the Division Bench is not correct. The High Court should not have taken upon itself to determine the tariff of CSS, rather it should have been left to the expert body which is the Commission. Further, there was a remedy of appeal available to the respondents to challenge the order of the Commission, if so aggrieved, on admissible grounds.

6. Accordingly, we allow these appeals, set aside the impugned order(s) passed by the High Court as also the Commission and remit the matters back to the Regulatory Commission to decide the issue of CSS afresh after following due procedure prescribed under law and affording due opportunities to the parties concerned. Ordered accordingly.

7. As the matter relates to the year 2015, we direct the Commission to take a fresh decision, as directed above, within a period of three months from the date of a certified copy being filed before it by either of the parties.

8. It goes without saying that the parties shall extend full cooperation in the hearing of the matters.

9. It is made clear that any observation made in the impugned order(s) by the High Court would not come in the way of the Commission in taking a fresh decision.

10. With the above observations, the appeals are allowed.

11 Pending applications, including application(s) for deletion of parties, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(RAJESH BINDAL)

NEW DELHI;
NOVEMBER 07, 2023

ITEM NO.37

COURT NO.11

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 14047-14066/2019

(Arising out of impugned common final judgment and order dated 11-03-2019 in WA No. 1672/2018, WA No. 1683/2018, WA No. 23/2019 WA No. 24/2019, WA No. 25/2019, WA No. 26/2019, WA No. 27/2019, WA No. 28/2019, WA No. 29/2019, WA No. 30/2019, WA No. 31/2019, WA No. 32/2019, WA No. 47/2019, WA No. 48/2019, WA No. 49/2019, WA No. 50/2019, WA No. 51/2019, WA No. 52/2019, WA No. 53/2019 and WA No. 54/2019 passed by the High Court for the State of Telangana at Hyderabad)

THE SOUTHERN POWER DISTRIBUTION COMPANY OF
TELANGANA STATE

Petitioner(s)

VERSUS

M/S AGARWAL FOUNDARIES PVT LTD & ANR. ETC.

Respondent(s)

(IA No. 91570/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 92718/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 14120-14127/2019 (XII-A)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 92255/2019

IA No. 92255/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 23542-23549/2019 (XII-A)

(FOR ADDITION / DELETION / MODIFICATION PARTIES ON IA 163060/2019 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 193297/2019

IA No. 163060/2019 - ADDITION / DELETION / MODIFICATION PARTIES

IA No. 193297/2019 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 07-11-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH

HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. CS Vaidyanathan, Sr. Adv.
Mr. D. Abhinav Rao, AOR
Mr. Rakesh K. Sharma, AOR

Mr. Rahul Jajoo, Adv.
Ms. Prerna Robin, Adv.
Mr. Devadipta Das, Adv.

For Respondent(s) Mr. V. K. Shukla, Sr. Adv.
Mr. Challa Kodanda Ram, Sr. Adv.
Mr. Y. Raja Gopala Rao, AOR
Ms. Y. Vismai Rao, Adv.
Mr. Y. Ramesh, Adv.
Mr. Dhuli Gopi Krishna, Adv.
Mr. Akshay Singh, Adv.

Mr. Somanadri Goud Katam, AOR
Mr. Sirajuddin, Adv.

Mr. Sudhir Naagar, AOR
Mr. Roop Chaudhary, Adv.
Mr. Digvijay Chaudhary, Adv.
Mr. Piyush Agarwal, Adv.

Mr. Parnam Prabhakar, Adv.
Mr. Tarun Chauhan, Adv.
Mr. Shashwat Goel, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed
order.

Pending applications, including
application(s) for deletion of parties, shall
stand disposed of.

(SONIA BHASIN)
COURT MASTER (SH)

(RANJANA SHAILEY)
COURT MASTER (NSH)

[Signed Order is placed on the file]