



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

Dated: 19-10-2016

Present

Sri Justice G. Bhavani Prasad, Chairman

Dr. P. Raghu, Member

Sri P. Rama Mohan, Member

Review Petition No.3 of 2016

in

O.P.Nos.12 of 2008; 19 of 2009; 33 of 2009; 42 of 2009 & I.A. No. 4 of 2010; 57 of 2011; 70 of 2012; 71 of 2012; 72 of 2012; 79 of 2012; 85 of 2012; 8 of 2013 & I.A.No.1 of 2013; 9 of 2013 & I.A.No.2 of 2013; 12 of 2013; 23 of 2013; 24 of 2013 & I.A.No.14 of 2013; OP (SR) No.25 of 2013 & IA (SR) No.80 of 2013; 51 of 2013; 58 of 2013 & I.A.No.31 of 2013; 60 of 2013 & I.A.No.37 of 2013; 1 of 2014; 2 of 2014; 10 of 2014; 12 of 2014 & I.A.No.3 of 2014; 13 of 2014; 14 of 2014; 15 of 2014; 20 of 2014; 34 of 2014; 37 of 2014 & I.A.No.9 of 2014; 38 of 2014; 40 of 2014; 46 of 2014; 56 of 2014 and R.P.No.1 of 2014 in O.P. No. 44 of 2013

Between:

1. Northern Power Distribution Company of
Telangana Limited Rep. by its Chairman &
Managing Director at 2-5-31/2, Vidyuth Bhavan
Nallagunta, Hanmakonda, Warangal District
2. Southern Power Distribution Company of
Telangana Limited, Rep. by its Chairman & Managing
Director, At 6-1-50, Mint Compound, Hyderabad ... Review Petitioners/
Respondents in
O.P.No.72 of 2012

And

O.P. No. 12 of 2008

Between:

GVK Industries Ltd ... Petitioner
And
Eastern Power Distribution Company of Andhra Pradesh Ltd & others
..... Respondents
Counsel for the Petitioner/s : Sri Vishrov Mukerjee
Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 19 of 2009

Between:

APTRANSCO & others ... Petitioners
And
GVK Industries Ltd ... Respondent
Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao
Counsel for the Respondent/s : Sri Vishrov Mukerjee

O.P. No. 33 of 2009

Between:

Lanco Kondapalli Power Ltd

... Petitioner

And

APPCC & others

.... Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao

O.P. No. 42 of 2009 & I.A. No. 4 of 2010

Between:

Lanco Kondapalli Power Ltd

... Petitioner

And

APPCC & 5 others

.... Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 57 of 2011

Between:

APTRANSCO

... Petitioner

And

Spectrum Power Generation Ltd

.... Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao

Counsel for the Respondent/s : Sri. Ch. Pushyam Kiran and Sri T. Uma Shankar

O.P. No. 70 of 2012

Between:

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

... Petitioners

And

GMR Vemagiri Power Generation Ltd

.... Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri S. Niranjan Reddy and Sri Kaustubh Mishra

O.P. No. 71 of 2012

Between:

GMR Vemagiri Power Generation Ltd

... Petitioner

And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

.... Respondents

Counsel for the Petitioner/s : Sri S. Niranjan Reddy and Sri Kaustubh Mishra

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 72 of 2012

Between:

GMR Vemagiri Power Generation Ltd

... Petitioner

And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

.... Respondents

Counsel for the Petitioner/s : Sri S. Niranjan Reddy and Sri Kaustubh Mishra

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 79 of 2012

Between:

Reliance Infrastructure Ltd

... Petitioner

And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

.... Respondents

Counsel for the Petitioner/s : Sri P. Vikram

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 85 of 2012

Between:

Lanco Kondapalli Power Ltd

... Petitioner

And

Andhra Pradesh Power Coordination Committee (APPCC) & others Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 8 of 2013 & I.A. No. 1 of 2013

Between:

GVK Gautami Power Ltd ... Petitioner
And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others Respondents

Counsel for the Petitioner/s : Sri Vishrov Mukerjee

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 9 of 2013 & I.A. No. 2 of 2013

Between:

GVK Industries Ltd ... Petitioner
And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others Respondents

Counsel for the Petitioner/s : Sri Vishrov Mukerjee

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 12 of 2013

Between:

GMR Vemagiri Power Generation Ltd ... Petitioner
And

Andhra Pradesh Power Coordination Committee (APPCC) & others
.... Respondents

Counsel for the Petitioner/s : Sri S. Niranjan Reddy and Sri Kaustubh Mishra

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 23 of 2013

Between:

GVK Industries Ltd ... Petitioner
And

Eastern Power Distribution Company of Andhra Pradesh Ltd (APEPDCL)
& others Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 24 of 2013 & I.A. No. 14 of 2013

Between:

GVK Industries Ltd

... Petitioner

And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

.... Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

OP (SR) No. 25 of 2013 & IA (SR) No.80 of 2013

Between:

RVK Energy Pvt. Ltd

... Petitioner

And

Andhra Pradesh Power Coordination Committee (APPCC) & others

.... Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 51 of 2013

Between:

Penna Cement Industries Ltd

... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

.... Respondents

Counsel for the Petitioner/s : Sri J. Satyanarayana

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 58 of 2013 & I.A. No. 31 of 2013

Between:

GMR Vemagiri Power Generation Ltd

... Petitioner

And

Andhra Pradesh Power Coordination Committee (APPCC) & others

.... Respondents

Counsel for the Petitioner/s : Sri S. Niranjan Reddy and Sri Kaustubh Mishra

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 60 of 2013 & I.A. No. 37 of 2013

Between:

Andhra Pradesh Power Coordination Committee (APPCC) & others ... Petitioners

And

Reliance Infrastructure Ltd Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri P. Vikram

O.P. No. 1 of 2014

Between:

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others ... Petitioners

And

GVK Gautami Power Ltd Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri Ch. Pushyam Kiran

O.P. No. 2 of 2014

Between:

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others ... Petitioners

And

GVK Industries Ltd Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri Ch. Pushyam Kiran

O.P. No. 10 of 2014

Between:

Spectrum Power Generation Ltd ... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 12 of 2014 & I.A. No. 3 of 2014

Between:

Reliance Infrastructure Ltd ... Petitioner
And

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

.... Respondents

Counsel for the Petitioner/s : Sri P. Vikram

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 13 of 2014

Between:

KSK Mahanadi Power Company Ltd ... Petitioner
And

Eastern Power Distribution Company of Andhra Pradesh Ltd (APEPDCL)
Southern Power Distribution Company of Andhra Pradesh Ltd (APSPDCL)

.... Respondents

Counsel for the Petitioner/s : Sri Anand K. Ganesan
Smt. Swapna Seshadri

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 14 of 2014

Between:

Central Power Distribution Company of Andhra Pradesh Ltd (now TSSPDCL)
& others

... Petitioners

And

KSK Mahanadi Power Company Ltd & others

.... Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri Anand K. Ganesan
Smt. Swapna Seshadri

O.P. No. 15 of 2014

Between:

EID Parry (India) Ltd ... Petitioner
And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

.... Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 20 of 2014

Between:

Silkroad Sugar Pvt. Ltd

... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & another

.... Respondents

Counsel for the Petitioner/s : Sri Challa Gunaranjan

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 34 of 2014

Between:

GVK Industries Ltd

... Petitioner

And

Eastern Power Distribution Company of Andhra Pradesh Ltd & others

.... Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 37 of 2014 & I.A. No. 9 of 2014

Between:

Spectrum Power Generation Ltd

... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

.... Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 38 of 2014

Between:

Spectrum Power Generation Ltd

... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

.... Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 40 of 2014

Between:

Bharath Aluminum Company Ltd

... Petitioner

And

PTC India Ltd & others

.... Respondents

Counsel for the Petitioner/s : Sri K. Gopal Choudary

Counsel for the Respondent/s : Sri Ravi Kishore and Sri G. Pramod Kumar
Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 46 of 2014

Between:

KSK Mahanadi Power Company Ltd

... Petitioner

And

Eastern Power Distribution Company of Andhra Pradesh Ltd (APEPDCL) & others

.... Respondents

Counsel for the Petitioner/s : Sri Anand K. Ganesan
Smt. Swapna Seshadri

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

O.P. No. 56 of 2014

Between:

Spectrum Power Generation Ltd

... Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

.... Respondents

Counsel for the Petitioner/s : Sri Ch. Pushyam Kiran

Counsel for the Respondent/s : Sri P. Shiva Rao
Sri Y. Rama Rao

R.P. No. 1 of 2014 in O.P. No. 44 of 2013

Between:

Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) & others

... Petitioners

And

Spectrum Power Generation Ltd

.... Respondent

Counsel for the Petitioner/s : Sri P. Shiva Rao
Sri Y. Rama Rao

Counsel for the Respondent/s : Sri Ch. Pushyam Kiran

The review petition has come up for hearing before the Commission on 19-10-2016 in the presence of Sri Y. Rama Rao, learned Standing Counsel for the two distribution companies of the State of Telangana (Review Petitioners/Respondents in O.P.No.72 of 2012) and Sri P. Shiva Rao, learned Standing Counsel for the two distribution companies of the State of Andhra Pradesh. After carefully considering the material available on record and after hearing the arguments of both the learned counsel present, the Commission passed the following:

ORDER

Heard Sri Y. Rama Rao, learned Standing Counsel for the two distribution companies of the State of Telangana and Sri P. Shiva Rao, learned Standing Counsel for the two distribution companies of the State of Andhra Pradesh.

2. In a batch of 34 matters, this Commission has answered the question of jurisdiction raised in consequence of the bifurcation of the State and formation of two separate State Electricity Regulatory Commissions for the successor States in succession to the joint regulatory body in existence after such formation by the enabling provision of the Twelfth Schedule of the Andhra Pradesh Reorganisation Act, 2014 (Central Act No.6 of 2014), by the orders dated 28-09-2016. Separate orders were delivered by the Member and Chairman constituting the quorum, coming to the same conclusion on the strength of the reasons separately expressed.

3. In the course of the order of the Hon'ble Member, it was stated in Para 11 of the said order that,---

"11. In response to the notice issued to two DISCOMS of the Telangana, TSSPDCL & TSNPDCL Sri Y. Ramarao, learned Standing Counsel appeared on their behalf and argued the case. He has stated that he has no specific submissions or arguments to make and the issues involved including the matter of jurisdiction may be decided on the merits of the case and as per law."

4. The present review petition narrating the sequence of events that led to the order dated 28-09-2016 brought to notice that the two Distribution Companies of Telangana State specifically contended that the Telangana State Electricity Regulatory Commission alone has jurisdiction over matters concerning them in the light of section 105 read with Twelfth Schedule clause C of the Andhra Pradesh Reorganisation Act, 2014 apart from the matter being subjudice before the Hon'ble High Court against the view taken by the Central Electricity Regulatory Commission that it acquired jurisdiction on a composite scheme deemed to have come into existence on bifurcation of the State. It was also specifically reiterated in this review petition, in tune with similar arguments advanced during the hearing in these matters, that this Commission has no jurisdiction over the matters in so far as they concern the rights and liabilities of the Distribution Companies of the Telangana State.

5. The learned Standing Counsel for the Distribution Companies of the Telangana State has brought to notice that the observation that he has stated that he has no specific submissions or arguments to make does not reflect the elaborate arguments submitted by him about the non-existence of any jurisdiction for this Commission and the existence of such jurisdiction for the Telangana State Electricity Regulatory Commission in respect of the issues and questions concerning the Distribution Companies of the Telangana State involved in these 34 petitions or even in any other matters pending before this Commission. Though Para 11 referred to the learned Standing Counsel arguing the case, the learned Standing Counsel submitted that an overall impression is likely to be gained that he just left it to this Commission to take a view on merits in accordance with law without putting forward any specific contentions which is not factually correct. Hence, he desired that the sentence in Para 11 in so far as it is likely to create a

mistaken impression or atleast an ambiguous situation, may be deleted to safeguard and uphold the professional dignity of the learned Standing Counsel for which he stood steadfast for more than 3 ½ decades.

6. Sri P. Shiva Rao, learned Standing Counsel for the two Distribution Companies of Andhra Pradesh State has not controverted this submission of the learned Standing Counsel for the Distribution Companies of the Telangana State that he never conceded the jurisdiction of this Commission and that he argued with full force about the Telangana State Electricity Regulatory Commission alone having jurisdiction over the Distribution Companies of the Telangana State irrespective of the cause of action or the subject matter being before or after the bifurcation. While he has hence no objection for any misleading impression created by the sentence in question being erased by deleting that sentence from the order which in no manner effects the merits and conclusions in the order.

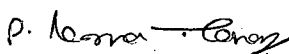
7. The very nature of the review petition being confined to the deletion of a particular sentence in Para 11, though a passing reference has been made in Para 5 of the review petition that the entire order is liable to be reviewed, makes it unnecessary to order any notice to all the remaining parties in the main petitions, as their rights and interests are in no manner effected or touched by any reference to the manner or content of the arguments of the learned Standing Counsel for the Distribution Companies of the Telangana State. In view of the embarrassing situation in which the learned Standing Counsel for the Distribution Companies of the Telangana State is claimed to have been placed due to the passing observation in Para 11 which has to be forthwith corrected in order to protect the professional dignity of the learned Standing Counsel, the review petition is being considered, without notice to the other parties, more so, as the Distribution

Companies of the Andhra Pradesh State are represented by their learned Standing Counsel in this hearing.

8. All the petitions were originally filed before the erstwhile Andhra Pradesh Electricity Regulatory Commission functioning as the State Commission for the undivided State in which all the four distribution companies were then located and the State Commission continued as a joint regulatory body till the formation of two State Commissions for the successor States, due to which sequence of events, the question of jurisdiction had arisen on the birth of the two State Electricity Regulatory Commissions separately. While the defence of all the four distribution companies is common in all these matters through common pleadings, issues of interpretation are now before the Hon'ble High Court in which proceedings, the submissions of the Distribution Companies of the Telangana State through their learned Standing Counsel have to be reflected truly and correctly. For that purpose, it is necessary and in the interests of justice, to delete the sentence in question, to avoid any misleading impression about the jurisdiction of this Commission being conceded on behalf of the Distribution Companies of the Telangana State by their learned Standing Counsel.

9. Therefore, the review petition is allowed and in para 11 of the order of the Hon'ble Member in the common order in the batch of 34 petitions dated 28-09-2016, the words "he has no specific submissions or arguments to make and" shall stand deleted and it shall be deemed that such expressions in the order never existed since inception. No costs.

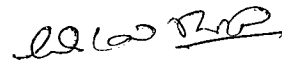
This order is corrected and signed on this the 19th day of October, 2016.



P. RAMA MOHAN
Member



Dr. P. RAGHU
Member



Justice G. BHAVANI PRASAD
Chairman