

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**WRIT APPEAL Nos.1683 & 1672 OF 2018; 23, 24, 25, 26, 27, 28, 29, 30,
31, 32, 47, 48, 49, 50, 51, 52, 53 and 54 of 2019**

COMMON JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned Advocate General appearing for the appellants in these appeals instituted by the Southern Power Distribution Company of Telangana State (for short 'the DISCOM') and its Officers. We have also heard the learned counsel for the Telangana State Electricity Regulatory Commission (for short 'the Commission') and the learned counsel for the petitioners in the Writ Petitions, from which these appeals arise.

2. The issue of considering the proposal of DISCOM regarding cross subsidy surcharge rates for three different categories of open access consumers came up for consideration before the Commission. DISCOM had proposed the cross subsidy surcharge for the three different categories of consumers, namely, 11 kV, 33 kV and 132 kV, based on the National Tariff Policy. The Commission issued its decision, *inter alia*, fixing the cross subsidy surcharge rates higher than what was proposed by DISCOM. This fell for judicial review before the learned Single Judge at the instance of the consumers who belong to the three categories.

3. Keeping aside issues relating to the power of the Commission to regulate the tariff, as also its expertise to take decision on tariff regulation as an expert body, the learned Single Judge found that the Commission has fixed the rate higher than as proposed and sought for by the DISCOM as cross subsidy surcharge for the financial year 2015-16. The learned Single Judge set aside the decision of the Commission on the specific finding, that it did not give any reason as to why the proposal of DISCOM was not accepted as such. We may pause here to notice that the consumers had not objected to the DISCOM's proposals. The learned Single Judge held that the impugned order of the Commission does not reflect any reason for pegging the rate at a higher level than what was suggested to by the DISCOM. It is also found that when DISCOM had put forward a particular rate as its proposal, that ought not to have been enhanced adversely to the interests of the consumers before giving them a pre-decisional opportunity of hearing. Fundamentally, the learned Single Judge stood assured of the fact that the Commission had not given any reason for enhancing the rate from that which was sought for by DISCOM. On this fundamental premise, the learned Single Judge has, through the different orders impugned in the Writ Petitions, trimmed down the rate of cross subsidy surcharge for the financial year 2015-16 to be in terms of that which was sought for by DISCOM. The learned

Single Judge did not, quite rightly, embark on any independent decision making process on the rate to be fixed; but, exercised the judicial authority to arrive at the conclusion on the basis of lack of reasons for the Commission to have fixed the rate of cross subsidy surcharge higher than that which was proposed by DISCOM; to which proposal, the consumers had no objection. In this view of the matter, we do not see that there is any illegality or improper exercise of jurisdiction by the learned Single Judge in having passed the impugned orders. There is no ground to interfere with that decision of the learned Single Judge through these intra court appeals. These appeals, therefore, fail.

4. In the result, these Writ Appeals are dismissed.
5. Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

Date: 11.03.2019

Kvni/pln