HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NOs: 690 and 693 of 2025

WRIT APPEAL NO: 690 OF 2025

Writ Appeal under clause 15 of the Letters Patent appeal preferred against the order dated 30/06/2025, in I.A.No.1 of 2025 in W.P No. 17617 of 2025 on the file of the High Court.

Between:

M/s. Srinivasa Resorts Ltd., Regd. Off. 103, Srinivasa Towers, 6-3-1187, Begumpet, Hyderabad, Telangana - 500 016. Rep. by its Authorized Signatory, Mr. Abhishekh Menon S/o. Ramchandran Menon. HT Service Connection No.BJH-588

...APPELLANT

AND

1. Telangana State Southern Power Distribution Company Limited, Regd. Off. 6-1-150, Mint Compound, Secretariat Road, Hyderabad, Telangana-500063. Rep. by its Chairman and Managing Director.
2. The Superintending Engineer, Operation Circle, Banjara Hills, GTS Colony, Erragadda, TGSPDCL, Hyderabad, Telangana.

...RESPONDENTS

IA NO: 1 OF 2025

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 a) Grant an interim direction restraining the Respondents from taking any coercive steps, including disconnection of power supply to the Appellant's unit, pending disposal of the Writ Appeal.

Counsel for the Appellant: SRI B.MAYUR REDDY, Sr. COUNSEL, REP. FOR SRI DEEPAK CHOWDARY

Counsel for the Respondents: SRI N.SREEDHAR REDDY, SC FOR TGSPDCL

WRIT APPEAL NO: 693 OF 2025

Writ Appeal under clause 15 of the Letters Patent Preferred against the Order Dated 30/06/2025, in I.A.No.1 of 2025 in W.P. No. 17598 of 2025 on the file of the High Court.

Between:

M/s. Srinivasa Resorts Ltd., Regd. Off. 103, Srinivasa Towers, 6-3-1187, Begumpet, Hyderabad, Telangana - 500 016. Rep. by its Authorized Signatory, Mr. Abhishekh Menon S/o. Ramchandran Menon. HT Service Connection No.BJH-588

...APPELLANT

AND

1. Telangana State Southern Power Distribution Company Limited, Regd. Off. 6-1-150, Mint Compound, Secretariat Road, Hyderabad, Telangana-500063. Rep. by its Chairman and Managing Director.
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Counsel for the Appellant: SRI B.MAYUR REDDY, Sr. COUNSEL, REP. FOR SRI DEEPAK CHOWDARY

Counsel for the Respondents: SRI N.SREEDHAR REDDY, SC FOR TGSPDCL

The Court delivered the following: COMMON JUDGMENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL Nos.690 and 693 of 2025

COMMON JUDGMENT: *(Per Hon'ble The Acting Chief Justice)*

Regard being had to the similitude of the questions involved, on the joint request, these writ appeals were heard on admission and interim relief.

2. Admittedly, in these writ appeals the challenge is mounted to a common interlocutory order dated 30.06.2025 passed by the learned Single Judge in batch of matters, whereby a partial interim protection was granted to the appellant.

3. Sri B. Mayur Reddy, learned Senior Counsel appearing for Sri Deepak Chowdary, learned counsel for the appellant submits that in the writ petitions, the petitioner had called in question the legality, validity and propriety of the order dated 18.06.2025, whereby the respondents have failed to follow the binding Division Bench decision of this Court in W.P.No.14918 of 2006 and batch decided on 19.12.2023.

4. The bone of contention of the learned Senior Counsel for the appellant is that in the said batch namely in W.P.No.14918 of

2006, twin aspects were subject matter of challenge. The first challenge was to the **Electricity (Removal of Difficulties) Second Order, 2005** ('Order of 2005') and the second challenge was to the demands raised from the consumers of the non-conventional energy generating companies on account of cross-subsidy charges. It is canvassed that admittedly the challenge to Order of 2005 failed as per the judgment of the Division Bench, but challenge to the demand notices succeeded and accordingly, all the demand notices were quashed.

5. It is strenuously contended that a bare perusal of parties names in those writ petitions will show that in number of petitions M/s.Ind Bharath Energies Limited ('Generator') was the petitioner No.2. Thus, Generator succeeded in those petitions in relation to the demands and the present writ appellant is the consumer who is getting the electricity from the said Generator.

6. When the present appellant suffered the order dated 18.06.2025, they filed the instant writ petitions and assailed the said order by contending that since appellant is consumer of the Generator, who succeeded in W.P.No.14918 of 2006 and batch, impliedly it should be presumed that there exists a 'sanction'/'authorization' in favour of the Generator pursuant to

which the petitioner were getting the electricity. Thus, the learned Single Judge has erred in not following the binding Division Bench judgment of this Court.

7. Sri B. Mayur Reddy, learned Senior Counsel by placing reliance on the judgment of the Supreme Court in **Shyam Sel and Power Limited v. Shyam Steel Industries Limited**[1] contended that no doubt the scope of interference in an *intra*-Court appeal against the interlocutory relief is limited, as per the said judgment the impugned order falls within the ambit of 'Intermediary' or 'Interlocutory judgment'. Hence, the writ appeal is maintainable. To elaborate, he submits that in the impugned order dated 18.06.2025 the respondents demanded six documents from the appellant. The appellant could not furnish the following document i.e., document No.4:

> "The Copy of Sanction/Authorization granted by the State Government under Section 43 A(1)(C) of the Electricity (Supply) Act, 1948 for claiming of exemption of Cross Subsidy Surcharge under Removal of Difficulties (Second) Order 2005."

8. To justify this non-supply, learned Senior Counsel submits that the appellant is not privy to the said document. The document must be available with the State or the Generator and

[1] MANU/SC/0317/2020

therefore, the petitioner cannot be deprived from the benefit of similar order passed by the Division Bench.

9. *Per contra,* Sri N. Sreedhar Reddy, learned Standing Counsel for TGSPDCL, for respondents, supported the impugned order by contending that the order is interlocutory in nature and does not have any final impact on the appellant. If the appellant ultimately succeed in the writ petitions the amount, which was directed to be deposited by impugned order can be refunded back. The learned Single Judge in the impugned order has not given any finding which is final in nature, instead, the learned Single Judge stated that the matter needs a lengthy hearing. Further, the counter is yet to be filed by the respondents. Thus, the writ appeals are not maintainable.

10. Learned Standing Counsel for the respondents placed heavy reliance on the Power Purchase Agreement, dated 16.11.2000, in which the appellant is a party, and urged that this agreement was for a period of five years from November, 2000. The Division Bench of this Court in W.P.No.14908 of 2006 and batch dealt with the matter which pertains to the period of 2005 onwards. There is no material on record to show that the 'agreement/consent' as per Order of 2005, was

prevailing in favour of the generator or the appellant beyond 2005. Heavy reliance is placed on Clause (2) of the Order of 2005, which reads thus:

> **"2. Exemption from payment of surcharge on the sale or supply of electricity**.-No surcharge would be required to be paid, in terms of sub-section (2) of section 42 of the Act on the electricity being sold by the generating companies with **consent** of the competent government under clause (c) of sub-section (1) of section 43 A of the Electricity Act, 1948 (now repealed by the Act), and on the electricity being supplied by the distribution licensee on the **authorization** by the State Government under section 27 of the Indian Electricity Act, 1910 (now repealed by the Act), till the current validity of such consent or authorisations."
>
> (Emphasis Supplied)

11. Lastly, it is submitted that there are batch of writ petitions wherein similar conditional interim protection was granted by the learned Single Judge and except the present appellant, none of the petitioners therein have challenged the similar order.

12. In rejoinder submissions, learned Senior Counsel for the appellant placed heavy reliance on various agreements to show that it should be presumed that there exists a 'consent' or 'sanction' in favour of the Generator from whom the appellant had purchased. 'Wheeling agreement' dated 04.01.1999 was referred to show that the name of the appellant – 'Srinivasa Resorts Ltd., Begumpet, Hyderabad', finds place at serial No.5.

Thus, there is no manner of doubt that there existed a sanction/consent/authorization in favour of the Generator, otherwise there was no occasion for the Division Bench of this Court in partly allowing W.P.No.14918 of 2006.

13. The parties have confined their argument to the extent indicated above.

14. Admittedly, the writ petitions are pending before the learned Single Judge and these writ appeals are directed against the common interlocutory order dated 30.06.2005. The relevant portion of the order of the learned Single Judge reads thus:

> " Further, on perusal of the record, it is revealed that in W.P.Nos. 14918 of 2006 & batch, the case of the petitioners therein was that the impugned demands raised therein for cross subsidy surcharge were in violation of provisions of Electricity (Removal of Difficulties) Second Order, 2005, whereas in the present case, the main grievance of the petitioners herein is against the action of the respondents in insisting the petitioners to produce certain documents for availing the benefit of exemption from payment of cross subsidy charges. In that view of the matter, ***prima facie***, this Court is of the view that the *lis* raised in the present writ petitions is not covered by the adjudication of the Division Bench in its order dated 19.12.2023 passed in W.P.Nos. 14918 of 2006 & batch.
>
> As regards the other contentions of the petitioners as well, at this stage of adjudication, this Court is not inclined to accept the same, particularly, even before a counter affidavit is filed by the respondents.
>
> That apart, while dealing with similar matters, this Court expressed the opinion that when the petitioners are claiming exemption, it is their primary duty to produce all

relevant documents before the authorities and they cannot shirk off their duty simply stating that the applications filed under the RTI Act seeking to provide copies of relevant documents, are pending before the authorities.

Insofar as the judgment relied by the learned senior counsel is concerned, ***prima facie*, this Court is of the view that the said judgment is distinguishable on facts and needs an elaborate consideration as regards its applicability, at this stage of adjudication, to the present case, for which a detailed counter affidavit is required from the respondents.**

In view of the above, this Court does not find any ground to take a different view than the one expressed by this Court in W.P.Nos. 16769 of 16785 of 2025 vide order dated 23.06.2025.

Hence there shall be an interim direction, as prayed for, subject to payment of 50% of the amounts demanded under the impugned demand notices within a period of one week from today. Further, it is also made clear that the payments made by the petitioners, in pursuance to the present impugned orders, are subject to the outcome of the writ petitions and the respondents shall not claim any equities."

(Emphasis Supplied)

15. The learned Single Judge considered the order passed in W.P.No.14918 of 2006 and batch and opined that in the present case, the main grievance of the petitioners in the writ petitions is that the respondents are insisting them to produce the relevant documents to show that they are entitled to the benefit of exemption from payment of cross subsidy charges. *Prima facie*, the learned Single Judge opined that in the absence of the

said documents, the matter is not covered by the order of the Division Bench in W.P.No.14918 of 2006 and batch.

16. This is trite that in *intra* Court appeal, interference can be made against interlocutory order only when orders are falling under certain categories. The routine orders, which are passed to facilitate the progress of the case till passing of the final judgment or orders which may cause inconvenience and prejudice but do not finally determine the rights and obligations, cannot be called as 'judgment'. This Court considered this aspect in great detail in W.A.No.82 of 2025 and batch, dated 18.02.2025, and considered the judgment of **Shyam Sel and Power Limited** (supra) as well on which reliance is placed by the learned Senior Counsel for the appellant. This Court in the said judgment, opined as under:

> "6. A careful reading of impugned order shows that the Writ Petitions are still pending and interim order granted by learned single Judge was not vacated and applications filed for vacate stay were dismissed. In this backdrop, it is to be seen whether these Writ Appeals can be entertained.
>
> 7. In **The University of Hyderabad, rep. by its Registrar, Central University Campus (P.O), Gachibowli, Hyderabad v. Sadik Hussain and Others** (2013 SCC OnLine AP 342), a Division Bench of this Court considered Clause 15 of the Letters Patent and opined that it provides an appeal from a 'judgment' of single Judge in exercise of original jurisdiction to a Division Bench. The previous judgment of a Division Bench in **Shah Babulal Khimji v. Jayaben D.Kania** (1981 AIR 1786) was considered and it

was held that *'orders falling under categories (iv) and (v) are not 'judgments' for the purpose of filing appeals provided under the Letter Patent'*. Categories (iv) and (v) read thus:

> "(iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.
>
> (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties."

Lastly, the Division Bench recorded as under:

> " At the cost of the repetition, it is to be noticed that **the learned Single Judge has not decided the rights and obligations of the parties and only passed interlocutory orders and hence in our considered view the same does not satisfy the trappings of the judgments as defined under Clause 15 of the Letters Patent and it will be appropriate for the appellant to file vacate petition.** Accordingly, the writ appeal is disposed of with the said observation."
>
> (Emphasis Supplied)

8. In **Midnapore Peoples' Coop. Bank Ltd.** (supra), on which heavy reliance is placed, the Supreme Court held as under:

> "**15.** Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:
>
> (*i*) Orders which finally decide a question or issue in controversy in the main case.
>
> (*ii*) Orders which finally decide an issue which materially and directly affects the final decision in the main case.
>
> (*iii*) Orders which finally decide a collateral issue or question which is not the subject-matter of the main case.
>
> (*iv*) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

> (*v*) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.
>
> **16.** The term "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2(9) CPC and orders enumerated in Order 43 Rule 1 CPC, **but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties.** Interlocutory orders which fall under categories (*i*) to (*iii*) above, are, therefore, "judgments" for the purpose of filing appeals under the Letters Patent. **On the other hand**, orders falling under categories (*iv*) and (*v*) are not "judgments" for the purpose of filing appeals provided under the Letters Patent."
>
> (Emphasis Supplied)"

17. If the impugned order of the learned Single Judge is tested on the anvil of principles laid down in the aforesaid case, it will be clear that the impugned order, by no stretch of imagination, can be termed as 'judgment' or 'intermediary' or 'interlocutory judgment'. The impugned order shows that **i)** the learned Single Judge has *prima facie* expressed his view which does not deal with the rights and liabilities of the parties finally; **ii)** counter is yet to be filed before the learned Single Judge and the matter deserves elaborate hearing; **iii)** no issue which materially or substantially affects the final decision of the writ petition is decided; and **iv)** it does not have any impact on any collateral issue or question which was not subject matter of

main case. Since the impugned order is not pregnant with any final finding which can have any thread relation with the rights and liabilities of the parties, this Court is unable to persuade itself with the line of argument of the learned Senior Counsel for the appellant.

18. The matter may be viewed from another angle. If ultimately the writ petitions are allowed, the appellant will get back the 50% of the amount which is directed to be deposited by the learned Single Judge by passing the impugned interlocutory order.

19. The learned Single Judge, in our opinion, at this stage has taken a *prima facie* plausible view and not followed the order of the Division Bench mechanically in the absence of showing the relevant documents to establish that demand raised in these matters after 2005 relating to non-conventional energy is on account of cross subsidy charges and is admittedly made in violation of the Order of 2005.

20. For these cumulative reasons, we decline interference in these writ appeals filed against the common interlocutory order. Admission is declined and the writ appeals are **dismissed**. No

order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

SD/- R.KARTIKEYAN
JOINT REGISTRAR

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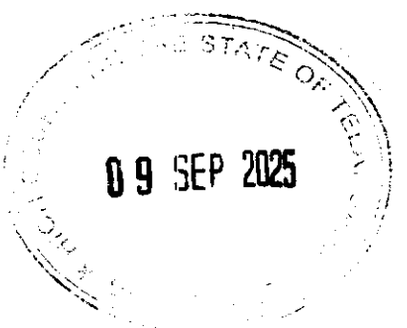
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BSR

TKS

HIGH COURT

DATED:08/07/2025



COMMON JUDGMENT

WA.Nos.690 and 693 of 2025

DISMISSING BOTH THE WRIT APPEALS,

WITHOUT COSTS

25/8/25