



HC-KAR

NC: 2026:KHC:25466
WP No. 43712 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO. 43712 OF 2018 (GM-KEB)

BETWEEN:

M/s ANUSHKA REALTY INC.,
A COMPANY INCORPORATED UNDER
THE COMAPNIES ACT 1956,
HAVING ITS REGISTERED ADDRESS AT
NO.102, RAJ RESIDENCY -1, MAHAVIR NAGAR,
DHANUKARWADI, KANDIVALI WEST,
MAHARASHTRA - 400 067.

REP BY ITS GENERAL POWER OF ATTORNEY,
M/S PURAVANKARA LIMTIED
(FORMERLY PURAVANKARA PROJECTS LTD.,)
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT 1956,
HAVING ITS REGISTERED OFFICE AT 130/1
ULSOOR ROAD, BANGALORE - 560 043
REP BY ITS AUTHORIZED SIGNATORY
MR PRAVEEN KUMAR B.

...PETITIONER

[BY SRI JOSEPH ANTHONY, ADVOCATE]

AND:

- 1 . STATE OF KARNATAKA
ENERGY DEPARTMENT,
VIKASA SOUDHA,
BENGALURU - 560 010,
REP BY ITS CHIEF SECRETARY.





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- 2 . KARNATAKA ELECTRICITY
REGULATORY COMMISSION,
37, M G ROAD,
YELLAPPA GARDEN,
YELLAPPA CHETTY LAYOUT,
ULSOOR, BENGALURU - 560 001,
REP BY ITS CHAIRMAN.
- 3 . KARNATAKA POWER TRANSMISSION
CORPORATION LIMITED,
KAVERI BHAVAN, KG ROAD,
BENGALURU - 560 009,
REP BY ITS CHAIRMAN.
- 4 . BANGALORE ELECTRICITY
SUPPLY COMPANY LIMITED,
KR CIRCLE,
BANGALORE - 560 001,
REP BY ITS MANAGING DIRECTOR.

...RESPONDENTS

[BY SRI MILIND DANGE, AGA FOR R1;
SRI BN PRAKASH, ADVOCATE FOR R2;
SRI S. SRIRANGA, SR. COUNSEL FOR
SMT.SUMANA NAGANAND, ADVOCATE FOR R3 & R4]

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ORDER DATED 27.06.2018 ISSUED BY R-3 (ANNX-A), QUASH THE INTIMATION LETTER DATED 04.08.2018 CONVEYED TO THE PETITIONER BY R-3 (ANNX-B), DIRECT R-3 TO PERMIT THE PETITIONER TO RESUME THE SELF - EXECUTION WORK, UPON RECEIPT OF SUPERVISION CHARGES OF RS.15,00,000/- AS PRESCRIBED UNDER KARNATAKA ELECTRICITY REGULATORY COMMISSION (ELECTRIC SUPPLY AND DISTRIBUTION) CODE, 2004.



THIS PETITION IS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 21.02.2026, THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CAV ORDER

Challenging order no.KPTCL/B19/345/85-86 dated 27.06.2018 issued by respondent no.3 ('**KPTCL**'), prescribing slab-wise supervision charges for self-execution works at Annexure-A; intimation dated 04.08.2018 demanding supervision charges of Rs.1,02,11,000/- towards electrical infrastructure works undertaken at Annexure-B; for direction to permit petitioner to carry out electrical works under self-execution on payment of supervision charges of Rs.15,00,000/- in accordance with regulations framed by Karnataka Electricity Regulatory Commission ('**KERC**') etc., this writ petition is filed.

2. Sri Joseph Anthony learned counsel for petitioner submitted, petitioner was developing a multi-storied residential project at Kyalasanahalli village, KR Puram Hobli, Bengaluru East Taluk ('**Project**'), which was subject to statutory



compliances including payment of supervision charges. And for project petitioner sought power supply of 8459 KW, which was approved by respondent no.4 (**BESCOM**) as per Annexure-D, subject to conditions including payment of supervision charges at 10% of estimated cost of Rs.4,35,82,608/-, but not exceeding Rs.15,00,000/-. While petitioner was arranging for same, KPTCL arbitrarily issued Annexure-B demanding Rs.1,20,49,000/- as supervision charges, allegedly based on order dated 27.06.2018 by Deputy General Manager of KPTCL on ground that supervision charges under Karnataka Electricity Regulatory Commission (Electric Supply and Distribution) Code, 2005 (**Code**) had not been revised since 2005.

3. It was submitted, Section 2 (67) read with Section 2 (73) of the Electricity Act, 2003 (**'Act'**) defined State Transmission Utility and Transmission Licensee and KPTCL was performing said functions. It was submitted, Sections 39 to 41 of Act limited powers/functions of KPTCL to planning, coordination, transmission of electricity and allied operational responsibilities etc. which did not include fixing or revising supervision charges. It was submitted as per existing regulatory



framework, supervision charges for self-execution works were governed by Code, which prescribed it at 10% of estimated cost of work, but not exceeding Rs.15,00,000/-. And only KERC could alter it.

4. And said position was acknowledged by KPTCL itself in Annexure-R1 - letter dated 30.04.2018, wherein it sought approval of KERC for revision of supervision charges for self-execution works from existing 10% upto Rs.15,00,000/-, to levy of 15% as supervision charges. This demonstrated KPTCL lacked statutory competence to revise charges on its own. In any case, in reply dated 13.06.2018 (Annexure-R2), instead of approving revision, KERC stated that KPTCL had not furnished relevant statutory rules or regulations under which approval was sought and indicated KPTCL may take a suitable decision based on rules or regulations framed in its internal manuals. Observation permitting KPTCL to "take a suitable decision" could not validate revision by KPTCL.

5. As per scheme of Act (Section 181), regulation-making powers were conferred on KERC alone and not by KPTCL - a State Transmission Utility. It was submitted, past



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practices consistently demonstrate that revision of supervision charges were only in pursuance of formal orders by KERC and sought to rely on subsequent order dated 02.02.2024 issued by KERC, whereby supervision charges were reduced to 5% of estimated cost of self-execution works subject to ceiling of Rs.15,00,000/-. This reinforced position that lawful revision of such charges can only emanate from KERC. Alternatively, if KERC was to act on recommendation of KPTCL, revision could only be by KERC issuing formal order, regulation or notification. And observation to take suitable action could not be read as authorization.

6. It was further submitted after rationalization, Energy Department and Public Works Department evolved Common Schedule of Rates applicable across government departments, recommending supervision charges for self-execution works be limited to 5% of estimated cost and nodal agencies of KPTCL participated in deliberations of technical working group. In total disregard, KPTCL opted for unilateral revision as per Annexure-A dated 27.06.2018. It was submitted, prescribing slab-wise supervision charges was



without statutory backing or determination by KERC and KPTCL was seeking to exercise powers vested in KERC.

7. Alternatively, even if KERC intended to permit KPTCL to revise charges, same would violate Section 181 of Act conferring legislative and regulatory power on KERC, without provision for delegation and contrary to principle '*delegatus non potest delegare*'. Reliance was placed on decision of Hon'ble Supreme Court in **Sahni Silk Mills (P) Ltd. v. ESI Corporation**, reported in **(1994) 5 SCC 346**, wherein sub-delegation of statutory powers was held permissible only when parent statute expressly or by necessary implication authorizes delegation. Relying on decision in **Union of India v. Ashok Kumar Aggarwal**, reported in **(2013) 16 SCC 147**, it was submitted, executive instructions cannot override statutory rules nor supplement or supplant statutory scheme. Therefore, impugned revision of supervision charges and demand made to petitioner by KPTCL, lack statutory foundation. Unilateral revision of supervision charges exorbitantly imposes financial burden on consumers undertaking self-execution works and therefore arbitrary.



8. It was submitted petitioner's contentions were reinforced by consistent past practice, which demonstrate that every lawful revision of supervision charges was by formal order of KERC, such as order dated 02.02.2024 issued by KERC in exercise of its regulatory jurisdiction, reducing supervision charges to 5% of estimated cost of self-execution works and retaining ceiling of Rs.15,00,000/- (Rupees Fifteen Lakhs). Historically, revision of supervision charges is by formal determination of KERC, underscores that authority to alter charges vests exclusively with KERC. And any unilateral alteration by KPTCL without corresponding order, would stand outside statutory framework and lacks legal sanction. It was submitted, neither Common Schedule of Rates or order of KERC dated 02.02.2024 refer to Annexure-A would also indicate revision by KPTCL was without authority of law. It was submitted, Hon'ble Supreme Court in **Joint Action Committee of Air Line Pilots' Association of India v. Director General of Civil Aviation**, reported in **(2011) 5 SCC 435**, had reiterated principle that statutory power must be exercised only by Authority upon whom statute confers power and no other



Authority, even superior one, can assume or usurp that function.

9. In present case, petitioner was called upon to pay supervision charges of Rs.1,20,49,000/-, far more than ceiling prescribed under regulatory framework, warranting interference. And once, it was established that KPTCL lacked statutory authority to revise supervision charges, impugned order at Annexure-A and consequential demand at Annexure-B were rendered *ultra vires* and *void ab initio*. Therefore, they were liable to be quashed and direction issued for refund of excess amount collected and prayed for allowing petition.

10. On other hand, Sri Milind Dange, AGA, Sri BN Prakash and Sri S. Sriranga, Senior Counsel appearing for Smt.Sumana Naganand, learned counsel for respondents no.1 to 4 opposed writ petition. It was submitted writ petition was devoid of merit and liable to be dismissed.

11. Learned Senior Counsel prayed for treating contents of statement of objections filed as well as additional affidavit filed on 13.11.2019 as part and parcel of his contentions. It was



submitted, writ petition was filed on erroneous premise that functions of KPTCL were governed by Code. It was submitted Conditions of Supply of Electricity of Distribution Licensees, 2006 ('**CoS**') was formulated by KERC under Section 50 of Act, which mandates formulation of a supply code governing, *inter alia*, recovery of charges, billing, disconnection, and restoration of supply, which are duties of distribution licensee. Once CoS came into effect, as per Regulation 47 of CoS provisions of Code stood repealed.

12. It was submitted preamble of CoS clearly mention that provisions apply to distribution licensees in Karnataka, namely BESCOM, CESC, GESCOM, HESCOM, MESCOM and Hukkeri RECS, with specific exclusion of KPTCL from purview. Therefore, KPTCL is neither governed by provisions of Code or CoS and consequently, contentions of petitioner on said basis were untenable.

13. It was further submitted supervision charges for self-execution works with ceiling of Rs.15,00,000/- was found to be insufficient to meet actual administrative and technical costs of high-level supervision required for modern and large-



scale projects especially as process of supervision involved expertise and involvement of KPTCL at every stage. It was submitted, supervision of self-execution works involved survey of site, undertaking of detailed study of grid connectivity, preparation of estimate, issuance of approval and oversight of work carried out by consumer from initial survey to final installation of transmission infrastructure, details of which were elaborated in report produced along with additional affidavit dated 13.11.2019. In order that supervision charges be commensurate with time/effort/expertise utilized, KPTCL proposed slab-wise revision of rates which was reasonable. Attention was drawn to supervision charges fixed elsewhere, namely Bihar State Power Transmission Company Limited charging 15% of sanctioned estimate as supervision charges for self-execution works.

14. It was submitted in year 2016, KPTCL conducted study into works carried out, estimated costs and compared charges levied in other states and found cap of Rs 15,00,000/- would not cover actual cost of supervision. Therefore, KPTCL wrote to KERC for approval of revision of supervisory charges



(Annexure-R1). In response, KERC stated that it had not determined charges to be collected on supervision work and directed KPTCL to take suitable action in accordance with applicable rules and regulations in Account Manuals. Therefore, KPTCL revised supervision charges for self-execution works by introducing slab-wise rates under Annexure-A. It was submitted levy was lawful and necessary to ensure charges were on cost basis and submitted KPTCL did not derive benefit or profit from same and charges were levied in public interest. Buttressing contention about levy of supervision charges being arbitrary, it was submitted same was in consonance with duties of KPTCL prescribed under Section 39 (2) of Act. Under Section 39 (2) (c) of Act, KPTCL was duty-bound to ensure development of "efficient, coordinated and economical system of intra-State transmission lines" and whether works were by self-execution or otherwise, they would integrate into State Grid.

15. It was submitted supervision charges were levied to reimburse cost of KPTCL monitoring self-execution works as interest of grid would be at stake. Irrespective of whether lines were carried out via self-execution or by Deposit Contribution,



they were eventually intended to be connected to State transmission system and KPTCL bore responsibility of technical integrity and safety of grid. Levy of supervision charges was necessary to recovery of costs incurred for monitoring works to ensure safe and uninterrupted power supply across, justifying levy by KPTCL.

16. It was submitted Asset created by self-execution and embedded in State Grid was not capitalized in books of electricity utilities of KPTCL and it was only entitled to claim Operation and Maintenance cost in respect of same. In fact, Tariff Regulations specifically bar claim of depreciation in respect of consumer created assets. Therefore, asset created largely remains to be an asset serving purpose of consumer who created the asset. It was further submitted supervision charges for self-execution works are to be borne by consumer, as it involves augmentation of infrastructure to specifically cater to such consumer/s. While it is duty of transmission company to maintain and augment its transmission network, there is no onus on it to augment infrastructure for benefit of a particular consumer, on demand. In such cases, consumer was given



option of undertaking work directly by paying supervision charges or undertaking work on Depository Contribution Works. In present case, Petitioner having opted for self-execution basis, cannot claim exemption from paying supervision charges or claim to pay only part of it as would suit its interest. Supervision Charges compensate State Transmission Utility for technical expertise, manpower deployment, administrative overheads and institutional responsibility involved in integrating consumer-executed asset into State transmission network. Therefore, there was no infirmity in demand of supervision charges. It was submitted even under earlier regime, supervision charge was borne by consumer.

17. Insofar as contentions based on Uniform Schedule of Rates for year 2023-2024, prescribing supervision charges at 2.5% of total estimate along with applicable GST and alleging slab-wise fixation by KPTCL as arbitrary, it was submitted reliance on Uniform Schedule of Rates dated 13.02.2023 was misplaced as transactions pertaining to present petitioner were of year 2018 and above rates were not contemplated to be retrospective, but applicable only for year 2023-2024.



18. It was submitted, impugned order at Annexure-A prescribing slab-wise supervision charges for self-execution works was issued in course of administrative and operational functions of KPTCL to rationalize supervision charges applicable to such works. Said order was necessitated as ceiling prescribed under existing framework had remained unchanged for several years and no longer reflected actual administrative and technical costs incurred in supervising works.

19. It was submitted KPTCL, being State Transmission Utility and Transmission Licensee, is entrusted with responsibility of ensuring safe, reliable and technically compliant execution of electrical infrastructure works connected with transmission system. And where consumers opted for self-execution of work, KPTCL was required to supervise work to ensure conformity with prescribed technical standards and Grid safety requirements. Levy of supervision charges was to compensate utility for technical, administrative and manpower resources deployed in overseeing such works. It was submitted, impugned order was issued after due consideration of prevailing circumstances and intended to bring about rational and



equitable structure for supervision charges. It was contended that slab-wise structures introduced under impugned order merely reflects realistic assessment of scale and complexity of works undertaken by private developers and large infrastructure projects.

20. It was further submitted, prior to issuance of impugned order, KPTCL addressed letters dated 30.04.2018 (Annexure-R1) to KERC, seeking approval for revision of supervision charges and levy of consultancy charges. According to respondents, in its reply dated 13.06.2018 (Annexure-R2), KERC did not reject proposal and informed KPTCL may take suitable decision for revision of charges based on rules or regulations framed in relevant account manuals.

21. Further, communication of Commission clearly permitted KPTCL to take appropriate decision regarding revision of charges. Acting upon said observation and in exercise of administrative authority, KPTCL issued impugned order prescribing revised supervision charges and impugned order cannot be characterized as exercise of regulatory power under Act, but merely as administrative estimation of cost of service



rendered by utility in supervising self-execution works. According to respondents, levy of supervision charges is incidental to operational responsibilities of transmission utility and falls within scope of its functional powers.

22. It was further contended that impugned order does not override or amend any regulation framed by Commission but merely provides practical mechanism for recovery of supervision costs associated with increasingly large and complex infrastructure projects undertaken by private entities.

23. While petitioner voluntarily undertook self-execution works for its project being fully aware that such work would require supervision and approval by transmission utility, petitioner cannot now seek to avoid payment of supervision charges after having availed benefit of such supervision and technical scrutiny.

24. It was submitted, supervision charges demanded from petitioner correspond to scale of project undertaken and extensive supervision required to ensure compliance with safety standards and technical specifications. Accordingly, charges



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demanded are neither arbitrary nor excessive but proportionate to cost and magnitude of works involved.

25. It was submitted, petitioner failed to establish statutory prohibition against KPTCL issuing administrative directions insofar as charges for supervision of self-execution works. In absence of such prohibition, impugned order cannot be treated as *ultra vires* and principle of '*delegatus non potest delegare*' would not apply to facts of present case. KERC did not delegate regulatory powers but expressed KPTCL may take suitable administrative decision within its operational domain.

26. It was submitted, impugned order was legitimate administrative measure undertaken by KPTCL in discharge of statutory responsibilities to supervise electrical works connected with transmission system and demand raised against petitioner is consequence of supervision services rendered by KPTCL and therefore valid and enforceable. Hence, respondents submit impugned order dated 27.06.2018 at Annexure-A and consequential demand notice issued to petitioner are lawful and within competence of KPTCL, and therefore writ petition deserves dismissal.



27. Heard learned counsel and perused writ petition record.

28. Having heard learned counsel appearing for parties and upon perusal of material placed on record.

29. Thus, petitioner who is implementing a multi-storied residential project accorded with permission to carry out electricity works under self-execution mode is challenging demand issued by KPTCL on ground of lack of regulatory power of KPTCL as well as on ground of arbitrariness. There is no dispute about liability of petitioner to pay supervision charges in terms of regulations framed by KERC.

30. There is also no dispute about KPTCL being State Transmission Utility and Transmission Licensee drawing powers and functions from Sections 39 to 46 of Act primarily about transmission planning, coordination of transmission system and ensuring development of efficient, coordinated and economical transmission network within State etc. Indeed, there is no express conferment of power to determine or revise charges payable by consumers for supervision of self-execution works.



31. First ground of challenge is two pronged, that there is no regulatory power conferred on KPTCL and Section 181 of Act confers power to frame regulations only on KERC, which had prescribed supervision charges at 10% subject to maximum of Rs.15,00,000/-.

32. In memorandum of writ petition, it is contended that provisions of Karnataka Electricity Reforms Act, 1999 ('**KERA**') and Karnataka Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulation, 2004 ('**Regulations**') as well as Code prescribed supervision charges at rate of 10% of estimated cost of work and that Code imposed ceiling of Rs.15,00,000/-. It was submitted, since provisions of Regulations/Code framed by KERC prescribed 10% of estimated cost of work, attempt by KPTCL to modify or alter said rate would be usurpation of jurisdiction of KERC and therefore illegal.

33. It is not in dispute that provisions of KERA and Regulations would stand repealed by virtue of Section 185 of Act read with Regulation 47 of Code. Besides, Annexure-D,



reveals that application for power supply sanction filed by petitioner was in year 2018. Therefore, application filed by petitioner would be governed by provisions of Act and Code.

34. Further, very nature of challenge i.e. contending that Regulations and Code prescribed imposition of 10% of estimated cost of work as supervision charge by KERC and KPTCL lacks power to increase it, admits of liability to pay supervision charges.

35. Even challenge of escalation of supervision charges on ground of arbitrariness, due to cost overrides etc. would require rejection, in view of decision of Hon'ble Supreme Court in case of ***U.P. Avas Evam Vikas Parishad v. U.P. Power Corpn. Ltd.***, reported in **(2011) 10 SCC 223**, holding:

"27. According to the learned counsel for the appellant, the rate of supervision charges was hiked from 5% to 15% unauthorisedly, and without application of mind. The submission was, that the supersession of the office memorandum dated 17-1-1984 would have an adverse effect on the public at large, inasmuch as, the eventual cost of construction of houses offered by the U.P. Avas Evam Vikas Parishad to the general public would be costlier. The subject-matter under consideration is erection of transmission lines, associated distribution sub-stations and LT distribution mains.

28. The aforesaid activity though indispensable, has dangerous connotations. If appropriate standards



are not maintained and if adequate safety measures are not adopted, disastrous consequences are possible. Delegation of such activity has necessarily to be regulated by supervision, so as to avoid any lapses. Supervision needs inputs which have to be paid for. The Electricity Supply Code, 2002, stipulates 15% of the total estimated cost of electrification works as supervision charges. It is not the case of the appellant, that the aforesaid charges are disproportionate to the work involved or have been fixed arbitrarily. It is not as if the appellant has any compulsion of carrying on these works by itself. It has chosen to do so, by taking the responsibility on itself. If the supervision charges are unacceptable, the appellant can require the U.P. Power Corporation to undertake the electrification work by depositing the estimated cost with the respondent.

29. In our considered view, the fact, that the public at large would have to bear the brunt of the hike in supervision charges, is totally unacceptable, especially in the background of the position noticed above. The instant contention is even otherwise irrelevant to the subject-matter under consideration. Supervision charges have been levied, so that the agencies, such as the appellant herein, who decide to carry out the activities of erection of transmission lines, associated distribution sub-stations and LT distribution mains, on their own, abide by the minimum prescribed norms. Higher public cost ensuring prescribed safety measures, would certainly override the cost consideration projected by the learned counsel for the appellant. We find no merit in the instant contention as well."

36. The question for consideration would therefore be limited only to examining whether KPTCL has power to fix or enhance supervision charges in case of self-execution of works.



37. It is interesting to note that Section 43 of Act imposes duty on Licensee to provide power supply within one month of filing of application by owner or occupier of premises and where it requires augmentation of infrastructure, from date of completion. Though Section 45 of Act empowers distribution licensee to recover charges, same appears limited to charges for supply of electricity by fixation of tariff from time to time, but based on method and principles specified by KERC after following procedure. Section 45 (5) of Act specifies that charges fixed by distribution licensee shall be in accordance with provisions of Act and Regulations framed by KERC.

38. At this stage, a reference is required to be made to contention of KPTCL that provisions of Code do not apply to KPTCL which is a Transmission Licensee and Code applies only to Distribution Licensees i.e. 'ESCOs' in State, in light of contents of Annexure-R2 issued by KERC that it had not determined charges to be collected by KPTCL for execution of works under DCW or self-execution, would compel a conclusion that demand by KPTCL is not in pursuance of any regulation of KERC, but independent. Indeed, KPTCL has sought to plead



justification for demand on ground that process of supervision involves survey of site, undertaking of detailed study of grid connectivity, preparation of estimate, issuance of approval and oversight of work carried out by consumer from initial survey to final installation of transmission infrastructure etc., it has failed to point to any specific legal provision authorizing fixation, demand, collection as well as revision of charges towards supervision of works.

39. Interestingly, its communication to KERC i.e., Annexure-R1 itself mentions that supervision charges in case of self-execution or consultancy charges in case of DCW formulated under Code, had not been revised since 13 years, would go against its contention that provisions of Code do not apply to it. It would also render demand at Annexure-D by KPTCL without any statutory/regulatory basis. Very act of KPTCL addressing communication at Annexure-R1 to KERC seeking its approval for revision of supervision charges, would indicate absence of independent statutory authority to KPTCL to revise supervision charges.



40. Mere statement in reply by KERC at Annexure-R2 that KPTCL may take suitable decision based on rules/regulations framed by it in relevant Account Manuals, would not provide sufficient justification for revision/demand or be construed as formal approval or regulatory determination authorizing revision of charges. In absence of any regulation, order or notification issued by KPTCL in exercise of powers under Electricity Act, impugned revision of supervision charges cannot derive statutory legitimacy.

41. It is now well settled that there cannot be imposition of tax, fee or charge etc., without statutory authorization. Hon'ble Supreme Court in case of **TISCO Ltd. v. State of Bihar**, reported in **(2018) 12 SCC 107**, referred to **Jindal Stainless Ltd. v. State of Haryana**, reported in (2017) 12 SCC 1 and held:

"21. it is now well settled that the expression "fee" is also comprehended in the expression "tax" for the purpose of Article 265 and even for the collection of a "fee", authority of law (i.e. legislative support) is mandatorily required under the Constitution."



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42. Even contention of respondents that impugned order was an administrative measure for rationalization and recovery of actual cost of supervision also cannot be readily accepted. Levy of supervision charges affecting consumers and prescribing monetary liability cannot be regarded as purely administrative action, when Section 45 stipulated procedure for such fixation.

43. Principle that statutory power must be exercised only by authority upon whom statute confers such power has been consistently reiterated by Hon'ble Supreme Court as done in **Joint Action Committee of Air Line Pilots' Association of India's** case (supra).

44. Further in view of conclusion above that observation in Annexure-R2 cannot be termed as delegation of power to KPTCL to restructure supervision charges, there would be no need for invocation of maxim '*delegatus non potest delegare*' or ratio laid down in **Sahni Silk Mills (P) Ltd's** case (supra).



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45. At same time, it is also seen that petitioner has not assailed demand of supervision charges plus tax by respondent no.4-BESCOM in Annexure-D.

46. In view of above, and in absence of KPTCL sourcing its authority to revise supervision charges beyond ceiling prescribed under regulatory framework, impugned order dated 27.06.2018 at Annexure-A prescribing slab-wise supervision charges, as also demand notice at Annexure-B cannot sustain.

47. Consequently, writ petition succeeds, Annexures-A and B stand quashed, respondents no.3 and 4 are directed to permit petitioner to resume/complete work under self-execution by paying supervision charges as per Annexure-D treating it as sufficient and in case of other compliances process application for electricity connection in accordance with law. Excess payment made if any shall be refunded within eight weeks failing which it shall carry interest at 8% per annum from date of deposit.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

AV,GRD
List No.: 1 Sl No.: 64