

**ORISSA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
UNIT-VIII, BHUBANESWAR – 751 012**

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Present : Shri D.C. Sahoo, Chairperson  
Shri B.C. Jena, Member  
Shri S. K. Jena, Member

**Dated the 19<sup>th</sup> day of August, 2006**

**Case No.23 of 2006**

**In the matter of** Application for review of order of the Commission dated  
06.06.2006 passed in case no.07 of 2006

M/s. Hind Metals & Industries Pvt. Ltd. .... **Petitioner**  
K-1, Kalpana Area, Bhubaneswar-14

1. M/s.Nava Bharat Ferro Alloys Ltd., (NBFAL) ..... **Respondents**  
Kharagprasad, Dist : Dhenkanal

2. M/s. Orissa Power Transmission  
Corporation Limited (OPTCL), Janpath, Bhubaneswar

For the petitioner : 1. Shri Sunandan Pradhan  
2. Shri R.P. Mohapatra,  
Authorised Representative

For the respondent : 1. Shri Prabhu P.Mohanty, Advocate  
2. Shri S.K. Mishra, Sr.G.M. (R&T) I/C, OPTCL  
Shri P.B. Mohapatra, CE, OPTCL.

**ORDER**

This order arises out of a petition filed by M/s. Hind Metals & Industries Pvt. Ltd. on 14.07.2006, under regulation 70(1) of the Orissa Electricity

Regulatory Commission (Conduct of Business), 2004 praying for review of the order dated 06.06.2006 passed by the Commission in case No.07 of 2006.

2. The applicant has advanced the following arguments for review of the Commission's impugned order dt. 06.06.2006
  - a. That M/s Nava Bharat Ferro Alloys Ltd. has not borne the cost of operation and maintenance of the 132 KV line which continued to be done by the transmission licensee. As such, this cannot be considered as an exclusive feeder as under the erstwhile OSEB or OERC regulations.
  - b. The Commission has not ordered as to the party who will bear the extra expenditure and the time frame when the additional work as directed by the Commission may be executed.
  - c. Finally, the petitioner had requested the Commission to modify/clarify the order dated 06.06.2006 as to whether (i) the feeder from 132 KV feeder from Meramundali grid s/s to M/s NBFAL is an exclusive feeder and (ii) the party to bear the cost of the additional work vide the direction of para 44.2(f) of the order.
  - d. In the course of hearing, the petitioner submitted that the following facts relating to issue No.1 of para 44.1 of the Commission's order ibid have vital bearing on the proposition i.e. the apparent error on the face of record.
    - i) Based on the order dated 22.07.2006 of the Commission in Case No.36/2005, the respondent no.2 is bound to extend the transmission line to the load centre, that is the switching station and the extension of the EHT line to the petitioner will be highly remunerative.

- ii) Thus, the additional works vide para 44.2(f) may be executed when the additional capacity of the CGP of the respondent no.1 is ready for operation.
- iii) As such, the cost of these additional works should be borne by the respondent no.2 or the respondent no.1 either fully or in part, based on the remunerative norms prescribed by the Commission in order dated 22.07.2006.

3. Respondent No.2 i.e. M/s OPTCL in response to the above review petition stated as follows:

- a. OPTCL holds no view to offer with regard to the exclusive use of the 132 KV feeder executed under People's Participation Scheme of the erstwhile OSEB.
- b. OPTCL endorses the contention of M/s Hind Metals and Industries Pvt. Ltd. that the Commission has not ordered as to the party who will bear the extra expenditure and the time frame when the additional work as directed by the Commission may be executed.
- c. The argument advanced by the petitioner company regarding construction of the switching station on behalf of OPTCL is palpating false as the switching station is being constructed by the petitioner company for their own interest.
- d. Finally, OPTCL prayed for review of the Order dtd. 06.06.2006 passed in case no. 07 of 2006 in the following manner:
  - i. The entire cost of modification work has to be borne by the petitioner company i.e. M/s Hind Metals & Industries Pvt. Ltd. at the time of execution except the following components:
    - (a) NBFAL, the respondent will bear the cost of one set of PLCC equipment which they have not installed at

Meramundali grid s/s and their MRSS prior to evacuation of power from CGP.

(b) M/s NBFAL will also bear a percentage of the cost of the additional works commensurate with the perceived benefits to be derived by them in the form of saving in time and cost of construction for the second circuit as well as from sharing the common facilities of the switching station with other beneficiaries like illumination, trenches, culverts, roads, water supply, control room space, security arrangement etc. Such percentage and the amount will be determined by OPTCL in a fair and transparent manner and will be communicated to M/s NBFAL after approval of the Commission.

4. M/s Nava Bharat Ferro Alloys has made the submissions on 16.08.2006 as under:
  - a. The review petition is not maintainable since the order of the Commission dated 06.06.2006 passed in case no.07 of 2006 does not suffer from the following infirmities.
    - (i) It is not vitiated by an error apparent on the fact of record.
    - (ii) There is no serious irregularity in the proceeding such as violation of natural justice.
  - b. That each of the grounds on which the petitioner has filed the review petition are not to be considered since the Commission has extensively dealt with the same in the impugned order, as endorsed from paragraphs No.6,7,8,29, 37, 44.1(h), (i), (j), (k), 44.2(a), (f) and 44.4 of the order dated 06.06.2006.
  - c. That it is settled law that the review is not an appeal in disguise.
  - d. That the Hon'ble Apex Court in the case of Parsion Devi and others versus Sumitri Devi and others reported in (1997) 8 SCC 715 at

paragraph No.9 observed that; “9. under order 47 rule 1 CPC a judgement may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under order 47 rule 1 CPC. In exercise of the jurisdiction under order 47 rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. A review petition, it must be remembered has a limited purpose and cannot be allowed to be ‘an appeal in disguise”

- e. That the direction of the Commission at paragraph no.44.4 is self-explanatory and needs no clarification.
  - f. From the submissions made in course arguments on 11.08.2006 during hearing of the review petition, it transpired that there is some dispute between OPTCL and petitioner, M/s Hind Metals & Industries Pvt. Ltd. This issue is not a matter for adjudication in the present proceedings.
5. The Commission carefully have gone through the submissions made by the contending parties and come to the conclusion that the present review petition filed by M/s. Hind Metals & Industries Ltd. is not maintainable because of the following reasons :-
- 1) The Commission’s order dtd.06.6.2006 passed in Case No.07 of 2006 does not suffer from any pitfalls as outlined below or could not attract review of the order of the Commission.
    - (i) Discovery of new or important matter or evidence.
    - (ii) A mistake or an apparent error on the face of the record.
    - (iii) Any other sufficient reasons.
  - 2) The grounds adduced in favour of the review petition have been extensively dealt with in the order *ibid*.

- 3) The review petition is not in conformity with the Hon'ble Apex Court's order in the case of Parsion Devi and others versus Sumitri Devi and others as quoted in para 3 (d) above.
6. The main objective is to ensure provision of double circuit line upto the switching station to improve system reliability as this switching station is an extension of Meramundali grid s/s demanded by OPTCL.
7. Though the review petition is devoid of merit, we may like to clarify the position with regard to para 44.4 of the Commission's order dtd.06.6.2006 in the following manner.
- (a) Any modification of power supply arrangement shall not affect the continuity of power supply to the existing consumers & accordingly, OPTCL should arrange the time schedule for construction of various works.
  - (b) The existing as well the prospective consumers as specified in para 4.2(ii) of Orissa GRID CODE should not be burdened with the additional cost for diversion of power to the existing consumers.
  - (c) M/s Hind Metallic is reaping the benefit of a short transmission link due to the tapping of both NBFAL and RTSS feeders. Hind Metals shall bear the cost of 3<sup>rd</sup> conductor from Meramundali s/s to their switching station.
  - (d) A spare bay shall be made available in the switching station for any future construction or extension of a second circuit upto NBFAL including the cost of land at the cost of NBFAL
  - (e) The cost of one bay at Meramundali s/s and transmission line upto NBFAL premises have already been paid by NBFAL. In our order, we have directed that earlier connectivity for switching station to NBFAL shall be made available by OPTCL on 132 KV double circuit tower as they have paid Rs.1.89 crore for power supply to their

premises. OPTCL have proposed in their filing that NBFAL is liable to bear the cost of one set PLCC equipment in addition to the aforesaid payment. As such, NBFAL is directed to comply with above requirement. that NBFAL shall bear the cost of one set of PLCC equipment which they have not paid earlier.

- (f) The cost of one bay at Meramundali grid s/s and transmission line upto RTSS premises are purported to have been paid by railways. GRIDCO has collected the cost upto the common point on the 132 KV feeders upto location 20 from both NBFAL and railways. The excess deposit with GRIDCO/OPTCL should be utilized for diversion of power supply. As such, no further additional cost should be borne by either the railways and NBFAL for continuance of their existing power supply in accordance with para 4.2(ii) of Orissa Grid Code.
- (g) OPTCL and M/s Hind Metals had reached an understanding for construction of a switching station and interconnection with the incoming 132 KV feeders. M/s Hind Metals should carry out the works within the framework of agreement between them except the additional cost of a single 132 KV conductor from Meramundali upto the switching station to be borne by M/s Hind Metals. Any modification required for developing this switching station as a satellite of Meramundali grid s/s beyond the scope of work of Hind Metal shall have to be carried out by OPTCL as a part of system improvement work at their cost.

Hence, the present petition for review stands dismissed.

Sd/-  
**(S. K. JENA)**  
**MEMBER**

Sd/-  
**(B. C. JENA)**  
**MEMBER**

Sd/-  
**(D. C. SAHOO)**  
**CHAIRPERSON**