

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

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**Present : Shri S. P Nanda, Chairperson  
Shri B. K Misra, Member  
Shri S. P Swain, Member**

**Case No.12 of 2012**

M/s Dhamra Port Company Ltd., ..... Petitioner

Vrs.

NESCO & others ..... Respondents

**In the matter of: An application under Section 142 of the Electricity Act, 2003 for levy of penalty on the North Eastern Electricity Supply Company of Odisha Limited (NESCO) for violation of the Retail Supply Tariff Order dated 18.03.2011 of the Commission and Regulation 77 of the OERC Distribution (Conditions of supply) Code, 2004.**

For the Petitioner: Shri R. P. Mohapatra, the authorised representative

For the Respondents: Shri P. K. Mohanty, Advocate on behalf of NESCO, Shri S. D. Bhanja, GM (RA), NESCO, Shri Ranjit Das, Sr. GM (PP), GRIDCO & Shri S. K. Puri, AGM (O&M), M/s OPTCL.

**Date of hearing: 06.07.2012**

**Date of Order: 16.10.2012**

**ORDER**

1. The brief fact of the case is that the Petitioner M/s. Dhamra Port Company Ltd. (DPCL) has filed a complaint before GRF, Balasore challenging the improper imposition of power factor penalty by the Respondent NESCO which was not based on the direction of the Commission in this regard in RST Order for FY 2010-11 and 2011-12. The GRF, Balasore disposed of the said complaint case on 11.11.2010 with a direction for revision of bills of the Petitioner in line with the Order of the Commission. But till date the respondent has not complied with the direction of the GRF. Therefore, the Petitioner has moved this forum under Section 142 of the Electricity Act, 2003.

2. The Respondent submitted that being aggrieved of the said Order of the GRF they had filed a Writ Petition WP(C) No. 26873 of 2011 before Hon'ble High Court of Orissa for setting aside the impugned Order of the GRF, Balasore. Hon'ble High Court in Misc. Case No. 15234 of 2011 has also been pleased to stay the operation of impugned order dtd. 11.11.2010 of the GRF, Balasore.
3. Heard the parties at length. As the Order of the GRF, Balasore in C. C. No. 261 of 2010 has already been stayed by Hon'ble High Court of Orissa, it is fruitless to proceed further in this case. The Writ Petition of NESCO in this regard is still pending before the Hon'ble High Court for adjudication and the judgment of which shall be binding on both the parties.
4. Therefore, we are not inclined to admit the case in the present form and accordingly the case is disposed of.

Sd/-  
**(S.P.Swain)**  
**Member**

Sd/-  
**(B.K.Misra)**  
**Member**

Sd/-  
**(S. P. Nanda)**  
**Chairperson**