

**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. 9/2013**

**M/s. OHPC**

**Vrs.**

**M/s. GRIDCO & Others**

.....

**Petitioner**

.....

**Respondents**

**In the matter of:**      **An Application u/s.S.94(1)(f) of the Electricity Act,2003 read with Regulation 70 of the OERC (Conduct of Business)Regulations,200 for review of Order dated 26.12.2012 passed in case no.31 of 2011 regarding approval to carry out renovation, modernization and up rating of 2X37.5 MW Units #5 & #6 of HHEP, Burla.**

For the petitioner:      Shri S. Khatua, Managing Director, OHPC.

For the respondents:      Shri P. K. Pradhan, Dir(Commerce),GRIDCO,  
   Shri U. N. Mishra, GRIDCO.

Nobody is present on behalf of WESCO, NESCO, SOUTHCO & CESU.

**Date of Hearing: 25.06.2013**

**Date of Order: 02.07.2013**

**ORDER**

1.      This is an application filed by the Petitioner-OHPC to review the Order dated 26.12.2012 of OERC passed in Case No. 31/2011. In the said case OHPC had sought the approval of this Commission to carry out Renovation, Modernisation and Uprating of 2 x 37.5 MW units (# 5 and # 6) of Burla Power House with an estimated cost of Rs.296.83 crs. The Commission in the said Order had inter alia directed the Petitioner to postpone the RM & U of the units for the present and operate them in their optimal capacity round the clock during the four monsoon months.

2. Now, the petitioner seeks to review the said Order dated 26.12.2012 passed in Case No.31 of 2011 on the grounds of apparent error in computation and non-consideration of actual incremental cost of GRIDCO.
3. As per Section 94(1) (f) of the Electricity Act, 2003, this Commission has the same power as are vested with the Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders among others.
4. As per Order 47 Rule 1 of the Civil Procedure Code, review of an order can be made on the following grounds:
  - (a) Error apparent on the face of the record;
  - (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
  - (c) Any other sufficient reason.
5. The Petitioner seeks to review of our Order dated 26.12.2012 passed in Case No.31 of 2011 on the ground of apparent errors on several of our observations basing on their own assumption and calculation. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched. It must be an error of inadvertence.
6. We are citing two important decisions here. *“Error apparent on the face of the record” must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions.* (AIR 1995 SC 455).

*That no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it.* ('Batuk K. Vyas vrs. Surat Borough Municipality,' AIR 1953 Bombay 133 (R)).

But no such error has been pointed out by the Petitioner seeking the review of our judgement. It has become almost an everyday experience that review applications are filed mechanically as a matter of routine and there is no indication as to which grounds strictly it falls with the narrow limits of Order 47 Rule 1 of the Code of Civil Procedure, 1908. The present petition appears more to be an appeal than prayer to review our Order.

7. Therefore, we do not find any reason to interfere with our Order dtd. 26.12.2012 and the findings of the Commission as per para 13 to 15 of the said Order stand. The Commission desires that OHPC should operate the Unit-5 & 6 in the current monsoon months at a flat load of reduced capacity, say 20 MW and simultaneously initiate action for retirement of the Unit-5 & 6 which are already more than 50 years old and if necessary go for the installation of complete new units instead of Renovation, Modernisation and Upgrading.
8. Accordingly, the case is disposed of.

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

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

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