

ODISHA ELECTRICITY REGULATORY COMMISSION

BIDYUT NIYAMAK BHAWAN

UNIT-VIII, BHUBANESWAR - 751 012

**Present : Shri S. P Nanda, Chairperson
Shri S. P. Swain, Member
Shri A. K. Das, Member**

Case No. 46/2013

M/s.GRIDCO Ltd. Petitioner

Vrs.

M/s. Nava Bharat Ventures Ltd. & others Respondents

In the matter of: Application under S.94 (f) of the Electricity Act,2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations,2004 for review of the order dated 23.04.2013 passed in Case No.54 of 2012.

For the Petitioner: Shri. P.K.Mohanty, Sr. Advocate
Shri. U.N.Mishra, CGM (PP), GRIDCO.

For the Respondents: Shri. Prabhu Prasad Mohanty, Advocate on behalf of M/s.NBVL
Shri. Ashok Kumar Parida, Chief Resident Manager, M/s.NBVL
Shri. S.K.Puri, GM (RT&C), OPTCL
Shri. Umakanta Sahoo, GM (GO), SLDC

Date of hearing: 05.08.2014

Date of Order:08.08.2014

ORDER

GRIDCO Ltd. has filed an application under Section 94(1) (f) read with Regulation 70 of OERC (Conduct of Business) Regulations, 2004 seeking review of the order dated 23.04.2013 passed in Case No.54 of 2012 inter- alia on the ground of the findings made by the Commission in respect to paras 17 & 18 since it suffers from ambiguity and inconsistency which it contends is error apparent on the face of the record.

2. The Case is taken up today for hearing on question of admission. Heard the parties at length.

3. After hearing the parties and perusal of the case records we find that 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.

As per Order 47 Rule 1 of the code of Civil Procedure 1908, 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.
4. Hon'ble Apex Court in *Parsion Devi Vrs. Sumitri Devi case (2008) 8 SCC P.716* observed as follows:-

“Under Order 47 Rule 1 CPC a judgment 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 dictated 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 jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of review jurisdiction. A review petition has a limited purpose and cannot be allowed to be ‘an appeal in disguise’.”

Another important decision on the issue is also noted- *“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).

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 how it falls with the

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.

5. With the above observations, the review petition of GRIDCO Ltd. is dismissed in limine and accordingly the case is disposed of.

Sd/-
(A.K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson