

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
UNIT-VIII, BHUBANESWAR - 751 012  
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**Present :      Shri S. P.Nanda, Chairperson  
                     Shri S. P. Swain, Member  
                     Shri A. K. Das, Member**

**Case No. 57/2014**

GRIDCO Ltd. .... **Petitioner**

- Vrs. -

G. N. Agrawala & Others ..... **Respondents**

**IN THE MATTER OF :    An Application under S.94 (1) (f) and S.62 (4) of the Electricity Act, 2003 read with Reg. 70 of OERC (Conduct of Business) Regulations, 2004 & O.47 R 1(c) of CPC, 1908 for review of the Order dated 22.03.2014 of the OERC passed in Case No. 84/2013 regarding ARR and BSP of GRIDCO for FY 2014-15.**

**For Petitioner:**      Shri B. D. Ojha, DGM (Economist), GRIDCO  
                             Shri S. K. Sahoo, DGM (Fin.), GRIDCO  
                             Shri L. R. Dash, G.M., GRIDCO

**For Respondents:**    Shri G. N. Agarwala, Convener-cum-General Secretary,  
                             Sambalpur District Consumers' Federation, Sambalpur,  
                             Shri Bibhu Charan Swain, Sr. Consultant, Power tech Consultants,  
                             Shri S. K. Panda, Secretary, M/s CCPPO,  
                             Shri S. K. Harichandan, AGM (Law), CESU,  
                             Shri T. K. Mohanty, GM (Elect.), CESU,  
                             Shri P. K. Padhy, GM ABT (Elect.), CESU,  
                             Shri P. K. Dash, CGM (Comm.), CESU,  
                             Shri S. K. Puri, GM, OPTCL,  
                             Ms. Niharika Pattnaik, ALO, DoE, GoO,  
                             Ramesh Satpathy, R. P. Mohapatra,  
                             Debashis Das, AVP (Reg. Affairs), CSO, WESCO, NESCO &  
                             SOUTHCO, No body is present on behalf of M/s. UCCI Ltd., M/s.  
                             Ferro Alloys Corporation Ltd., State Public Interest Protection  
                             Council, SLDC and Shri A. C. Mallick.

**ORDER**

**Date of Hearing: 28.10.2014**

**Date of Order:05.11.2014**

Assailing the order dated 22.03.2014 of the Commission passed in Case No. 84/2013 in respect of ARR & Determination of Bulk Supply Price of GRIDCO for FY 2014-15, the petitioner GRIDCO has filed the above review petition under Section 94 (1) (f) and Section 62 (4) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004 for review of ARR & BSP for FY

2014-15 along with an application for condonation of delay of 49 days in filing of the said review application.

2. The matter is taken up today for hearing on condonation of delay in filing the review application.
3. During hearing Sri S.K. Harichandan, AGM (Law) appearing on behalf of CESU submitted that GRIDCO has not explained with sufficient cause for condonation of each day delay in filing of its review application for review of order dated 22.03.2014 passed in Case No. 84/2013. As per judgment dated 22.08.2013 in Civil Appeal No. 6975/2013 (Basawaraj & Others Vrs. Spl. Land Acquisition Officer) of the Hon'ble Supreme Court wherein the Hon'ble Apex court has held that an unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever, the application for review is to be decided only within the parameters laid down by the law in force. In view of the above the present application for review of the order dated 22.03.2014 passed in Case No. 84/2013 being devoid of any merit and is liable to be rejected at the threshold.
4. Respondents Sri Debasis Das, AVP, CSO, Sri R.P. Mahapatra, Sri B.C. Swain (Power Tech. Consultants), Sri G.N. Agarwal, Sambalpur District Consumer Federation objected on similar grounds mentioned above.
5. Heard the parties at length. 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 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.

But no such error has been pointed out by the Petitioner seeking the review of our judgment. The Petitioner on the other hand brought to our notice to consider the impact of Deviation Settlement Mechanism and related matters Regulation, 2014 promulgated in the month of February, 2014 under the heading Discovery of new important matter or evidence. But when our original order was passed on 22.03.2014 the said Regulation was in force and the Commission was fully conscious of its impact. Therefore, it cannot be considered a discovery of new important matter or evidence which was already there at the time of passing the order.

6. Similarly under the heading of sufficient reasons for review GRIDCO has brought to our notice some arrear bills pertaining to TTPS (NTPC) consequent to CERC order on 15.05.2014, supplementary energy bills of NHPC (Teesta) which was served to GRIDCO after passing of our order and some FERV bills of OHPC. GRIDCO is fully aware of the fact that any uncontrollable financial liability arising after the passing of our order shall be trued up in the next truing up exercise and provided the claims have attained finality. This cannot be considered as a matter of review which can be done strictly in accordance with Civil Procedure Code.
7. 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 within 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.
8. Therefore, the application of GRIDCO is devoid of any merit and liable for rejection. Hence we decide thus.
9. Accordingly, the case is disposed of.

Sd/-  
**(A. K. Das)**  
**Member**

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

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