

ODISHA ELECTRICITY REGULATORY COMMISSION
PLOT NO. 4, CHUNUKOLI, SHAILASHREE VIHAR,
CHANDRASEKHARPUR,
BHUBANESWAR-751021

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

Case No. 11/2015

M/s. Bharati Food Products Pvt. Ltd.	Petitioner
Vrs.		
WESCO Utility	Respondent

In the matter of: An application under Section 142 of the Electricity Act, 2003.

ORDER

Date of Order: 25.07.2016

M/s. Bharati Food Products Pvt. Ltd. , has filed the present case under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 30.08.2010 of the GRF, Burla passed in C.C. Case No. 36/2010 which has been upheld by the Hon'ble High Court of Orissa in W.P.(C). No. 23413 of 2010 vide their judgment dated 25.03.2013.

2. Basing on the above application of the petitioner, the Commission had issued a show cause notice on 07.05.2015 to the authorities of WESCO Utility for filing of reply as to why a proceeding shall not be initiated as per the provision under Section 142 for non-compliance of the above order of the GRF, Burla passed in C.C. Case No. 36 of 2010. In reply to the said show cause, the Respondent has submitted that being aggrieved by the above judgment dated 25.03.2013 of the Hon'ble High Court in W.P.(C). No. 23413 of 2010, WESCO Utility has preferred an Writ appeal bearing W.A. No. 551 of 2013 which is pending for adjudication by the Hon'ble Court. There is no interim stay order passed by the Hon'ble High Court regarding stay of operation of earlier order of the same Court.
3. After perusal of the case record and the written reply filed by the Respondent, we opine that there is no need to keep in abeyance the matter further with us as the matter is subjudice before the Hon'ble High Court in W. A No. 551 of 2013. There is no interim stay of operation of the impugned judgment passed in W.P.(C). No. 23413 of

2013 by the Hon'ble Court till date. Therefore, the Respondent is directed to either obtain a stay order from the Hon'ble High Court in W.A. No. 551 of 2013 or implement the aforesaid order of the GRF, Burla passed in Case No. 36 of 2010 within one month from the date of this order with intimation to this office. In the event of the above order of the GRF, Burla passed in C.R. Case No. 36/2010 is not complied within above period and reported to this office in time, a penalty @ Rs. 1000/- (One thousand) only per day shall be recovered from erring officers of the WESCO Utility by the higher authority till the date of compliance and deposited in the appropriate accounts by way of penalty under Section 142 of the Electricity Act, 2003. However, the final decision of Hon'ble High Court in W.A. No. 551/2013 shall be applicable to both the parties.

2. With the above observation, the case is disposed of.

Sd/-

(A. K. Das)
Member

Sd/-

(S. P. Swain)
Member

Sd/-

(S. P. Nanda)
Chairperson