

**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. 19/2015**

M/s. OHPC Ltd. - Vrs. - NESCO Utility & Others	.....	<b>Petitioner</b>
	.....	<b>Respondents</b>

**IN THE MATTER OF:** An application for under S.94 (1) (f) of the Electricity Act, 2003 read with Reg.70 (1) of the OERC (Conduct of Business) Regulations, 2004 for review of order dated 23.03.2015 passed in Case No. 65 of 2014 by the Commission regarding determination of Aggregate Revenue Requirement and Generation Tariff for FY 2015-16 .

**For Petitioner:** Shri Rajesh Sharma, Dir. (HRD), OHPC Ltd., Shri S. K. Sahoo, Dir (Fin.), OHPC Ltd., Shri A. K. Mishra, Dir (O), OHPC Ltd. & Shri D N Patra, Manager, OHPC Ltd.

**For Respondents:** Shri R P Mohapatra, Shri S.M.S. Sahoo, Manager, GRIDCO Ltd., Shri Niladri Khadenga, WESCO Utility. Nobody is present on behalf of NESCO Utility, SOUTHCO Utility, Shri Ramesh Chandra Satpathy, Secretary, National Institute of Indian Labour, Bhubaneswar, M/s. Swain & Sons Power Tech Pvt.Ltd. Cuttack, State Public Interest Protection Council, Cuttack and Sambalpur District Consumers Federation, Sambalpur.

**ORDER**

**Date of Hearing: 03.07.2015**

**Date of Order: 31.07.2015**

- The present petition has been filed by OHPC Ltd. u/S. 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004 for review of the order dated 23.03.2015 passed in Case No. 65 of 2014 regarding approval of Aggregate Revenue Requirement and Generation Tariff of OHPC Stations for FY 2015-16.
2. OHPC submits that they have filed ARR and Tariff application for the FY 2015-16 in respect of different power Stations under their control according to OERC (Terms and Conditions for Determination of Tariff) Regulations, 2014. They have further submitted that in view of an existing PPA between OHPC & GRIDCO limited prior to the Notification of 2014 Regulations tariff should have been determined basing on the said PPA. The PPA stipulates that the CERC (Terms and Conditions of Tariff) Regulations shall be applicable for determination of tariff.
  3. OHPC has also sought the review stating that the Commission has approved total Aggregate Revenue Requirement of OHPC power stations for FY 2015-16 at Rs. 463.98 Crs as per the

provisions of the OERC (Terms and Conditions for Determination Tariff) Regulations, 2014 without considering the decision of the Government vide Letter No. 3063 dated 31.03.2015 on restructuring of Government investment in UIHEP, Convertible Bond of Rs.766.20 Crores and return on Equity for RS. 300 Crores of the Old Power stations.

4. Responding to the petition, Mr. R. P. Mohapatra submitted that the Commission may not admit the case for review in view of the fact that the Letter No. 3063 of Govt. of Odisha and Office Order No. 3060 dated 31.03.2015 have been issued after the pronouncement of Tariff order of the Commission. Hence there is no such apparent error on the face of the record for which review is sustainable. WESCO Utility also maintained similar views and submitted that any revision in the generation tariff at this stage would also affect in Bulk Supply Price of the DISCOMs resulting in requirement of revision of retail supply tariff. Thus the application for review may not be considered by the Commission.
5. Heard the parties. 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.

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.

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, therefore, rejected.

6. Accordingly, the case is disposed of.

Sd/-

**(A .K. Das)**  
**Member**

Sd/-

**(S.P.Swain)**  
**Member**

Sd/-

**(S. P. Nanda)**  
**Chairperson**