

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

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

Case No. 19/2016

M/s. GRIDCO Ltd	Petitioner
Vrs.		
M/s. Vedanta Ltd. & Others	Respondents

In the matter of: **An application under Section S .94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 along with O-47 R (1) (c) of the CPC for review of Order dated 27.01.2016 passed in Case No. 21 of 2015.**

For Petitioner: Shri U. N. Mishra, CGM (PP), GRIDCO Ltd.
 Shri L. R. Dash, GM, GRIDCO Ltd.

For Respondents: Shri Amita Kapur, Advocate, Shri Akshat Jain, Advocate, Shri Shantanu Nanda, Advocate appearing on behalf of M/s. Vedanta Limited along with Pulak Srivastava, AM (Regulatory) & Shri Jasmeet Wadehra, Legal Head (Power Business) of M/s. Vedanta Limited, Shri S.K.Puri, GM (RT&C), OPTCL, Shri K.C.Nanda, DGM (Fin.), WESCO Utility and Ms. Niharika Pattnayak, ALO, DoE, GoO are present.

ORDER

Hearing Date: 31.05.2016

Date of Order:17.06.2016

The present Petition has been filed by M/s. GRIDCO Limited to review our order passed in Case No. 21/2015 under Section 94 (1) (f) of the Electricity Act, 2003 read with Reg. 70 (1) of the OERC (Conduct of Business) Regulations, 2004 along with O-47 R-1 (c) of the CPC.

2. During hearing, the representative of the petitioner has prayed for review and revise the order for casting the onus of construction of necessary power evacuation arrangement on GRIDCO, the Respondent, in accordance with MoU dated 26.09.2006 executed between DoE, GoO and M/s. Vedanta Limited (erstwhile SEL). It is stated that the MoU vide Clause 1 (vi) and 12.1 fixes responsibility of building adequate power evacuation infrastructure on the Respondent Vedanta Ltd. instead of PPA signed between parties.

3. Shri Amit Kapur, Advocate appearing on behalf of M/s. Vedanta Ltd. submitted that GRIDCO Ltd. had made identical submissions in the original petition on which the present review is sought. This leads to the abusing the process of law, multiplicity of proceedings and wastage of judicial time. The order of the Commission dated 27.01.2016 in Case No. 21/2015 is appealable under the provisions of the applicable law and the power to review is to be exercised in a judicious manner. The present review petition is misconceived, not maintainable and is liable to be dismissed as there is no error apparent on the face of record or any other condition required to be fulfilled for maintainability. The grounds for review are clearly laid down in O-47 R-1 of the CPC which states as follows:-

- a. From the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant.
- b. Such important matter or evidence that could not be produced by the applicant at the time when the decree was passed or made.
- c. On account of some mistake or error apparent on the face of the record or any other sufficient reason.

4. Shri Kapur also submitted that the review petitioner is seeking to reopen the original order passed in Case No. 21/2015 which can be done by way of appeal but not under the garb of review. He mentioned decision of the Hon'ble Supreme Court in case of Kamlesh Verma Vrs. Mayawati & Others reported in (2013) 8 SCC 320 which is as follows:-

“xxxxxx (i) A repetition of old and over ruled argument is not enough to reopen concluded adjudications (ii) minor mistakes of inconsequential import (iii) Review proceedings cannot be quoted with the original hearing of the case. (iv) Review is not maintainable unless material error, manifest on the face of the record, undermines its soundness or result in miscarriage of justice (v) a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error. (vi) The error apparent on the face of the record should not be an error which has to be fished out and searched and (vii) The appreciation of evidence on record is fully within the domain of the appellate court, is cannot be permitted to be advanced in the review petition, (viii) This review petition is not maintainable when the same relief sought at the time of arguing the main matter had been negatived etc.”

5. After hearing the parties and perusal of the case records, we opine that the power to review on the grounds raised cannot be confused with the grounds of appeal in disguise raising similar issues again and again. Only a superior Court of law can examine the contexts and conclusions arrived by any subordinate Court to ascertain the validity of application of law. Once arrived unless otherwise raised in accordance with law, a repetition of old and overruled arguments is not enough to reopen concluded adjudications. So far as the grievance of GRIDCO on merits is concerned, we agree with the Learned Advocate of the Respondent that virtually the review petitioner seeks the same relief which had been sought at the time of hearing of the main Case No. 21 of 2015 and had been negated. It is not the rehearing of an original matter. Therefore, the review petition is not maintainable as the same relief was sought for at the time of hearing of the main Case No. 21/2015 and had been negated and also we find no error apparent on the face of record.
6. Accordingly, with the above observation, the review petition filed by GRIDCO Ltd. on Order No. 21/2015 is dismissed as void of any merit.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson