

COURT-II
Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 220 of 2014 & IA-37 of 2015

Dated : 2nd February, 2015

Present: **Hon'ble Mr. Justice Surendra Kumar, Judicial Member**
Hon'ble Mr. T. Munikrishnaiah, Technical Member

In the matter of:

Western Electricity Supply Co of Orissa & Ors. ... Appellant(s)

Versus

Orissa Electricity Regulatory Commission & Anr. ... Respondent(s)

Counsel for the Appellant (s) : Mr. Buddy A. Ranganadhan
Mr. Hasan Murtaza
Mr. Aditya Panda

Counsel for the Respondent(s): Mr. Rutwik Panda for R-1

Mr. R.K. Mehta
Mr. Elangbam P.S.
Mr. Abhishek Upadhyay for R-2

ORDER

A lot of arguments have been heard on behalf of the Appellant on the merits of the Appeal as well as on the Interlocutory Application, being IA-37 of 2015, filed by the Appellant. This IA was filed before this Appellate Tribunal in the said appeal and was pressed before this Appellate Tribunal on 28.1.2015. This Appellate Tribunal, in its order, dated 28.1.2015, directed the hearing of the appeal as well as this IA for today i.e. 2.2.2015. Since, Mr. R.K. Mehta, learned counsel appearing for the Respondent No.2/GRIDCO was not available on 28.1.2015, it was made clear that Mr. Mehta may file his objections to the said IA, if he become available in the meantime. Mr. Mehta, today submits that he wants some short time to file his reply. Since, some interim order is necessary as per the arguments of the learned counsel for the Appellant because the salary of the employees of the Appellants is to be paid by 7.2.2015 and due to extreme financial difficulties faced by the Appellants; the Appellants are unable to pay the salaries of the employees by 7.2.2015. if the employees are not paid their salaries before the due date, there will be lot of problems likely to take place in the premises of the Appellants companies.

Mr. Buddy A. Ranganadhan, learned counsel appearing for the Appellant, during the course of the hearing today has submitted that the Orissa Electricity Regulatory Commission has not implemented the previous judgments/orders of this Appellate Tribunal on the pretext that appeals against the said judgments/orders are pending before the Hon'ble Supreme

Court and inspite of there being no stay on the judgments/orders of this Appellate Tribunal, the Orissa Commission is not willing to comply or obey the directions given in the judgments/orders of this Appellate Tribunal.

Mr. Buddy A. Ranganadhan, today further apprehends that even if the order is passed by this Appellate Tribunal in this appeal, whether the same would be complied by the Orissa Commission is in doubt. Mr. Ranganadhan has also pointed out that the judgment, dated 11.2.2014, passed by this Appellate Tribunal in Appeal Nos. 112, 113 and 114 of 2013, against the previous tariff orders, inspite of the direction of the Appellate Tribunal to the Orissa Commission, either to obtain the stay order from the Hon'ble Supreme Court within 3 months or to implement the judgment, dated 11.2.2014, in letter and spirit has not implemented the same till today.

It has been reported that there is no stay order from the Hon'ble Supreme Court on the judgment, dated 11.2.2014, of this Appellate Tribunal and the Orissa Commission has not been complying with the said judgment of this Appellate Tribunal. Mr. Rutwik Panda, who is appearing for the Orissa Commission is directed to obtain a written statement from the Chairman of the Orissa Commission as to whether he would like to comply with the judgment, dated 11.2.2014, passed by this Appellate Tribunal in Appeal Nos. 112, 113 and 114 of 2013, within 5 days positively from today. Detailed observations have been made by this Appellate Tribunal in the aforesaid judgment, dated 11.2.2014 while deciding the aforesaid appeals being Appeal Nos. 112, 113 and 114 of 2013, suggesting the Orissa Commission to maintain judicial discipline by making compliance of the judgments/orders of this Appellate Tribunal but the Orissa Commission appears to be adamant and to violate the previous judgments/orders passed by this Appellate Tribunal. No further remarks are required at this stage because the matter is looked into in depth.

Mr. R.K. Mehta appearing for the Respondent No.2/GRIDCO may file his objections within 5 days after serving copy to the other side.

Post the matter for rest in hearing on **12th February, 2015.**

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

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