

**COURT – I**

**Before the Appellate Tribunal for Electricity**  
( Appellate Jurisdiction )

**I A- No. 244 of 2011 in**  
**D.F.R. No. 1139 of 2011**

**Dated : 19<sup>th</sup> January, 2012**

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**  
**Hon'ble Mr. Rakesh Nath, Technical Member**

Orissa Power Transmission Corporation Limited ... Appellant(s)

Versus

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

Counsel for the Appellant(s): Mr. R.K. Mehta with  
Mr. Antaryami Upadhyay &  
Mr. A. David

Counsel for the Respondent(s): Mr. M.G. Ramachandran, Mr. R.M. Patnaik  
Mr. P.P. Mohanty for R.9 & 10  
Mr. Suresh Tripathy for R. 4, 6 & 7  
M. Sarada for R.5  
Mr. Pocinabrata Patnaik (Rep.) for OERC

**ORDER**

**I A- No. 244 of 2011**  
***(Condone delay Application)***

This is an Application to condone the delay of 1820 days  
in filing the Appeal.

The main Order had been passed on 22.07.2006 and the  
Review Application had been filed for review by the Applicant  
on 17.10.2006. Ultimately the same was disposed of by giving

some directions on 26.04.2011. Now, the present Appeal has been filed on 27.07.2011 as against the main Order dated 22.07.2006 and Review Order dated 26.04.2011. Thus, even though the Review Petition was filed on 17.10.2006, the State Commission disposed of the Review only on 26.04.2011 i.e., after 3 ½ years.

On noticing that there is enormous delay caused in disposal of the Review Petition by the State Commission between the period 17.10.2006 and 26.04.2011, we directed the Commission to give explanation with regard to the said delay.

Earlier the Commission has sent an affidavit through 'tapal/post', to the Tribunal. We expressed the displeasure over the non-appearance of either the counsel or the Representative. On our directions, the Representative of the Commission has appeared today and filed another affidavit giving details of the various dates.

The explanation given in the affidavit for pendency of the Review before the Commission for several years, in our view, is not satisfactory.

However, we want to go into the merits of the reasons given in the affidavit explaining the delay. Therefore, we request the learned counsel for the parties to assist this Tribunal with reference to those reasons for the delay given in the affidavit, so that we can give suitable directions to the commission to adopt the appropriate procedure for entertaining the Review Petitions as well as their disposal within the time frame.

However, this Application for condonation of delay, in our view, can be considered at this stage as the delay was caused mainly due to the pendency of the Review Petition before the Commission. We have heard the learned counsel for the Respondents also. Therefore, the delay in filing the Appeal is condoned. The Application is disposed of.

The Registry is directed to number the Appeal and post the matter for Admission on **01.02.2012**. In the meantime, the learned counsel for the parties may go through the Commission's affidavit and give their suggestions for issuing suitable directions to the Commission on the above aspect. On the next date of hearing, the Commission must represent through its counsel and its Representative.

**(Rakesh Nath)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

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