

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 373 OF 2025 & IA No. 1475 OF 2025

Dated: 13th April, 2026

Present : Hon`ble Ms. Seema Gupta, Officiating Chairperson
Hon`ble Mr. Virender Bhat, Judicial Member

In the matter of:

GRIDCO Limited Appellant(s)

Versus

Odisha Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Raj Kumar Mehta
Himanshi Andley
for App. 1

Counsel on record for the Respondent(s) : Rutwik Panda
Anshu Malik
for Res. 1

Aman Anand
Aman Dixit
Natasha Debroy
Srishti Gupta
for Res. 2

Anand Kumar Shrivastava
Shruti Kanodia
Shivam Sinha
Ishita Jain
Rishabh Dua
Nilesh Panda
Ravi Nair
Amrita Bakhshi
Ankit Bhandari
Chetan Saxena
Mudassir
Ekshat Punwani
Mani Aneja
Kshitij Ujala
Janhavi Johar
Prateek Gupta
Suryapra Basu

for Res. 4

Anand Kumar Shrivastava
Shruti Kanodia
Shivam Sinha
Ishita Jain
Rishabh Dua
Nilesh Panda
Ravi Nair
Amrita Bakhshi
Ankit Bhandari
Chetan Saxena
Mudassir
Ekshat Punwani
Mani Aneja
Kshitij Ujala
Janhavi Johar
Prateek Gupta
Suryapra Basu
for Res. 5

Anand Kumar Shrivastava
Shruti Kanodia
Shivam Sinha
Ishita Jain
Rishabh Dua
Nilesh Panda
Ravi Nair
Amrita Bakhshi
Ankit Bhandari
Chetan Saxena
Mudassir
Ekshat Punwani
Mani Aneja
Kshitij Ujala
Janhavi Johar
Prateek Gupta
Suryapra Basu
for Res. 6

Anand Kumar Shrivastava
Shruti Kanodia
Shivam Sinha
Ishita Jain
Rishabh Dua
Nilesh Panda
Ravi Nair
Amrita Bakhshi
Ankit Bhandari
Chetan Saxena
Mudassir

Ekshat Punwani
Mani Aneja
Kshitij Ujala
Janhavi Johar
Prateek Gupta
Suryaprava Basu
for Res. 7

ORDER

IA No. 1475 of 2025
(for interim relief)

Heard Learned Counsel for the Appellant as well as the Learned Counsels for the Respondent Nos. 1, 2 and 4 to 7.

Learned Counsel for the Appellant drew our attention to the Clause 6 of the PPA executed between the Appellant and the 2nd Respondent to submit that charges payable by the Appellant are only restricted to energy charge and hence it was agreed between the parties that the statutory charges shall not be payable by the Appellant to the 2nd Respondent. He further submitted that the Commission has, in the impugned order, ignored these submissions made by the Appellant and has passed a totally erroneous order.

We note that even though the parties have agreed in the PPA that the Appellant shall pay only energy charges, this is totally contrary to the Regulation No. 54 of the OERC Tariff Regulation 2024 which clearly mentions that the generating company shall recover statutory charges as imposed by the State Government and the Central Government from the GRIDCO and the charges shall include electricity duty, water cess, etc.

We may also note that a similar Petition bearing No. 21 of 2016 had earlier also been filed by the predecessor of the 2nd Respondent wherein similar issue was raised and which was disposed of by the Commission vide order dated 13.07.2016 in which it has been held:

12. That in reply to Para 10 of the petition regarding reimbursement of water cess, electricity duty on auxiliary consumption and SLDC charges by GRIDCO proportionate to its share of power, the relevant Para 21 of the Tariff order dated 30.07.2016 in Case No. 21 of 2016 is reiterated below:

"The Commission observes that the renewal/extension/modification of MoU with Govt. as well as permission for evacuation of the State share of power through CTU has not yet been done by IBEUL in spite of delay in completion of the project. Further, the PPA with GRIDCO has not been amended as agreed by the Petitioner for evacuation of State share of power through CTU. So, the necessary changes in PPA as well as MOU with Govt. may be made at the earliest and be submitted before the Commission for approval. In case of change in underlying base parameters, the indicative tariff mentioned above is likely to change. Therefore, GRIDCO shall verify GCV and price of coal and oil etc. before making actual payment as per Regulations. Further, it is directed that the payment of other charges such as water cess claimed by Water Resource Dept, GoO, and electricity duty on auxiliary consumption and SLDC charges shall be reimbursed by GRIDCO in proportion to their share of power in the power station.

Therefore, by view of the said order, the Commission clearly directed payment of statutory charges also by GRIDCO to 2nd Respondent i.e. the Generator. Concededly, this order of the Commission has not been assailed by the GRIDCO before this Tribunal.

However, it is submitted by the Learned Counsel for the Appellant that this order has not been acted upon, and therefore merits no consideration. We are unable to accept the submissions of the Learned Counsel. The order passed by a judicial authority continues to operate and bind the parties, even if it may not be acted upon by the parties, unless it is stayed or set aside by the Appellate court, which is not the case herein.

Considering the same and the fact that the impugned order of the Commission is according to the Regulations, we do not find that prima facie case exists in favour of the Appellant. The balance of convenience also lies against the Appellant.

Accordingly, we do not find any merit in the application and the same is hereby dismissed.

However, we clarify that this order is passed qua the 2nd Respondent and that nothing mentioned herein shall be construed as our expression on the merits of the case.

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It is represented by learned Counsel on both sides that pleadings are otherwise complete. Registry to verify whether pleadings are complete and, thereafter, include this appeal in the '**List of Short Matters**' to be taken up from there, in its turn.

Virender Bhat
Judicial Member

Seema Gupta
Officiating Chairperson

Sk/mg