IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17823 of 2015

Executive Engineer (Electrical)	....	***Petitioner*** *Mr. S.C.Dash, Adv.*

-versus-

Appellate Authority-cum-SE-Cum-Electrical Inspector	....	***Opposite Parties*** *Mr.L. Samantaray, Sr. Adv. along with Ms. S. Priyadarsini, Adv. (for O.P. No.2)*

COROM:
THE HON'BLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
15.04.2026

Order No

21. **1.** This matter is taken up through Hybrid Mode.

2. On the oral prayer made by the learned counsel appearing for the Petitioner, he is permitted to correct the description of the Petitioner in Court.

3. Heard learned counsel appearing for the parties.

4. The present Writ Petition has been filed inter alia challenging order dt.26.06.2015 so passed by Opp. party No.1 in Case No.AAC-08 of 2014-15 under Annexure-6.

5. Learned Counsel appearing for the Petitioner-Company contended that without proper appreciation of the Final Assessment order passed under Annexure-3, the Appellate authority while disposing the appeal vide the impugned order under Annexure-6 held and directed the Petitioner to suitably amend the Final assessment order so as to claim penalty charges as double, the applicable tariff rate as per agreement calculated on monthly excess demands in KW, considering the category change.

5.1. Learned counsel appearing for the Petitioner contended that since in the Final Assessment Order so issued by the Company under Annexure-3, Opp. party No.2 was held liable to pay a sum of Rs.59,883/- in terms of the provisions contained under Section 126(3) of the Electricity Act, 2003, no such direction could have been issued by the Appellate authority, so contained in Para-2 of the order in question. It is accordingly contended that the impugned order needs interference of this Court.

6. Mr. L. Samantaray, learned counsel appearing for Opp. party No.2 on the other hand contended that in the Final Assessment order issued under Annexure-3, nothing was indicated with regard to any penalty or charge to be paid by the Opp. party No.2, save and except holding the Opp. Party liable to pay a sum of Rs.59,883/-. It is accordingly contended that since the appellate authority had directed the Petitioner-company to pass a fresh Assessment Order instead of doing that, the present Writ Petition has been filed.

6.1. It is also contended that seeking execution of the order, Opp. party No.2 though had moved the OERC in Case No.18 of 2018, but in view of the nature of the interim order passed by this Court on 05.12.2018, no further progress has been made to the said proceeding. It is contended that since nothing was reflected in the Final Assessment Order with regard to any penalty and charge to be paid by the Opp. Party No.2, Petitioner-Company is liable to pass a fresh assessment order in terms of the provisions contained under Section 126(3) of the Act.

7. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that against the Final Assessment Order passed by the Petitioner-company on 26.04.2014 under Annexure-3, Opp. Party No.2 moved the Appellate Authority in Case No. AAC-08 of 2014-15

7.1. As found the appellate authority while disposing the appeal vide the impugned order dt.26.06.2015 under Annexure-6, has directed the Petitioner-company to pass a fresh assessment order along with certain other directions. This Court is of the view that since the Appellate authority permitted the Petitioner-company to pass a fresh Assessment order, no further direction could have been issued either way. Accordingly, this Court while disposing the Writ Petition, permits the Petitioner-company to pass a fresh assessment order in terms of the provisions contained under Section 126(3) of the Act within a period of 4(four) weeks from the date of receipt of this order with due intimation to the Opp. party No.2.

8. The Writ Petition accordingly stands disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita