

ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗଙ୍କ ଦ୍ୱାରା ନେସ୍କୋ, ଓଏସ୍କୋ ଓ ସାଉଥକୋ

ଲାଇସେନ୍ସ ରଦ୍ଦ ସମ୍ପର୍କିତ ରାୟ ପ୍ରକାଶିତ

1. ସେୟାର ହୋଲ୍ଡର ଚୁକ୍ତି (Share Holder Agreement) ୩୦.୯.୨୦୧୧ ସୁଦ୍ଧା ସନ୍ତୋଷ ଜନକ ବ୍ୟବସ୍ଥା ଓ ଏନ୍ ଟି ପି ସି ବଣ୍ଡ (NTPC Bond) ସଂବନ୍ଧୀୟ ଦେୟ ବିବାଦ ୩୦.୯.୨୦୧୧ ସୁଦ୍ଧା ସମାଧାନ, ବିତରଣ ଜନିତ କ୍ଷତି ହ୍ରାସ ଓ ଗ୍ରାହକ ସେବାରେ ଆଖିଦୁଖିଆ ଉନ୍ନତି ଇତ୍ୟାଦି ନ କଲେ ଲାଇସେନ୍ସ ରଦ୍ଦ କରିବାପାଇଁ ଯେ କୌଣସି ସମୟରେ ପରବର୍ତ୍ତୀ ଆବଶ୍ୟକ ପଦକ୍ଷେପ ନିଆଯିବ ବୋଲି ଆୟୋଗ ସ୍ପଷ୍ଟ ନିର୍ଦ୍ଦେଶ ଦେଇଅଛନ୍ତି ।

2. ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ ବିଦ୍ୟୁତ୍ ଆଇନ ୨୦୦୩ର ଧାରା ୨୪ ଡର୍ଜମା କରି, ନେସ୍କୋ, ଓଏସ୍କୋ ଓ ସାଉଥକୋର ଲାଇସେନ୍ସ ରଦ୍ଦ କରିବାପାଇଁ ଆୟୋଗ ଦେଇଥିବା କାରଣ ଦର୍ଶାଏ ନୋଟିସ ଉପରେ ଆପେଲେଟ୍ ଟ୍ରିବ୍ୟୁନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ତା.୧୩.୧୨.୨୦୦୬ରିଖରେ ଦେଇଥିବା ନିର୍ଦ୍ଦେଶ ଏବଂ ଟ୍ରିବ୍ୟୁନାଲ ନିର୍ଦ୍ଦେଶ ଉପରେ ମାନ୍ୟବର ସୁପ୍ରିମ୍ କୋର୍ଟ ତା.୦୪.୦୧.୨୦୦୯ରିଖରେ ଦେଇଥିବା ରାୟକୁ ଆଖିରେ ରଖି ଉପରୋକ୍ତ ତିନୋଟିଯାକ ବିତରଣ କମ୍ପାନୀ ରିଲିଆନ୍ସ, ଗ୍ରୀଡକୋ, ରାଜ୍ୟ ସରକାର, ଆବେଦନକାରୀ ଶ୍ରୀ ଶରତ ଚନ୍ଦ୍ର ମହାନ୍ତି ଏବଂ ଏଥି ସହିତ ସଂଶ୍ଳିଷ୍ଟ ଅନ୍ୟାନ୍ୟ ସଂସ୍ଥାକୁ ଶୁଣିଲାପରେ ଏବଂ ନେସ୍କୋ, ଓଏସ୍କୋ ଓ ସାଉଥକୋର ୩୦.୯.୨୦୧୦ ସୁଦ୍ଧା କାର୍ଯ୍ୟପ୍ରଣାଳିର ସମାକ୍ଷା ଓ ଅନ୍ୟାନ୍ୟ ସମସ୍ତ ବିଷୟ ଇତ୍ୟାଦିକୁ ଡର୍ଜମାକରି ବର୍ତ୍ତମାନପାଇଁ ଲାଇସେନ୍ସ ରଦ୍ଦ କରିବା ବଦଳରେ କେତେଗୁଡ଼ିଏ ନିର୍ଦ୍ଦିଷ୍ଟ କାର୍ଯ୍ୟକ୍ରମ ବିଦ୍ୟୁତ୍ ବିତରଣ କମ୍ପାନୀମାନେ କରିବାପାଇଁ ଆୟୋଗ କେତେକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ସର୍ତ୍ତ ଆରୋପ କରିଅଛନ୍ତି ।

3. ବିତରଣ କମ୍ପାନୀମାନଙ୍କୁ ପୁଞ୍ଜି ଯୋଗାଡକରିବା, ଫିଡରଓପାରି କେତେ କ୍ଷତି ହେଉଛି ତାହା ନିର୍ଦ୍ଧାରଣ କରିବା (Energy Audit), ବିଦ୍ୟୁତ୍ ଚୋରୀ ରୋକିବାପାଇଁ ଫଳପ୍ରସ୍ତୁତ ପଦକ୍ଷେପନେବା, ବିଦ୍ୟୁତ୍ ସେବାର ମାନ ଉନ୍ନତି କରିବା, ଉପଭୋକ୍ତା ମାନଙ୍କର ସମସ୍ୟା ସମାଧାନ ପାଇଁ ନିଜଆଡୁ ଆଗତୁରା ପଦକ୍ଷେପ ନେବା, ଗ୍ରୀଡକୋସହ NTPC Bond ବାବଦକୁ ଦେୟ ସଂବନ୍ଧୀୟ ବିବାଦର ସମାଧାନ କରିବା ଓ କମ୍ପାନୀର ମୁଖ୍ୟ ଅଂଶାଦାର ସହ ଚୁକ୍ତିକୁ ଦରକାର ମୁତାବକ ନବୀକରଣ ବା ଦରକାର ମୁତାବକ ପରିବର୍ତ୍ତନ କରିବା ଇତ୍ୟାଦିପାଇଁ ଆୟୋଗ ବିତରଣକମ୍ପାନୀମାନଙ୍କ ଲାଇସେନ୍ସ ରଦ୍ଦ (suspension) କରିବା ବଦଳରେ ଶେଷଥରପାଇଁ ଆଉ ଏକ ସୁଯୋଗ ଦେବାପାଇଁ ସ୍ଥିରକରିଛନ୍ତି ।

64. *In order to allow another opportunity to WESCO, NESCO & SOUTHCO to arrange fund for capital investment, taking effective steps for energy audit, arresting theft of electricity, improve standard of service to the consumers and to take proactive steps for redressal of consumer grievances and settlement of disputes with GRIDCO with regard to NTPC bond and other dues, Commission at present, instead of suspending licenses of the three distribution companies, would like to see on environment of effort on all sides to improve performance in various aspects. In view of the aforesaid discussions and analysis the Commission instead of suspending licenses of WESCO, NESCO & SOUTHCO directs some demonstratable actions towards improvement of performance. (Extract of Para 64 of the Commission's Order)*

4. ଆୟୋଗ ଯେଉଁ ସର୍ତ୍ତାବଳୀ ରଖିଛନ୍ତି ସେଥିମଧ୍ୟରୁ କେତୋଟି ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ସର୍ତ୍ତ ହେଲା -
- ମୁଖ୍ୟ ଭାଗାଦାର ରିଲାଏନ୍ସ ଇନଫ୍ରା ଓ ଗ୍ରୀଡକୋ ସମୋନଙ୍କର Shareholder ରୁକ୍ତି ଯାହାର ଅବଧି ୦୧.୦୪.୨୦୦୪ରୁ ସମାପ୍ତି ଘଟିଛି ତାକୁ ଆସନ୍ତା ୩୦.୦୯.୨୦୧୧ ପୂର୍ବରୁ ଉଭୟପକ୍ଷକୁ ଗ୍ରହଣୀୟ ହେଲାପରି ବ୍ୟବସ୍ଥା କରିବେ ।
 - ବିଦ୍ୟୁତ୍ ବଣ୍ଟନ କମ୍ପାନୀମାନେ ଗ୍ରୀଡକୋକୁ ଦେଇଥିବା ୪୦୦ କୋଟି ବଣ୍ଡର ବିବାଦକୁ ବଣ୍ଡ ସର୍ବସ୍ୱିପ୍ସନ୍ ରୁକ୍ତି ପରିଚ୍ଛେଦରେ ଆପୋଷ ସମାଧାନ ୩୦.୦୯.୨୦୧୧ ସୁଦ୍ଧା କରାଯିବା ଉଚିତ୍, ଯଦିଓ ବିଭିନ୍ନ କୋର୍ଟରେ ଉକ୍ତ ବିଷୟ ବିଚାରଧାନ ଅଛି ଏବଂ ଫଳାଫଳ ସ୍ଥଗିତ ଅଛି ।

- ରାଜ୍ୟ ସରକାରଙ୍କ ଦ୍ୱାରା ସ୍ଥିରୀକୃତ ଉପରୋକ୍ତ ତିନି ବିଦ୍ୟୁତ୍ କମ୍ପାନୀମାନଙ୍କର ବିଦ୍ୟୁତ୍ ଭିଡିଭୁମିର ବିକାଶ ପାଇଁ ରାଜ୍ୟ ସରକାର ଦେଉଥିବା ଆର୍ଥିକ ସାହାଯ୍ୟର ସମାନ୍ତରାଳ ଅର୍ଥ (counter part funding) କମ୍ପାନୀମାନେ ଯୋଗାଡ଼ କରିବେ । ଏଥି ନିମନ୍ତେ ଆବଶ୍ୟକ ପଡୁଥିବା ବିଦ୍ୟୁତ୍ ଉପକରଣର କ୍ରୟ, ରାଜ୍ୟ ସରକାରଙ୍କର ଶକ୍ତି ବିଭାଗ ଦ୍ୱାରା ପ୍ରଣୀତ ନିୟମାବଳୀ ଏବଂ କ୍ରିୟାବିଧିକୁ କମ୍ପାନୀମାନେ ପାଳନ କରିବେ । ଏହାର ସଧାନ ନିରପେକ୍ଷ ଯାଞ୍ଚ ରାଜ୍ୟ ସରକାରଙ୍କର ନିୟମାବଳୀ ଅନୁସାରେ କମ୍ପାନୀମାନେ କରିବେ ।
- ରାଜ୍ୟ ସରକାରଙ୍କ ଠାରୁ ବିଦ୍ୟୁତ୍ ଭିଡିଭୁମିର ବିକାଶ ପାଇଁ ଲପଲକ୍ଷ ହେଉଥିବା ଅର୍ଥର ପରିମାଣ ଏବଂ ଏ କମ୍ପାନୀମାନଙ୍କର ଏଥି ନିମନ୍ତେ ସମାନ୍ତରାଳ ପୁଞ୍ଜି ଲଗାଣା, ଆୟୋଗ ଅନୁମୋଦିତ ବାର୍ଷିକ ପରିଚାଳନା ଏବଂ ରକ୍ଷଣାବେକ୍ଷଣ ବାବଦକୁ ହେଉଥିବା ଖର୍ଚ୍ଚର ପରିସରଭୁକ୍ତ ନୁହେଁ । ତେଣୁ ରକ୍ଷଣାବେକ୍ଷଣ ବାବଦକୁ ଆକଳନ କରାଯାଇଥିବା ଖର୍ଚ୍ଚ ବିଦ୍ୟୁତ୍ ଭିଡିଭୁମିର ବିକାଶ ପାଇଁ ହେଉଥିବା ଖର୍ଚ୍ଚର ସମାନ୍ତରାଳ ଅର୍ଥ ଠାରୁ ଭିନ୍ନ । (Capex fund is distinct and an additionality over and above the O&M expenditure)
- ଉଭୟ ପ୍ରାଞ୍ଚାଇଜ୍ ଏବଂ ନନ୍-ପ୍ରାଞ୍ଚାଇଜ୍ ଅଞ୍ଚଳରେ ହେଉଥିବା ରକ୍ଷଣାବେକ୍ଷଣ ଏବଂ ବିଦ୍ୟୁତ୍ ଭିଡିଭୁମିର ବିକାଶ ବାକ୍ସବିଚାର ନକରି କରିବେ ।
- ଉପରୋକ୍ତ ବିଦ୍ୟୁତ୍ କମ୍ପାନୀମାନେ ବିଲିଙ୍ଗ ଏବଂ ଦେୟ ଆଦାୟରେ ସୁଧାର ଆଣି, ରକ୍ଷଣାବେକ୍ଷଣ କାର୍ଯ୍ୟକୁ ସୁଚାରୁ ରୂପେ ସମ୍ପାଦନ କରିବା ସହିତ ବର୍ଷନ କମ୍ପାନୀମାନେ ତାଙ୍କର ସମସ୍ତ ଅଞ୍ଚଳରେ Spot Billingର ବ୍ୟବସ୍ଥା ପାଇଁ ଏକ ଯୋଜନା ୩୦.୦୬.୨୦୧୧ ସୁଦ୍ଧା ପ୍ରସ୍ତୁତ କରି ଆୟୋଗଙ୍କ ନିକଟରେ ଦାଖଲ କରିବେ ।
- ସମୁଦାୟ ପରିବହନ ଓ ବାଣିଜ୍ୟିକ କ୍ଷତିକୁ (AT&C loss) ଧାର୍ଯ୍ୟ ଲକ୍ଷ ଅନୁସାରେ ବର୍ଷନ କମ୍ପାନୀମାନେ କମାଇବେ । AT&C କ୍ଷତିର ଧାର୍ଯ୍ୟ ଲକ୍ଷ ହାସଲ କଲେ ରାଜ୍ୟ ସରକାର ଯୋଗାଇଦେଇଥିବା ରଣ ଅନୁଦାନରେ ପରିଣତ କରାଯିବ ।
- ବିଦ୍ୟୁତ୍ ବର୍ଷନ କମ୍ପାନୀମାନେ ଆବଶ୍ୟକ ପଡୁଥିବା କର୍ମଚାରୀ ବିନିଯୋଗ କରି, ଲାଭନ ରକ୍ଷଣାବେକ୍ଷଣ, ଟ୍ରାନ୍ସମିସନ୍ ଶକ୍ତି ବୃଦ୍ଧି ସ୍ଥାପନ, ବିଲ୍ ଯୋଗାଇବା ଓ ଆଦାୟ କାର୍ଯ୍ୟ କରିବେ । ବିଦ୍ୟୁତ୍ କାଟ କରି, ଗ୍ରାହକଙ୍କ ଠାରୁ କ୍ରୟ କରୁଥିବା ବିଦ୍ୟୁତ୍ କମାଇବାକୁ ଚେଷ୍ଟା କରିବେ ନାହିଁ । ଆବଶ୍ୟକ ପଡ଼ିଲେ Protocol on Power Regulation ର ନିର୍ଦ୍ଦେଶକୁ ଅନୁସରଣ କରିବେ ।
- ବିଦ୍ୟୁତ୍ ବର୍ଷନ କମ୍ପାନୀମାନେ ପୂର୍ଣ୍ଣସମୟ ପରିଚାଳନା ନିର୍ଦ୍ଦେଶକ ନିଯୁକ୍ତ କରିବା ସହିତ ମୁଖ୍ୟ ଭାଗାଦାର ରିଲାଏନ୍ସ ଇନଫ୍ରା ଭିଡିଭୁମିର ବିକାଶ ପାଇଁ ବିଭିନ୍ନ ବ୍ୟାଙ୍କ ବା ବ୍ୟବସାୟିକ ଆର୍ଥିକ ସଂସ୍ଥାମାନଙ୍କରୁ ରଣ ଆଣି ପରିବର୍ଷନ ବ୍ୟବସ୍ଥାର ଉନ୍ନତି ପାଇଁ ଲଗାଇବେ ।

5. ଆୟୋଗ ଉପରୋକ୍ତ ଆଦେଶନାମାର କାର୍ଯ୍ୟକାରୀତା ସମ୍ପର୍କରେ ମଝିରେ ମଝିରେ ସମୀକ୍ଷା କରିବେ । ଯଦି ଏ ସମସ୍ତ ପଦକ୍ଷେପ ନେବାରେ ନେକ୍ସୋ, ଓଷ୍ଟୋ ଓ ସାଉଥକୋ ବିଫଳ ହୁଅନ୍ତି ବା ଯଦି ଲାଭସେନ୍ଦ୍ରି ଏହି ସର୍ତ୍ତ ଅନୁସାରେ କାର୍ଯ୍ୟ ସନ୍ତୋଷଜନକ ହୋଇନାହିଁ ବୋଲି ଆୟୋଗ ହୃଦୟଙ୍ଗମ କରନ୍ତି ତେବେ ଲାଭସେନ୍ଦ୍ରି ପ୍ରତ୍ୟାହାର ବା ରଦ୍ଦ କରିବାପାଇଁ ଯେ କୌଣସି ସମୟରେ ବିହିତପଦକ୍ଷେପ ନେବେବୋଲି ଆୟୋଗ ତାଙ୍କ ଆଦେଶର ପାରା-୬୫ରେ ସ୍ପଷ୍ଟ କରିଦେଇଛନ୍ତି ।

65. *The Commission would review from time to time the progress made for complying with the stipulations as indicated above in Para 64. These stipulations must show satisfactory progress. At any time if the Commission feels that the distribution companies are not taking effective and adequate steps to reduce the loss and improve the quality of supply the Commission would be at liberty to initiate action either under Section 19 or Section 24 of the Act. (Extract of Para 65 of the Commission's Order)*

**Additional information in connection with suspension of licence of NESCO,
WESCO AND SOUTHCO (Case No.35 of 2005)**

1. ଏଠାରେ ସୂଚାଇ ଦିଆଯାଇପାରେଯେ ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ ୨୭.୧.୨୦୦୬ ରେ ନେସ୍କୋ, ୱେସ୍କୋ ଓ ସାଉଥକୋର କାର୍ଯ୍ୟକ୍ରମରେ ଅନେକ ଗୁଡ଼ିଏ ତ୍ରୁଟି ଅନୁଧ୍ୟାନ କରି ସେହି ତିନିଗୋଟି କମ୍ପାନୀର ଲାଇସେନ୍ସକୁ କାର୍ଯ୍ୟକୁ ସ୍ପୁରିତ (suspend) କରାନଯିବ ବୋଲି ନୋଟିସ ଜାରିକରିଥିଲେ । ଏ ସଂକ୍ରାନ୍ତିରେ Commission Order in Case No.35 of 2005 para 28 and 29 ଉଲ୍ଲେଖ ଯୋଗ୍ୟ –

“28. In the circumstances, the Commission is of the opinion that the distribution licensees (Respondent Nos. 2, 3 and 4) are unable to discharge the functions or perform the duties imposed on them by or under the provisions of the Electricity Act, 2003 and have persistently defaulted in complying with the directions given by the Commission under the said Act. Prima facie, they have violated the terms and conditions of their respective licences, and it is necessary in public interest to suspend the licences of the said distribution companies and appoint an Administrator for each such licensee to discharge the functions of the licensee in accordance with terms and conditions of licence.

29. It is, therefore, ordered that notice be issued in terms of the Proviso to S.24(1) of the Electricity Act, 2003 to Respondent Nos. 2, 3 and 4 to file their representations by 01.3.2006 against the proposed suspension of the licences of the said Respondents, serving copies on the concerned parties. A copy of this order shall accompany the notice. The case is posted for hearing on 08.3.2006.”

2. କମିଶନଙ୍କ ଆଦେଶ ବିରୁଦ୍ଧରେ ଆପେଲେଟ୍, ଟ୍ରିବ୍ୟୁନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ଡାଏମ୍.୧୨.୨୦୦୬ରିଶରେ (in Appeal Case No.29, 30 and 31) ନେସ୍କୋ, ୱେସ୍କୋ ଓ ସାଉଥକୋର ଆପିଲକୁ ମଞ୍ଜୁର କରିବା ସଙ୍ଗେ ସଙ୍ଗେ ତାଙ୍କ ଆଦେଶର ପାରା ୪୪ ରେ ନିମ୍ନଲିଖିତମତେ ଆଦେଶ ଦେଇଥିଲେ ।

“45. For any valid reason, if the Commission proposes to continue or initiate fresh action under Section 24 of the Electricity Act, 2003, it is always open to the Commission to act strictly in accordance with Section 24 and follow the procedure prescribed therein. We may also administer a caution that motivated petitions or complain shall be examined by the Commission very carefully before exercise of statutory power, as anxiety alone will not save the statutory authority from the test of bias nor it will satisfy the requirements of fair action which a reasonable authority may act upon. There shall be an action, if at all, which shall be in conformity with the statutory provisions of the Electricity Act, 2003, the relevant regulations governing and in conformity with the principles of natural justice.”

3. ଅନ୍ୟ ପକ୍ଷରେ କମିଶନ ଅର୍ଡର ୨୭.୧.୨୦୦୬ ବିରୁଦ୍ଧରେ Reliance Energy Limited (REL) ଆପେଲେଟ୍, ଟ୍ରିବ୍ୟୁନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ରେ ଅନ୍ୟ ଏକ ଆପିଲ କରିଲେ ଏବଂ ଆପେଲେଟ୍,

ତ୍ରିଭୁଜନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ଡାଙ୍କ ୧୩.୧୨.୨୦୦୬ ଆଦେଶରେ in Appeal No.75 ଆପିଲକୁ ଅନୁମତି ଦେବା ସଙ୍ଗେ ସଙ୍ଗେ ପାରା ୩୮ରେ ନିମ୍ନଲିଖିତ ଆଦେଶ ଦେଇଥିଲେ ।

“38. We hold that insofar as the appellant is concerned OERC has acted without jurisdiction and the direction issued by OERC against the appellant are liable to be set aside and accordingly they are set aside. However, we make it clear that with respect to the orders passed by OERC against the Discoms, we are not called upon to examine the correctness or validity on merits as the Discoms have not preferred appeals....”

4. କମିଶନ ଆପେଲେଟ୍ ତ୍ରିଭୁଜନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି (Appeal No.75) ରେ ଓଡ଼ିଶା ବିଦ୍ୟୁତ୍ ନିୟାମକଙ୍କ ୨୭.୧.୨୦୦୬ ଆଦେଶକୁ set aside କରିବା ସଙ୍ଗେ ସଙ୍ଗେ କେତୋଟି ଗଠନ ମୂଳକ ପରାମର୍ଶ ପାରା ୩୯ ଠାରୁ ୪୧ ରେ ଦେଇଥିଲେ ତାହା ନିମ୍ନରେ ପ୍ରଦତ୍ତ କରାଗଲା ।

“39. Electricity distribution business involves not merely bilateral contract but also far reaching consequence on large number of consumers in the area of distribution licences and such distribution contracts are to be treated on a different pedestal as has been observed by Hon’ble Supreme Court in Raymonds Ltd. V. Madhya Pradesh Electricity Board reported in 201, 1SCC, 134.

40. We expect not only the Discoms but also the share holders of the Discoms namely the appellant, GRIDCO and others will evolve and arrive at an amicable solution for effective functioning of the three Discoms to serve the consumers at large, which is expected of the appellant. With respect to the matter which is the subject matter of pending Writ Petition, it is for the parties to work out their remedies and it shall not be taken that we have expressed ourselves on merits of the said matter nor are we could have taken up the matter to discuss the said dispute here.

41. Before parting with this appeal we would like to point out that the appellant as well as respondents have taken up the responsibility of serving the consumers and they shall take every effort to see that the privatization in the State of Orissa is not defeated on hyper-technicalities and every effort should be made to continue the distribution of power effectively to the satisfaction of everyone, while avoiding friction and mutual misunderstandings and suspicions. We do expect that the appellant REL and contesting respondents continue to strive for the common purpose of serving consumers and the discussion, now being held in this behalf may be utilized to settle the disputes in the interest of Reform in the State of Orissa.”

5. ଆପେଲେଟ୍ ତ୍ରିଭୁଜନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ଡାଙ୍କର ୧୩.୧୨.୨୦୦୬ ରେ ନେସ୍କୋ, ଓଡ଼ିଶା ଓ ସାଉଥୋକୋ ସପକ୍ଷରେ (in Appeal No.29, 30 & 31) ଯେଉଁ ଆଦେଶ ଦେଇଥିଲେ ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ ସୁପ୍ରିମ୍ କୋର୍ଟ ରେ ସିଭିଲ ଆପିଲ କରିଥିଲେ ଏବଂ ସୁପ୍ରିମ୍ କୋର୍ଟ ଡାଙ୍କର ୫.୧.୨୦୦୯ ଆଦେଶ ବଳରେ ଆପେଲେଟ୍ ତ୍ରିଭୁଜନାଲ ଅଫ୍ ଇଲେକ୍ଟ୍ରିସିଟି ଆଦେଶକୁ set aside (ରଦ) କରି ନିମ୍ନଲିଖିତ ଆଦେଶ ଦେଇଥିଲେ ।

"In our view, in the facts and circumstance of the case, the Regulatory Commission was justified in issuing notice to the respondents calling upon them to file representations against proposed suspension of their licences, but there was no warrant for appointment of special officers to over see their work. Therefore, the Appellate Tribunal had rightly annulled the appointment of the special officers. However, it would not have set aside the order of the Regulatory Commission in its entirety without properly appreciating that only show cause notice had been issued to the respondents and final order was yet to be passed by the Regulatory Commission.

Accordingly, the appeal is allowed in-part. The impugned order of the Appellate Tribunal is quashed so far as it annuls the show cause notice issued by the Regulatory Commission under Section 24(1) of the Act. Now, it would be open to the respondents to file their representations/objections before the Regulatory Commission, which shall proceed to decide the matter in accordance with law without being influenced by the observations made in the order impugned in these appeals.

Needless to say that we have not gone to the question as to whether while issuing notice under Section 24(1) of the Act proposing suspension of the licence, the Regulatory Commission could pass an order for appointment of special officer and this question is left to be decided in appropriate case."

6. GRIDCO, State Govt. and Reliance Managed Distribution Companies କ୍ଷେତ୍ରରେ ବିଭିନ୍ନ ସମସ୍ୟାର ସମାଧାନ କରିବାପାଇଁ ଓ ବିଦ୍ୟୁତ୍ ବିତରଣା କ୍ଷେତ୍ରରେ କିପରି ଉନ୍ନତି ଆଣିହେବ ସେଥିପାଇଁ ଇତିମଧ୍ୟରେ ରାଜ୍ୟସରକାର ତା.୨.୨୦୧୦ରିଖରେ ୯୩୩ ନୋଟିଫିକେସନରେ ଏକ ମନ୍ତ୍ରୀ ସ୍ତରୀୟ କମିଟି ଗଠନ କରିଛନ୍ତି ।

*"Government of Orissa
Department of Energy
NOTIFICATION*

No.PPD-TH-14/10/933/ Dated Bhubaneswar the 6/02/2010

Government have been pleased to constitute an Inter Ministerial Committee to resolve the outstanding issues between GRIDCO and M/s. Reliance Energy Ltd. such as Discoms Power Bond/NTPC Bond, payment of outstanding GRIDCO loan, payment of outstanding Government loan etc. and to facilitate the system up-gradation of the Distribution Sector with the following Ministers.

- 1) Hon'ble Minister, Finance & Excise*
- 2) Hon'ble Minister, Industries, Steel & Mines & parliamentary Affairs*
- 3) Hon'ble Minister, Higher Education, Tourism & Culture*
- 4) Hon'ble Minister, Rural Development & Law*
- 5) Hon'ble Minister, Energy*

Government have been further pleased to constitute a Committee with the following Secretaries to assist the Inter Ministerial Committee of the Ministers.

- 1. Principal Secretary to Govt., Finance Deptt.*
- 2. Commissioner-cum-Secretary to Govt., Industries Deptt.*
- 3. Principal Secretary to Govt., Law Deptt.*
- 4. Commissioner-cum-Secretary to Govt., Deptt. of Energy – Convenor*
- 5. C.M.D., GRIDCO*

Order

Ordered that a Notification be published in the next issue of Orissa Gazette.

*By order of Governor
-Sd-
Commissioner-cum-Secretary to Govt."*

7. ସୁପ୍ରିମ୍ କୋର୍ଟର ଆଦେଶ ପାଇବାପରେ ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ ନେସ୍କୋ, ଓସ୍କୋ ଓ ସାଉଥ୍କୋକୁ ତା.୧୭.୧.୨୦୦୯ରିଖ ରେ ଶୁଣାଣି ନିମନ୍ତେ ନୋଟିସ ଜାରିକଲେ ଏବଂ ତା ୨୮.୨.୨୦୦୯ ରେ ଶୁଣାଣି ଆରମ୍ଭ କରି ୨୧.୮.୨୦୧୦ରେ ଶୁଣାଣି ଶେଷ କରିଥିଲେ । କମିଶନ Reliance Energy (RInfra), ନେସ୍କୋ, ଓସ୍କୋ ଓ ସାଉଥ୍କୋ, ଗ୍ରୀଡକୋ, ରାଜ୍ୟ ସରକାର, ପିଟିସନର ଶ୍ରୀ ଶରତ କୁମାର ମହାନ୍ତିଙ୍କ ଶୁଣାଣି କରିସାରିଲାପରେ, ବିଦ୍ୟୁତ୍ ବିତରଣ କମ୍ପାନୀମାନଙ୍କର ୩୦.୯.୨୦୧୦ ସୁଦ୍ଧା କାର୍ଯ୍ୟ ପ୍ରଣାଳୀର ସମୀକ୍ଷା କଲାପରେ ଓ ଅନ୍ୟାନ୍ୟ ସମସ୍ତ ବିଷୟକୁ ବିଚାରକରି କେତେଗୁଡ଼ିଏ ସର୍ତ୍ତ ଆରୋପ କରିଅଛନ୍ତି । ଏହି ସର୍ତ୍ତ କମିଶନଙ୍କ ଆଦେଶର ପାରା-୬୪ ରେ ଲିପିବଦ୍ଧ କରାଯାଇଛି ।

(Extract of Para 64 of the Commission's Order)

64. *In order to allow another opportunity to WESCO, NESCO & SOUTHCO to arrange fund for capital investment, taking effective steps for energy audit, arresting theft of electricity, improve standard of service to the consumers and to take proactive steps for redressal of consumer grievances and settlement of disputes with GRIDCO with regard to NTPC bond and other dues, Commission at present, instead of suspending licenses of the three distribution companies, would like to see on environment of effort on all sides to improve performance in various aspects. In view of the aforesaid discussions and analysis the Commission instead of suspending licenses of WESCO, NESCO & SOUTHCO directs demonstratable action towards performance as follows.*

- (1) Both the shareholders should work out a remedy for the shareholders agreement and arrive at a mutually satisfactory arrangement for the future of the DISCOMs. Satisfactory steps may be demonstrated on or before 30.9.2011.*
- (2) DISCOMs and GRIDCO should make every effort to settle the issue of servicing Rs.400 crore NTPC bond in a mutually co-operative fashion without waiting for the final judgment of the various courts of law. Satisfactory steps should be demonstrated on or before 30.9.2011.*
- (3) The three distribution companies must have to arrange their counter part funding for the CAPEX programme as decided by the State Govt. and communicated in their letter No.9230/EN dated 21.10.2010.*
- (4) The guidelines/procedure outlined by Energy Dept. in their Lr. No. R&R-I-06/2010-9230/En dtd. 21.10.2010 in the matter of procurement materials, third party verifications etc. shall be followed.*
- (5) The capital expenditure to be incurred out of the budgetary assistance from the State Govt. and the loan/resource to be arranged by WESCO, NESCO & SOUTHCO would be over and above the approved O&M expenditure for them*

for the year 2010-11 and O&M expenditure to be approved for the subsequent years. The O&M expenditure shall not be considered towards counter funding by WESCO, NESCO & SOUTHCO.

- (6) Discrimination should not be made between franchisee and non-franchisee area for utilization of fund under O&M as well as capital investment programme keeping in view the terms and conditions agreed to in the agreement with the franchisees.*
- (7) In order that the distribution companies ensure full utilization of the amount approved for O&M expenditure, concerted efforts should be made to increase substantially the present level of billing and collection so that enough money is deposited in escrow account for enabling GRIDCO to release the required fund as per the priority fixed by the Commission in their order dated 12.4.2010 in case No. 3/2010 read with their order dated dtd. 02.11.2010 in case No. 34/2010.*
- (8) For correct comparison of the improvement achieved over the base line data the distribution companies are to correctly workout the base line data division-wise as a whole and for the specified project area within the division separately. At the end of the project period the improvement achieved for the division as a whole and for the project area specified shall be compared with the base line data thus worked out correctly.*
- (9) State Govt. in the initial stage is proposing to release fund as loan which can be subsequently converted to grant depending on actual fulfillment of the target of the AT&C loss. Hence in order to reduce the impact on tariff on account of the proposed investment, distribution companies are to closely monitor the actual implementation at the field level. Men and materials should be provided in time through appropriate re-deployment and re-allocation so that in no way there is cost over run and time over run leading to higher impact on tariff. In other words additional liabilities, if any, arising out of cost over run or time over run or failure by the licensee to achieve the performance parameters fixed by the Monitoring Committee/ State Govt. shall not be considered by the Commission for the purpose of their revenue requirement for the relevant years.*
- (10) Advance action should be taken for procurement of materials and awarding the contract in a transparent manner for implementation of Capex programme so that the work is taken up in time and the payment is released as soon as fund is passed on by GRIDCO after receiving the same from the State govt.*
- (11) While the investment is expected to improve the quality of supply and reduce the distribution loss, concurrent action should be taken for implementation of various anti-theft measures including strong and regular enforcement*

activities through Energy Police Stations and Vigilance Wing, MRT squad of the distribution companies.

- (12)Initially the State govt. is proposing investment of Rs.2400 core for the four distribution companies out of which State Govt. would provide Rs.1200 crore. Therefore, it is necessary for the distribution companies to take all possible measures to ensure that target fixed on different parameters particularly with reference to distribution loss and AT&C loss are achieved by them at any cost so that govt. may consider further investment over and above Rs.2400 crore now decided. This is an opportunity which the distribution companies must avail and create an enabling situation for the State Govt. to extend further support to the distribution companies in their efforts to reduce the AT&C loss and improve the quality of supply. However, for the purpose of truing up, the parameters fixed by the Commission in the Tariff Orders of the respective years shall be taken as the basis but not the target fixed for the purpose of achieving budgetary support from the State Govt.*
- (13)The distribution companies are to furnish quarterly progress report on actual implementation of the project in specified area to the Commission by 15th of the month following the end of the quarter i.e. 15th January, 15th April, 15th July and 15th October.*
- (14)The estimated cost of the project, the date of commencement of the work, the scheduled date of completion and progress of the work should be displayed in website of distribution companies as well as that of GRIDCO for information of the general public.*
- (15)R-Infra the majority shareholder should appoint a full time Managing Director for each of the DISCOMs (WESCO, NESCO and SOUTHCO) from amongst the Directors of the Board who should be responsible for day-to-day management of the DISCOMs. Clear steps in the matter may be reported before 30.9.2011.*
- (16)The three DISCOMs (WESCO, NESCO and SOUTHCO) should generate enough cash through improved billing and collection efficiency to pay the outstanding loan and BSP dues to GRIDCO in terms of the Commission's order dt. 01.12.2008.*
- (17)Both the shareholders must take step to infuse funds into the DISCOMs either by way of equity or by way of debt so as to ensure satisfactory implementation of both the on-going CAPEX programme or such other capital works as might be required to bring the distribution network into a healthy state. Satisfactory steps need to be demonstrated before 30.9.2011.*
- (18)The DISCOMs shall take up full scale energy auditing in order to properly assess losses both technical and commercial in the system and to take necessary remedial measures to plug such losses. DISCOMs should file*

separately on or before 31.7.2011 a plan of action for energy audit programme in their area of operation with time line of action and completion.

(19) DISCOMs shall take necessary steps to cover the areas hitherto not covered under the spot billing programme in order to improve billing efficiency. DISCOMs must file separately on or before 31.7.2011 a plan of action for spot billing programme in their operation with time line of action and completion.

(20) DISCOMs should have adequate man power in order to maintain the system at optimum level and to take efficiently billing and collection activities. DISCOMs should complete the man power assessment and file separately such requirement for approval of the Commission before 30.9.2011.

(21) DISCOMs are required to maintain lines, upgradation of transformer and power supply as per their annual R&M programs so that consumers have access to quality power.

(22) DISCOMs should not resort to restricting power supply through load shedding to reduce the input energy. DISCOMs are required to adhere to Order (Protocol) on Power Regulation in the State under Section 23 of the Electricity Act, 2003 notified by the Commission from time to time read with such other Grid management advice of SLDC for implementation of ABT.

(23) DISCOMs have not been able to achieve the target approved by the Commission in various business plan orders towards Distribution loss and AT&C reduction. The DISCOMs are directed to take up a comprehensive plan for targetted reduction of these losses in view of the bench mark fixed by the Commission. The CAPEX programme for the DISCOMs totaling Rs.2400 crore (for the four DISCOMs) mainly aims at reduction of AT&C losses and the funding impinges on the phase wise AT&C loss reduction programme.

(24) The GRF institutions which are the internal grievance redressal mechanism of the institution of the DISCOMs should be strengthened by giving them proper financial and infrastructural support and by taking timely action to comply with the orders of GRF and Ombudsman.

65. The Commission would review from time to time the progress made for complying with the stipulations as indicated above in Para 64. These stipulations must show satisfactory progress. At any time if the Commission feels that the distribution companies are not taking effective and adequate steps to reduce the loss and improve the quality of supply the Commission would be at liberty to initiate action either under Section 19 or Section 24 of the Act. (Extract of Para 65 of the Commission's Order)

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