

(2022) 08 OHC CK 0191
In the Orissa High Court
Case No : Writ Appeal No.491 of 2013

Executive Engineer (Electrical), Baripada And Others	APPELLANT
Vs	
Mayurbhanj Cold Storage Pvt. Ltd. And Another	RESPONDENT

Date of Decision : 24-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0191

Hon'ble Judges : Dr. S. Muralidhar, CJ;Chittaranjan Dash, J

Bench : Division Bench

Advocate : P.K. Mohanty, Falguni Rajguru Mohapatra

Final Decision : Dismissed

Judgement

1. The challenge in the present appeal by the Executive Engineer (Electrical), Baripada Electrical Division, NESCO (now TPNODL) is to an order dated 28th June 2013, passed by the learned Single Judge, dismissing the Appellant's W.P. (C) No.27046 of 2011 which in turn challenged an order dated 8th August 2011, passed by the Grievance Redressal Forum (GRF), Balasore in GRF C.C. No.212 of 2011. The learned Single Judge rejected the prayer of the Appellants to categorise the Mayurbhanj Cold Storage Private Limited as GP Consumer and for bills to be raised accordingly.

2. The admitted position is that the Respondent No.1 is a cold storage unit which only preserves vegetables. By the 4th amendment to the OERC Distribution (Conditions of Supply) Code, 2007 a new category of 'Agro Industrial Consumer' was inserted from 16th May, 2008. Accordingly, an agreement was entered into between the Appellant and the Respondent No.1 on that basis. He attempt by the present Appellant by a letter dated 12th August, 2009 requiring Respondent No.1 to execute a fresh agreement by being categorized by 'GP Consumer' paying a higher tariff rate was challenged by the Respondent No.1 before the GRF, Balasore in the aforementioned case. That prayer was allowed and a direction was issued to the present Appellants to charge Respondent No.1 under the 'Allied

Agro Industrial Activities' with effect from 26th October, 2009.

3. The above order was based on the several similar orders of the Ombudsman directing the change in the tariff category of cold storages from 'GPC' to Allied Agro Industrial Category'. Referring to Clause-80(5)(iii) of the OERC Code 5th amendment, the learned Single Judge has noted that the amended regulation was not meant to be confined to cold storages of only fish, meat etc., but to include flowers, vegetables etc.

4. Having heard learned counsel for the Appellants, this Court is not able to be persuaded that Respondent No.1 ought to be categorized as GP Consumer when clearly its activities fall within the description of "Allied Agro Industrial Activities". The fact remains that the cold storage upgraded by Respondent No.1 is used for only storing vegetables and that is within the purview of 'Allied Agro Industrial Activity'.

5. Consequently, the Court is not persuaded that any error has been committed by the learned Single Judge in dismissing the Appellant's writ petition.

6. The writ appeal is accordingly dismissed.

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