

(2025) 07 MEG CK 0588
In the Meghalaya High Court
Case No : Review Petition No. 3 Of 2025

M/S Pioneer Carbide Pvt. Ltd. & Ors.

APPELLANT

Vs

Meghalaya State Electricity Regulatory Commission & Ors.

RESPONDENT

Date of Decision : 18-07-2025

Acts Referred:

Electricity Act, 2003 — Section 111
Code Of Civil Procedure, 1908 — Section 114
Code Of Civil Procedure, 1908 — Order 47 Rule 1(a)

Citation : (2025) 07 MEG CK 0588

Hon'ble Judges : H. S. Thangkhiew, J

Bench : Single Bench

Advocate : K. Paul, S. Thapa, A. Kumar, A.H. Kharwanlang

Final Decision : Dismissed

Judgement

H. S. Thangkhiew, J

1. This Review Application is seeking review of the common judgment and order dated 02.06.2025, passed by this Court in WP(C) No. 9 of 2025, and other connected writ petitions, wherein the writ petitions were dismissed by holding that there existed alternate remedy under Section 111 of the Electricity Act, 2003. The Review sought is with regard to the aspect as to whether the tariff order dated 11.04.2023, which was not challenged in the writ petition be held to be applicable till the passing of the new tariff order dated 24.10.2024, as far as the petitioner is concerned.

2. Mr. K. Paul, learned Senior counsel assisted by Mr. S. Thapa, learned counsel for the petitioner has submitted that though this Court while passing the common judgment and order dated 02.06.2025, had interfered with the tariff orders dated 05.06.2024 and 06.06.2024, passed by the Meghalaya State Electricity Regulatory Commission (MSERC), thus effectively making the tariff order dated 11.04.2023, as the only order that is applicable, the same having not been addressed by this Court, has resulted in an error apparent on the face

of the record, which calls for review of the judgment and order dated 02.06.2025. It is further submitted that as the tariff order dated 11.04.2023, remains the only order which will be applicable to the parties, they ought to be allowed to avail the tariff, as per the order dated 11.04.2023, till 24.10.2024, the date of the new tariff order.

3. Learned Senior counsel has further submitted that though against the instant order which is sought to be reviewed, writ appeals have since been preferred by other connected parties, the pleaded aspect can be looked into by this Court as the review petitioner has not preferred any appeal as yet. He also submits that as the judgment has failed to determine this important issue, a review is surely called for, as the same being an error apparent on the face of the record will come within the scope of Order 47 of the CPC.

4. In support of his submissions, the learned Senior counsel has placed reliance on the following decisions.

(i) Board of Control for Cricket in India & Anr. vs. Netaji Cricket Club & Ors. (2005) 4 SCC 741

(ii) Rajender Singh vs. Lt. Governor Andaman & Nicobar Islands & Ors., AIR 2006 SC 75 P-15, 16

(iii) Moron Mar Basselios Catholicos & Anr. vs. Most Rev. Mar Poullose Athanasius & Ors., AIR 1954 SC 526 P-34

(iv) Continental Textile Mills Ltd. vs. Bharat K. Patel & Ors., AIR 1999 GUJARAT 193

(v) Malladi Drugs and Pharmaceuticals Ltd. vs. M/s Tuber Chemicals Ltd. & Ors., AIR 1997 MADRAS 322

5. Mr. A. Kumar, the learned Senior counsel on behalf of the respondents has submitted that the Review Application is not maintainable, inasmuch as, none of the grounds made out in this petition meet the requirements of Section 114 read with Order 47 of the CPC. It is further submitted that the petitioner's prayer is based only on a perceived ambiguity of the order dated 02.06.2025, which the review petitioner contends is an error on the face of the record. Review jurisdiction he submits, is not available for clarification of perceived and alleged ambiguity or uncertainty and it is only if there is patent error on the face of the record, will review be called for. Learned Senior counsel has placed reliance in a Division Bench, judgment of this Court rendered in MC (Review Pet.) No. 5/2018 in the case of Seven City Developers Pvt. Ltd. vs. State of Meghalaya, and in the case of Lily Thomas vs. Union of India, reported in (2000) 6 SCC 224. It is then submitted that there is no error apparent in the face of record, to warrant the exercise of powers of review by this Court.

6. The Learned Senior counsel has then submitted that the present Review Petition is an abuse of the process of law, inasmuch as, the petitioner who is a

part of the Byrnihat Industries Association, has already filed a writ appeal being WA No. 37 of 2025, on 16.06.2025, whereas, this Review Petition No. 3 of 2025 was filed, after the filing of the writ appeal on 17.06.2025. Apart from this he submits, from the same common judgment and order dated 02.06.2025, 6(six) other writ appeals have also been preferred which are pending consideration before the Division Bench of this Court. He submits that Order 47 Rule 1(a) provides that a review is not maintainable, if an appeal has been preferred against an order sought to be reviewed, and even if the writ petitioner individually has not preferred a separate appeal, the very fact that all the other petitioners/appellants stand on the same footing as the review petitioner, will render the Review Application not maintainable. He therefore submits that the Review Application be dismissed.

7. Heard learned counsel for the parties. Though elaborate arguments have been advanced by the Learned Senior counsel for the petitioner and by the Learned Senior counsel for the respondents, it is first to be noted that review jurisdiction is exercised within the narrow compass, as provided in Order 47 of the CPC, and in the instant case, limited only to the assertion that there is some mistake, or error apparent on the face of the record. The error apparently is with the Court not addressing the issue with regard to which tariff order would be applicable, in view of the fact that the tariff orders dated 05.06.2024 and 06.06.2024, had been set aside by the order dated 02.06.2025. At this juncture, it would be useful to recall that the challenge in the writ petitions was to the order dated 23.08.2024, passed by the MSERC for recall of earlier tariff orders dated 05.06.2024 and 06.06.2024, and the new tariff order dated 24.10.2024, wherein, this Court has held that the same could be assailed by resorting to statutory appellate remedy under Section 111 of the Electricity Act. As such, the core issue in contention was with the jurisdiction of the MSERC, to issue such orders. The issue having been decided, and the same already been subjected to appeal, the question of review seeking clarification on an ancillary matter i.e. applicability of the tariff order dated 11.04.2023, to the mind of this Court, is not central or fundamental, as to alter the substantial findings of the order dated 02.06.2025. Further, an error to be apparent on the face of the record is as put, should be 'apparent' and not to be ferreted out by examination of arguments, or from a different stand point that was not advanced categorically, at the time of final arguments of the writ petition.

8. Furthermore, as the entire judgment dated 02.06.2025, is currently the subject matter of 7(seven) writ appeals which are pending consideration before the Learned Division Bench of this Court, no case for review has been made out, and the instant Review Petition stands dismissed.

9. The cases relied upon by the Learned Senior counsel for the petitioner being of no assistance to his case are not discussed or elaborated upon.