

APPEAL NO. 141 OF 2007

Dated: 4th March, 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. A.A. Khan, Technical Member**

M/s. Nava Bharat Ventures Ltd. ... Appellant (s)

Versus

**Orissa Electricity Regulatory
Commission & Ors.**

... Respondent (s)

Counsel for the Appellant/ (s) : Mr. Ashok Parija, Sr. Advocate
Mr. R. M. Patnaik
Mr. P. P. Mohanty
Mr. A. K. Parida

Counsel for the Respondent (s) : Mr. R. K. Mehta with
Mr. Mragank Sharma for Resp. 2
Mr. Rutwik Panda for OERC

ORDER

Heard the counsel for the parties.

Challenging the order dated 20.07.2007 of Orissa Electricity Regulatory Commission, refusing the permission for construction of 11 KV line from CGP of the Appellant Petitioner to intake pump house at River Brahmani, this appeal has been filed by the appellant.

The main point of argument urged by the leaned counsel for the appellant is that the petitioner has specifically made a prayer to the Commission to issue clearance or permission in the matter of construction of a transmission line from DG set to Power House for supply of reliable power to his Ferroy Alloy factory, if considered necessary under the statute. Admittedly, the Commission has not considered the question whether such permission is required or necessary under

the statute. On the other hand, the Commission has gone into the merits of the prayer for permission and passed the final order rejecting the petition.

Mr. Ashok Parija, learned Senior Counsel mainly urged that the regulations and rules especially Section 9 of the Act indicate that no such permission is required either from the Government or from Commission. However, they were constrained to approach the Commission, as instructed by the Government, for consideration of the question whether or not it is necessary to get the permission under the law.

As indicated above, this question whether the permission is required or not has not been considered by the Commission. So without going to the merits of the matter, we feel that it would be appropriate to direct the Commission to consider the above question and decide the same in accordance with law, after hearing the counsel for the parties concerned. Accordingly, the impugned order is set aside and the matter is remanded back to the State Commission to decide the issues. The appeal is allowed.

(A.A. Khan)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

