IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.10518 of 2026

Executive Engineer (elect.) Keed, TPWODL, Kalahandi & Anr. ..... ***Petitioners***

Represented by Adv. - Prasanta Kumar Tripathy

-versus-

Pradipta Dash ..... ***Opposite Party***

Represented by Adv. -

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

Order No. **09.04.2026**

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioners. Perused the writ application as well as the prayer made therein.

3. The Petitioners have filed the present writ application with the following prayer:

> *"That it is humbly prayed that this Hon'ble Court may, graciously, be pleased to issue Rule 'Nisi' calling upon the O.P to show cause as to why the pending Consumer Complaint proceeding in the file of Ld. DCDRC., Kalahandi under Annexure-4, Series shall not be declared as without jurisdiction in view of Judgment of Hon'ble Apex Court in Anis Ahmed (supra), bad -in law- and set aside.*
>
> *And if the O.P. fails to give show cause or give insufficient cause, this Hon'ble Court may be pleased to*

issue a writ of certiorari declaring the entire Consumer Complaint proceeding bearing Consumer Case No. 03 of 2026, pending in the file of by Ld. DCDRC, Kalahandi involving assessment proceeding u/s 126 of Act, 2003 is an abuse of process of law, illegal, arbitrary, and without jurisdiction.

And may be further pleased to pass any other order(s) or direction(s) as this Hon'ble Court deems fit and proper."

4. Learned counsel for the Petitioners at the outset contended that the sole Opposite Party as Complainant approached the learned DCDRC, Kalahandi challenging an assessment order passed by the Petitioners-Electricity Company. Learned counsel for the Petitioners further contended that pursuant to the summons issued by the learned Commission, the Petitioners appeared and filed their written note of submission raising a ground with regard to the maintainability of the complaint case before the consumer forum.

5. Learned counsel for the Petitioners in course of his argument, referred to the judgment of the Hon'ble Supreme Court in ***U.P. Power Corporation Ltd. Vs. Anis Ahmad*** reported in ***AIR 2013 SC 2766.*** On perusal of the aforesaid judgment, it appears that a similar question was raised before the Hon'ble supreme Court with regard to the maintainability of the consumer complaint before the learned DCDRC with regard to electricity dues. The Hon'ble Supreme Court while deciding the issue in Para-47 of the judgment has categorically held that:-

"i) In case of inconsistency between the Electricity Act, 2003 and the Consumer Protection

Act, 1986, the provisions of Consumer Protection Act will prevail, but ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matter which do not come within the meaning of "service" as defined under Section 2(1)(o) or "complaint" as defined under Section 2(1)(c) of the Consumer Protection Act, 1986.

ii) A "complaint" against the assessment made by assessing officer under Section 126 or against the offences committed under Sections 135 to 140 of the Electricity Act, 2003 is not maintainable before a Consumer Forum.

iii)……"

6. In view of the aforesaid observation of the Hon'ble Supreme Court in Para-47 of the judgment in ***U.P. Power Corporation Ltd's case*** (*supra*), learned counsel for the Petitioners contended that since the Petitioners have approached the learned Consumer forum against the order by the assessing officer under Section 126 of the Electricity Act, 2003 the present Consumer Complaint is not maintainable.

7. Upon hearing learned counsel for the Petitioners, this Court is of the view that the learned DCDRC, Kalahandi is required to examine the issue of maintainability passed in light of the law laid down by the Hon'ble Supreme Court in ***U.P. Power Corporation Ltd (****supra*) at the outset. Failing which, the Petitioners before this Court would be seriously prejudiced as the Petitioners are required to undergo rigours of trial before the learned Consumer Forum. In view of the aforesaid position, since the Petitioners have already raised the issue of

maintainability before the learned DCDRC, Kalahandi and the same is stated to be pending for adjudication, this Court deems it proper to dispose of the present writ application by directing the learned DCDRC, Kalahandi to decide the issue of maintainability first by providing ample opportunity to both sides. While considering the issue of maintainability the learned DCDRC, Kalahandi shall take into consideration the judgment of the Hon'ble Supreme Court in ***U.P. Power Corporation Ltd*** ***(****supra*). In the event the learned DCDRC, Kalahandi shows that it has jurisdiction to proceed further in the matter, the complaint case shall proceed on its own merits. Let the aforesaid issue be decided by the learned DCDRC within a period of two months from the date of communication of a copy of today's order by the Petitioners.

8. With the aforesaid observations and directions, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)

Judge

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Signature Not Verified
Digitally Signed
Signed by: RUBI BEHERA
Reason: Authentication
Location: OHC
Date: 10-Apr-2026 16:25:56