

ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR – 751 012

Present : **Shri B.K. Das, Chairperson**
 Shri S.K. Jena, Member
 Shri K.C. Badu, Member

Case No.06/2008

Bijay Kumar Muduli, Balakati -Vrs.-	Petitioner
Manager (Ele), NED, Nimapara, CESU	Respondent

For the petitioner : Mr. Ashok Kumar Mohapatra, Advocate

For the respondent : Mr. Pramod Kumar Mishra, SDO, Pipili

Date of Hearings : 21.04.2008

Date of Order : 24.05.2008

ORDER

The learned Counsel for the petitioner stated that his client has a STD/PCO Booth over khata No.1616/1 in Mouza Pratap Sasan in the district of Khurda. For running of the STD/PCO booth, the petitioner had applied for new connection of electricity to the Respondent CESU on 11.01.2003 in the prescribed format along with necessary documents. The application was sent by registered post with AD because the J.E. (Elect) Balakati refused to receive the application directly as the petitioner has not cleared the outstanding arrear dues against the domestic connection bearing consumer No.034112085.

2. As the respondent sat tight over the said application and did not give the new supply, the petitioner moved to the Hon'ble High Court in WP(C) No.16797/2003 for seeking direction to the Respondent to give him new power supply. The Hon'ble Court disposed of the said writ application on 30.3.05 with a direction to the petitioner to approach the GRF, CESU for redressal of his grievances. Then the petitioner filed an application under Section 42(5) of the Electricity Act, 2003 before the GRF, CESU, Bhubaneswar as per direction of the Hon'ble High Court and the said application was registered as complaint No. 48/2005. The learned GRF, Bhubaneswar disposed of the complaint on 28.5.05 by directing the Respondent to honour the application of the petitioner for new power supply connection subject to the fulfillment of conditions stipulated under clause 3 to 11 of the OERC Distribution (Conditions of Supply) Code, 2004 and only clearing of outstanding dues if any against the domestic connection bearing No. 03412085.

3. According to the order of the GRF, Bhubaneswar, the Jr. Engineer, Balakati Section, CESU vide his letter dtd.29.06.2005 intimated the petitioner to clear the outstanding dues of Rs. 5017.25 upto 6/05 against the domestic consumer No. 03412085 to avail the power supply to their STD Booth. As per GRF order, the petitioner has to clear the all outstanding dues to avail power supply to their STD Booth. In this connection the Clause 10 of OERC Distribution (Condition of Supply) Code, 2004 quoted below:

“If the applicant in respect of an earlier agreement executed in his name or in the name of his spouse, parents or in the name of a firm or company with which he was associated either as a partner, director or managing director, is in arrears of electricity dues or other dues for the same premises payable to the licensee, the application for supply not be allowed by the engineer until the arrears are paid in full.”

4. Further, due to non-availing of power supply the petitioner filed an application under Section 142 and 143 of Electricity Act, 2003 before the Commission praying therein to direct the opposite party to pay the compensation to him for non-compliance of the order passed by the GRF and also for delay in giving connection to his premises which was registered as case No.27 of 2006. The Commission by order dated 29.06.2007 disposed of the said petition with a direction that the petitioner shall comply the direction of the GRF for supplying the new connection and the respondent shall supply power to the petitioner's premises within 7 days. As per the order of the Commission, the respondent immediately on 29.06.2007 supplied power to the premises of the petitioner without any arrear collection.
5. Thereafter, the petitioner moved the Hon'ble High Court WP(C) No.11859 of 2007 praying therein to direct the respondent to pay the compensation and penalty to the petitioner for non-compliance of the order of GRF dated 28.05.2005. The Hon'ble Court by order dated 20.02.2008 disposed of the said petition with a direction to the petitioner to file another application before the OERC within the period of two weeks from today and if such an application is filed, the Commission after hearing the parties shall pass a reasoned order. The entire exercise shall be completed within a period of two months from the date of filing of the fresh application.
6. As per the order of Hon'ble Court in WP(C) No.11859 of 2007, the petitioner filed an application before the Commission on 26.02.2008 claiming compensation from the licensee for non-compliance of the GRF order dated 28.05.2008.

7. The Commission heard both the parties on 21.04.2008 at length and directed both the petitioner and respondent to file their documentary evidence regarding payment receipt and arrear bills upto 26.05.2005 supported by affidavits by 23.04.2008.
8. In response to Commission's direction both the Petitioner and the Respondent have submitted their documentary evidence regarding payment of bills. On scrutiny it is observed that an amount of Rs.7169.25 was outstanding upto February, 2003 against Consumer No.03412085. The petitioner has paid Rs.1000/- on 11.06.2003 and also paid Rs.400/- per month which includes both current and arrear bills. After adjusting all the payments made by the petitioner taking the current bill into account the outstanding dues as on 26.05.2005 comes to Rs.4991.55. The amount of Rs.400/- per month which was paid by the petitioner was first adjusted in the current bill and balance amount adjusted towards arrear dues. Accordingly, the arrear amount of Rs.7169.25 has been reduced to Rs.4991.55 during April, 2005.
9. Further, the bi-monthly/monthly billing to the petitioner has been done based on load factor basis. The bills have been served by CESU to petitioner based on load factor billing upto December 2007. The new meter was installed in the consumer premises on 07.06.2007. The meter reading was taken after eight months i.e. during January 2008. Accordingly the bill from June 2007 to December 2007 has been revised and the revised bill also served to the consumer. After December, 07 the consumer has been billed as per actual meter reading.
10. The Commission observed that as the petitioner has not cleared the full arrear dues at the time of availing power supply to his STD/PCO booth as per the order of the GRF, the question of grant of compensation to the petitioner by the licensee does not arise.
11. The Commission further notes with concern that the petitioner is yet to clear the up to date energy dues in respect of the consumer No.031412085, the position of which was been mentioned in para 8 & 9 above. The Commission, therefore, directs the petitioner to clear the up to date energy bills in respect of the consumer No.031412085 before 30.06.2008 failing which the respondent (the licensee) shall take steps to disconnect power supply, following the prescribed procedure.

Accordingly, the case is closed.

Sd/-
(K.C. Badu)
Member

Sd/-
(S.K. Jena)
Member

Sd/-
(B.K. Das)
Chairperson