

ORISSA ELECTRICITY REGULATORY COMMISSION

BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Present : Shri B.K. Das, Chairperson
Shri K.C. Badu, Member
Shri B.K. Misra, Member

Case No.28/2009

Akrura Charan Das **Petitioner**
Vrs.
SE, EE, SDO, JE, CESU **Respondents**

In the matter of: An application U/s 142 of the Electricity Act, 2003.

Date of Hearing: 27.04.2009

Date of Order: 18.05.2009

ORDER

Mr. Prasant Kumar Mishra, Advocate for the petitioner and Mr. B.K. Nayak, Advocate for CESU are present. The objection filed by the Respondents today is taken into record.

2. Heard the petitioner on the question of admission. Mr. Mishra Advocate for the petitioner stated that the respondents had not complied the order dated 12.09.2008 passed by the GRF, CESU, Cuttack in Case No.CED/76/2008. Aggrieved by the inaction of the CESU authorities, the petitioner had filed a writ petition bearing WP(C) No.16958/2008. The Hon'ble High Court has disposed of the Writ Petition on 08.12.2008 directing the petitioner to approach the Ombudsman in accordance with the Act. Thereafter, the petitioner filed a consumer representation before the Ombudsman, Bhubaneswar bearing C.R. Case No.OM(1)-67/2008. There was a conciliation meeting held between the parties in presence of the Ombudsman on 12.01.2009. In that meeting both parties were present.
3. On the same day, the conciliation proceedings were recorded. It is not clear from the proceedings whether the other consumers of the village who were objecting to the said connection were also consulted and their grievances were also heard or not? As to what settlement was reached between the parties through conciliation and what recommendation was made by the Ombudsman in terms of the settlement is not quite evident. The conciliation proceedings simply states:

"In course of conciliation it is resolved that in view of the orders of the GRF, the Respondent (JE & SDO) shall take necessary steps for supply of electricity to this petitioner within seven days."

4. None of the issues raised by the licensee before the GRF as to the force used by the villagers of Nisimala in preventing the licensee from restoring supply to the petitioner was gone into. The conciliation proceedings should have gone into the various issues and if the villagers were forcibly preventing the licensee to restore supply and thereby acting outside the bounds of law, attempt should be made to find out as to what was prompting the villagers to oppose restoration of supply to the petitioner and attempt be made to prevail the villagers to attend the conciliation proceedings and bring them into the process of conciliation.
5. The whole approach should be to promote a settlement through mutual agreement. Regulation 6(c) should therefore be the primary and fundamental principle guiding the working of the Ombudsman. Regulation 6(c) states as follows:

“The Ombudsman shall in the first instance act as a conciliator and mediator in matters which are the subject matter of the representation filed.”

6. ‘Conciliator’ and ‘Mediator’ are the key words which should guide the functioning of Ombudsman. Since the mediation and conciliation in this case is too perfunctory and since failure of conciliation is not apparent at all and since the licensee has never refused to restore the supply to the consumer and is facing other problems, it is in the fitness of things that a conciliation is attempted afresh and the matter is resolved by mutual agreement amongst all parties including those villagers opposing the restoration of supply to the petitioner. Assistance of the local administration may also be taken for the purpose. If conciliation and mediation fails altogether, then an award be made after hearing the parties.
7. The complaint under Section 142 is not admitted. The Commission hastens to add, that our observations above are not in the nature of an adjudicating order. These are merely observation that might facilitate resolution of the dispute. We are not a forum to go into the merits or demerits of the Ombudsman’s awards. Our observations have been occasioned in the course of considering the complaint under Section 142 of the Act and are constrained to make the above observations in the circumstances.

Sd/-
(B.K. Misra)
Member

Sd/-
(K.C. Badu)
Member

Sd/-
(B.K. Das)
Chairperson