

**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.31/2009

S.N. Samantaray	Petitioner
Vrs.		
SDO, WESCO	Respondent

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

For Petitioner	-	Mr. S.N. Samantaray, the petitioner and Mr. Ranjan Kumar Nayak, Advocate
For Respondent	-	SDO, SED, WESCO, Sambalpur.

Date of Hearing: 07. 09.2009

Date of Order: 29.09.2009

ORDER

1. The petitioner stated that he had approached the GRF, Burla in the supply area of the licensee-WESCO against the authorities of the WESCO for non-issue of no due certificate against full payment of electricity dues in regards to the Quarter, where in he was staying in his service period. The said certificate is required for early release of his service gratuity money. The GRF, Burla did not give any, specific decision, so he filed a representation before the Ombudsman-II against the interim order of the GRF, Burla. The said representation was registered as CR Case No. OM-II(W)-20 of 2008. The Ombudsman-II after hearing the parties and perusing the case records ordered that the respondent should be issued no due certificate (NDC) to the petitioner within 15 days from the date of order failing which the petitioner is free to take shelter under the provisions of law. "Hence the case is disposed of accordingly"
2. After the order passed by the Ombudsman-II in his favour he approached the respondent vide its letter dated 24.1.09 for necessary action at his end for implementation of the said order. As the respondent did not implement the order dtd. 20.1.2009 of the Ombudsman-

II passed in CR Case No. 20/08 he has filed this petition u/s 142 of the Electricity Act, 2003 before the Commission for implementation of the aforesaid order of the Ombudsman-II. The said petition is registered as Case No. 31/09 and was posted on 24.4.2009 for hearing on question of admission. The petition admitted. During hearing the respondent stated that the matter is subjudice before the Hon'ble High Court as the licensee has filed a Writ Petition bearing WP(C) No. 5571/09 against the order of the Ombudsman-II. before the Hon'ble High Court of Orissa. The Hon'ble court had dismissed the said Writ Petition on 29.6.2009 stating that "I am not inclined to interfere with the impugned order dtd. 20.1.2009 under Annexure-6 passed by the Ombudsman-II, OERC. It is open to the petitioner to take action in accordance with law"

3. As the implementation of the orders of the Ombudsman-II will depend upon the final disposal of the said Writ Petition by the Hon'ble Court, the Commission considers it fit to keep the matter in abeyance till judgment of the Hon'ble Court in the above Writ application and the respondent is directed to submit the latest development/ copy of the Hon'ble High Court by 30.6.2009 for further hearing.
4. The final order of the Hon'ble Court was submitted by the petitioner in which the Hon'ble Court was not inclined to interfere with the order of the Ombudsman-II. Thereafter the case was posted for hearing on 31.8.2009 for final disposal. During hearing on 31.8.2009 the Advocate for the respondent stated that the licensee has complied the order of the Ombudsman-II and has supplied the no dues certificate to the petitioner vide its letter no 2632 dtd. 26.8.2009. A copy of the said letter was handed over to the petitioner during hearing as the petitioner has not received the same. and also the copy of the same was submitted before the Commission for reference.
5. The no due certificate runs as under "in view of the order of the ombudsman-II we are issuing no due certificate for Qr. No. 35/6 without prejudice to our right, subject to the out come of the pending investigation report of Burla Police Station in view of the above order of the GRF", petitioner objected to the said "No Dues Certificate" as it is a conditional one. After hearing the parties and perusal of the case records the Commission directed the respondent to issue clean and unconditional "No Due Certificate" in favour of the petitioner in proper format and the copy of the same with memo is to be filed before the Commission on or before 7th Sept. 2009, failing which the Commission may proceed in the matter u/s 142 of the Electricity Act, 2003. The licensee is however, at liberty to take action thereafter as per law based on the out come of the investigation by the Burla, Police Station. Put up the matter on 7.9.2009 at 11AM for further action. No further notice will be issued to the parties concerned.

6. As per direction of the Commission dtd. 31.8.2009 the respondent has filed the clean copy of the “No Dues Certificate” through affidavit which was issued in the name of the petitioner, Qr. No. 35/6, bearing electrical Consumer No. 4113-3307-0086 upto August, 2005 vide its letter No. 1181 dtd. 02.9.2009 and was sent in his office and in the residence address through Flyking Courier service vide receipt No. 75985 and 75986 dtd. 04.09.2009. The respondent also begs unconditional apology for the delay in complying the order which is not intentional but is caused due to aforesaid reason. He prayed the Commission may drop the proceeding u/s 142 of the Electricity Act, 2003. The said revised “No Due Certificate” dtd. 2.9.2009 reads as under “in view of order of learned Ombudsman-II vide Order No. 027 dated 27.1.2009 in C.R. Case No. 20 of 2008, we are herewith issuing no dues certificate in the name of Sri Sachidananda Samantaray, Qr. No. E-35/6, Burla, bearing electrical consumer No. 4113-3307-0086 up to August, 2005”.
7. The petitioner however, not satisfying even with the revised No Dues Certificate submitted on 07.09.2009, in writing to the Commission that the respondent issued No Dues Certificate on 02.09.2009 which is without any meaning. In the No Dues Certificate (NDC) it is not mentioned as to whether he has any due against his the then account bearing consumer No. 4113-3307-0086 of WESCO or not. He prayed the Commission to direct SDO, Burla, WESCO to issue a clean unconditional certificate at the earliest and the respondent may be penalized u/s 142 of the Electricity Act, 2003 for non-implementation of order of the Ombudsman-II. Further the NDC to be issued against Qr. No. E-35/5 (Consumer No. 4113-3307-0086) and not against Qr. No. E-35/6.
8. After hearing the parties and perusal of the case records, it is observed that the No Dues Certificate was issued by the respondent by wrongly mentioning the Qr. No. as E-35/6 instead of E-35/5. The respondent is directed to make necessary correction and issue a fresh No Dues Certificate mentioning the Qr No.E-35/5 alongwith the aforesaid consumer No. in favour of the petitioner. It is also observed that the revised NDC, as issued is a clean and unconditional one, except the minor typographical error required to be corrected by WESCO and, therefore, there is no need to proceed in the matter u/s 142 of the Electricity Act, 2003 as the orders and directions has been complied by respondent-WESCO.
9. Accordingly, the case is disposed of.

Sd/-
(B K Misra)
Member

Sd/-
(K.C. Badu)
Member

Sd/-
(B. K. Das)
Chairperson