

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN, PLOT NO-4,  
CHUNUKOLI, SHAILASHREE VIHAR,  
CHANDRASEKHARPUR,  
BHUBANESWAR - 751 021.**

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Present :        Shri S. P. Nanda, Chairperson  
                      Shri S.P. Swain, Member  
                      Shri A.K. Das, Member

**Case No.71/2009**

Shri. Makhan Lal Agarwal	....	<b>Petitioner</b>
Vrs.		
CEO, WESCO & Others	....	<b>Respondents</b>

**In the matter of:        An application u/S.142 of the Electricity Act, 2003.**

**ORDER**

**Date of Order:27.07.2016**

The petitioner Shri. Makhan Lal Agarwal, Director, M/s. Utkal Laxmi Rice Mill Pvt. Ltd., Bolangir has filed the above case u/S. 142 of the Electricity Act, 2003 for non-implementation of the order dated 19.01.2009 of the Ombudsman-II passed in C.R.Case No. Omb(II) W-04/2008.

2. The case was heard by the Commission on 22.06.2009. During hearing of the case, the counsel appeared on behalf of the Respondents had submitted that being aggrieved by the order dated 19.01.2009 of the Ombudsman-II passed in C.R.Case No. Omb (II) W-04/2008, the respondents have filed a Writ Petition bearing W.P.(C). No. 5243 of 2009 along with an application in Misc. Case No. 4129 of 2009 for stay of operation of the aforesaid order of the Ombudsman-II. The said application in the above Misc. Case is still pending for adjudication by the Hon'ble High Court of Orissa.
3. After hearing the parties, the Commission directed the respondents to produce the certified copy of the order passed by the Hon'ble High Court in W.P.(C). No. 5243 of 2009 but till today they have not submitted the same.
4. As the matter is pending since 2009 with us, a letter was issued on 02.05.2016 to the parties in this proceeding for filing of present status of the above writ petition pending with the Hon'ble High Court in W.P.(C). No. 5243 of 2009 within 15 days from the date of issue of this notice through affidavit but till date neither the petitioner nor the respondents have submitted the status of the writ petition pending before the Hon'ble High Court for adjudication.
5. After perusal of the case records in hand, we opine that there is no need to keep abeyance the matter with us further. If the Hon'ble High Court has not granted any interim order in Misc. Case No. 4129 of 2009, then the respondents are directed to

either obtain a interim stay order from the Hon'ble High Court in W.P.(C). No. 5243 of 2009 or implement the aforesaid order of the Ombudsman-II passed in C.R.Case No. Omb (II) W-04/2008 within one month from the date of this order with intimation to this office. In the event the above order of the Ombudsman-II is not complied and reported to the Commission in time, a penalty @ Rs. 1000/- (One thousand) only per day recovered from the erring officer of WESCO Utility by the higher authority till the date of compliance and deposited in the appropriate accounts by way of penalty u/S. 142 of the Electricity Act, 2003. However, if the Hon'ble High Court granted any interim order or disposed of the said writ petition, then the said judgment of the Hon'ble High Court in W.P.(C). No. 5243 of 2009 shall be applicable to parties herein.

6. With the above observation the case is dropped.

Sd/-  
**(A.K. Das)**  
**Member**

Sd/-  
**(S.P. Swain)**  
**Member**

Sd/-  
**(S.P.Nanda)**  
**Chairperson**