

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

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

Case No. 09/2010

Mrs. Krishna Ray	Petitioner
	Vrs	
CEO, WESCO & Others	Respondents.

In the matter of: **An application under S. 142 of the Electricity Act, 2003 for non-compliance of order dated 17.09.2009 passed in C.C. Case No.124/09 by the GRF, Burla.**

For Petitioner:	Nobody is present
For Respondent:	Shri S.C.Dash, Advocate & Shri Debasish Panda, S.D.O-I, SEED, WESCO, Sambalpur.

Date of Hearing: 11.05.2010

Date of Order : 31.05.2010

ORDER

The case is taken up hearing on question of admission, on repeated calls the petitioner was absent.

2. The Commission perused the case records and it is found that the petitioner has taken a shop at VSS Marg, in front of Chandrama Lodge, Sambalpur from the Municipality of Sambalpur on 27.06.2009 and had applied for a new connection under the commercial category along with an affidavit as required by the licensee- WESCO and accordingly made payment of Rs.25/- only at customer care. Then the petitioner was advised by the customer care to approach the respondent along with the money receipt and registration number for deposit of security amount. Accordingly on 06.07.2009 the petitioner went to the office of the respondent and enquired about the amount of security deposit which to be deposited. The respondent even though calculated the amount of Rs.1457/- for security money and when the petitioner was ready to deposit the said amount, the respondent denied to accept the amount on the ground that the shop allotted to the petitioner has some previous arrear dues pending and denied to

provide any new connection enquiring who will take the responsibility for payment of that old arrear i.e., old occupier, Municipality or the present occupier. Other wise it will remain an example for all defaulter consumers to use this opportunity for their ill intention.

2. Being aggrieved by the said action of the respondent to supply new connection to her shop room, the petitioner filed a consumer complaint before the GRF, Burla for redressal of her grievances. The said complaint was registered as C.C. Case No.124/2009 and was disposed of by the said GRF, Burla vide its exparte order dated 17.09.2009 with the following observations :-

“Sub-Divisional Officer No.-I, SEED, Sambalpur is directed to provide electric connection to the petitioner receiving security deposit, service connection charges etc. Outstanding dues in the premises, if any, is to dealt with the original occupant, if any, separately and cannot tagged in favour of the petitioner.

Accordingly, the case is disposed of”.

The above ex-parte order of the GRF, Burla was intimated by the petitioner to the SDO No.I (WESCO), SEED, Sambalpur for implementation and with request to supply electricity connection by receiving the security deposit money of Rs.1457/-. But the respondent has not received the security deposit nor supplied the electric connection to her shop-room at VS Marg, Sambalpur. As the respondent was not implemented the order of the GRF, Burla, she filed the petition before OERC u/S. 142 of the Electricity Act, 2003 for penal action and also for compensation.

3. Sri S.C. Dash, Advocate on behalf of WESCO stated that after receiving the application for new electric connection the respondent had made an inquiry and ascertained that there is a huge outstanding arrear of electric bill against the previous occupant of the shop room. So the respondent asked the petitioner to insist the Municipality Office to do the needful in case of new allotment of the said shop room against which an arrear of electric bill stands, which has not yet been paid. As per OERC guide line new supply can not be given to the same premises, if there is a existing connection with arrear. He also stated that the respondent could not

receive proper notice for which he has failed to appear and filed his counter before the GRF, Burla in Case No. 124/09 during the period of proceeding. He also submitted that though the last date of hearing, the respondent who conducts the case would not able to appear due to urgent duty in the field and the Hon'ble GRF without going to the complicated fact of the case had passed an ex-parte order on 17.09.2009 for giving new electric connection to the above shop room.

4. He also stated that after the above order was passed by the GRF, Burla, having no other option the SDO, SEED, Sambalpur filed a petition on 07.10.2009 before the said GRF for reconsideration of the fact and law involved in the case and accordingly the GRF, Burla has fixed the date on 14.12.2009 for hearing, but for no reasons the Forum again changed the date of hearing from 14.12.2009 to 28.12.2009. Further the Forum again changed the date of hearing from 28.12.2009 to 24.12.009. He has submitted that the petitioner was absent on 14.12.09 and 24.12.09 though the respondent avoiding all duty was present before the Forum for resolve the issues. Lastly the date was fixed to 14.01.2010 but unfortunately the respondent could not appear before the Forum on that date due to urgent work in the field. Thereafter, again the Forum once more acted ex-parte and held that as the petitioner has filed a petition u/s 142 of the Electricity Act, 2003 for non-compliance of the aforesaid GRF order, hence it is not proper to proceed further and accordingly dismissed the petition filed by the respondent for reconsideration.
5. Sri Dash further stated that immediately after the first order of the GRF, Burla, the SDO (Elect) applied for reconsideration of the fact by the same Forum which was dismissed with out any interim order for electric connection to the shop room of the petitioner, hence the respondent has not disobeyed the order of the GRF. So the petitioner is not entitled for any compensation as claimed.
6. In the mean while some new facts have been discovered after having an enquiry in a confidential manner which are essential for adjudication of the present dispute. When the Licensee conducting a local inquiry on 08.05.2010 it is ascertained that the petitioner's husband "Khakun Ray)" is otherwise known as "Shiv Sankar Ray" who was the consumer of

electricity under the respondents (WESCO) bearing consumer No. 41613308003 (Complaint-13d-3) which was provided to the “shop room” belonging to Municipality at VSS Marg in front of Chandrama Lodge. Due to non-payment of arrears of Rs.68,940.78 power supply was disconnected. In order to avoid payment of the above arrear due, the petitioner’s husband applied for a fresh connection in the name of his wife namely Mrs. Krishna Ray. Mrs. Ray identified herself as the wife of Khakun Ray in place of “Shiv Sankar Ray”. There is no such person in the name of Khakun Ray in that locality other than Shiv Sankar Ray. Shiv Sankar Ray is the allottee of the shop room belonging to the Municipality Sambalpur and not his wife Mrs. Krishna Ray, the present applicant for new electric supply connection. As per Regulation 10 & 13(3) of the OERC (Conditions of Supply) Code, 2004 the applicant Mrs. Krishna Ray is not at all entitled to avail a fresh service connection to the shop room in question unless & until the arrear dues paid by herself or her husband (allottee of shop room) who is the defaulter consumer of WESCO. He also prayed the Commission to dismiss the petition u/s 142 of the Electricity Act, 2003 as the petitioner has practiced fraud by suppressing the real and true facts before the Commission

7. After hearing the respondent, perusal of the case records along with additional affidavit filed by the SDO-I (Elect), Elect. Sub-Division, SEED, WESCO, Sambalpur, we are not admitting this case as there is wrong personification. The respondent is directed to initiate criminal proceedings against the petitioner for wrong personification that she is the wife of Mr. Khakun Ray and against Mr. Shiv Sankar Ray husband of the petitioner- Mrs. Krishna Ray for his ill intention. This should be done only after proper verification.
8. On repeated calls, the petitioner was absent, which may be intentional. Both on account of default and the position explained in para-6&7 above, we think it proper and justified not to admit the Case under section 142 of the Electricity Act, 2003.
9. The case is disposed of accordingly.

Sd/-
(B.K. Misra)
Member

Sd/-
(K. C. Badu)
Member