

**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. 47/2010

Shri Pitambar Das Petitioner
Vrs.
SDO (Elect), Jamsuli, NESCO & Ors. Respondents

In the matter of: Application u/s. 142 of the Electricity Act, 2003.

For the Petitioner: Shri B. Baug, Advocate.

For the Respondents: Shri S. K. Bala, SDO (Elect), Jamsuli & Shri D. Sahoo, G.M.(Works),
NESCO..

Date of Hearing: 21.9.2010

Date of Order: 18.12.2010

ORDER

The petitioner-Pitambar Das has applied for new connection for supply of electricity to his premises situated on Plot No. 847 under Khata No. 15 in Mouza - Dundkot on 06.11.2009 to the licensee NESCO. As the licensee had not connected the new supply connection to the premises of Shri Das, he had filed a consumer complaint before the GRF, Balasore bearing C.C. Case No. 280/2009. The said Consumer Complaint Case No. 280/09 was disposed of on 18.01.2010 by GRF, Balasore with the following:-

“The Opp. Party shall provide the desired new service connection to the Complainant (herein petitioner) within one month of this order as per the application of the complainant for the purpose in observation of all departmental formalities while addressing all the technical issues involved.”

As the above order of the GRF, Balasore was not implemented by the licence, the petitioner has filed this case before the OERC u/S. 142 of the Electricity Act, 2003 for implementation of the aforesaid order of the GRF, Balasore. During hearing on 25.05.2010, the SDO (Elect), Jamsuli, NESCO stated that when the authorities of NESCO visited the premises of the petitioner to give power supply after observing the

departmental formalities together with the technical feasibility in order to comply the direction of the GRF, Balasore, they found that there was an existing service connection in the name of Smt. Kamala Kumari Das with huge dues of arrears. Smt. Kamala Kumari Das is the wife of the petitioner. The said premises was identified by Shri Pitambar Das, the petitioner as per his application for a fresh new connection in the same premises. After ascertaining the above, the authorities of the licensee intimated the above facts vide its letter No. 277 dtd. 13.04.2010 to make payment of the outstanding arrear dues amounting to Rs. 34,384.50 for availing a new connection. The same was not complied by the petitioner, rather intimated on 23.4.2010 that Smt. K.K. Das is neither related to him nor she belongs to his family. SDO(Elect), Jamsuli, NESCO also stated that the petitioner has never applied in the prescribed format with relevant documents for new electric connection except a plain application. It is not proper to extend a new service connection in contrary to the provision of OERC Code, 2004 under Clause 13(10)(b) by the respondents. Under such circumstances the petitioner is liable for outright rejection with compensation cost.

2. The facts stated by the licensee are not fully admitted by the petitioner. The petitioner submitted that never was any connection in the name of his wife and that she had never applied for a connection. We observe that it is immaterial whether the said plot on which the petitioner now wants power supply does not stand in the name of his wife. What material is that there was electricity supply, whether authorized or unauthorized. The previous outstanding dues have to be cleared to avail a new connection or the transfer of the existing connection, in the instant case under disconnection, is transferred as stipulated under Regulation 10(b) of OERC Distribution (Conditions of Supply) Code, 2004, which states that :-

“The service connection from the name of a person to the name of another consumer shall not be transferred unless the arrear charges pending against the previous occupier are cleared”.

Provided that this shall not be applicable when the ownership of the premises is transferred under the provisions of the State Financial Corporation Act.

3. After hearing the parties, the Commission while admitting the case had directed that the CVO, NESCO, shall make a thorough investigation, if necessary, take local evidence including the assistance of local revenue authority, as the matter requires thorough investigation and the report should be submitted on or before 15.7.2010. According to the above direction of the Commission, the CVO, NESCO and AGM (Vigilance)

conducted investigation on 09.7.2010 and submitted the enquiry report vide letter No. 16281 dated 15.07.2010 to the Commission. In the course of enquiry it is found that the residence of the petitioner, which is located on village Dundakote, PS-Singla, Dist-Balasore is a pucca asbestos roofed house and appears to have been constructed about 10 years back. It is observed that the electrification of the said premises has been completed in all respects but there was no power supply to it, but possibility of consuming of power during odd hours by hooking cannot be ruled out because an electrical pole of LT line is installed very close to the premises of the petitioner. During examination, the petitioner stated that all the facts have been depicted in the petition filed before the OERC for adjudication. On interrogation the petitioner further stated that the house belongs to him and has been constructed over more than one plot including the Plot No. 847 in Khata No. 15 of Mouza-Dundkot. The Plot No. 847 is his ancestral property and he has inherited it according to his share. As such he is the rightful holder of the plot by virtue of his inheritance. The petitioner was asked to produce the documents to substantiate his claim that he is the record of right holder of Plot No. 847 on the basis of which he has applied for new electricity connection to his house. The petitioner admitted that the Plot No. 847 in Mouza-Dundkote is an ancestral joint property and 1/9th share of it has been owned by him but no formal revenue record has been made in his name. The petitioner further stated that a family settlement was made in which he has been awarded with 1/9th portion of the Plot No. 847 but he failed to produce the said family settlement record. In order to find out the genuineness of the contention of the respondent submitted in their counter that the wife of the petitioner Smt. Kamala Kumari Das was a defaulter consumer having outstanding arrear dues and therefore fresh power supply connection was denied to her husband namely Shri Pitambar Das, the petitioner. The petitioner stated that his wife Smt. Kamala Kumari Das is not an electrical consumer and some other Kamala Kumari Das might be the defaulting consumer as claimed by the respondents but not his wife who incidentally is also named as Kamala Kumari Das.

4. In order to verify the claim of the petitioner, the CVO had collected the relevant voter list of 2008 of the village Dundkot to which the petitioner belongs. From the voters list, it is found that the said village Dundkot has 840 voters, which comes under Basta Assembly constituency/Balasore parliamentary Constituency. Shri Pitambar Das aged about 61 years S/o Upendra Das having Sl. No. 187, bearing Voter Identity Card No. OR/02/013/380189 and Smt. Kamala Kumari Das, Aged about 53 years, W/o Shri Pitambar Das having Sl. No. 188 bearing voter Identity Card No. OR/02/013/380/190 fall under the Basta Assembly Constituency bearing Booth No. 171. It is further revealed

that there is no other voter in the said voter list with the same name. Hence the claim of Shri Das has no legs to stand. To verify the authenticity that Smt. Kamala Kumari Das of village, Dundkot was a consumer, the present J.E.(Elect), Shri T.K. Parida, SDO (Elect), Shri S.K. Bala of Jamsuli had provided the records and on verification of the records it was found that during the year 2000 under Unauthorized Connection Regularization (UCR) Scheme, power supply was provided in the name of Smt. Kamala Kumari Das as per the LTB record. The LTB reveals that power supply was connected in the name of Smt. Kamala Kumari Das of Dundkot vide Domestic Category Consumer No. KBD-18671. Smt. Das had also deposited the security amount of Rs.195.00 on 30.5.2000 at the time of regularization of power supply to house situated in Plot No. 847 of Mouza-Dundkot. Through the meter was not installed after the power supply but regular bills were raised in the name of Smt. K.K. Das from Jan, 2004. Due to omission of the then incumbent of J.E. the delay in raising bills had been occurred. However, there were records about the disconnection of power supply in respect of the said consumer was effected on 30.9.2009 as she did not pay the arrear bill in course of squad checking as well as collection of arrear dues.

5. In order to ascertain about the genuineness of the claim of the petitioner regarding ownership over Plot No. 847, wherein his house is situated, it is revealed that the Plot in question stands recorded in the names of Upendra Das and 5 other persons. It is the joint ancestral property measuring an area of A0.18 decimals. Upendra Das, father of the petitioner is one of the 3 sons of Hguru Das having $\frac{1}{3}^{\text{rd}}$ share of the above land and the petitioner is also one among the three sons of Upendra Das, hence the petitioner is supposed to inherit his share to the extent of A0.2 decimals. But the revenue records do not reveal that the petitioner is the absolute owner of the land in question. The petitioner also failed to produce a single scarp of paper including the amicable family settlement paper to substantiate his claim that he is the absolute owner of the said Plot No. 847 under Khata No. 15 of Mouza- Dundkot having peaceful possession, where he has constructed the house. It was also learnt that in the family settlement Plot No. 847 has been awarded to Shri Ramakanta Das and another who are the sons of Madhab Das, the parental uncle of the petitioner.
6. It is also learnt that the petitioner-Shri Das was regularly abstracting the electricity and consuming in his house illegally since long. Therefore, there was a quarrel between one of his co-villager namely Shri Trilochan Das for which criminal case and counter case has been registered in the Singla Police Station vide P.S. Case No. 63/10, which

indicates that Shri Pitambar Das was abstracting the electricity by illegal hooking process.

As regards the application of the petitioner for new connection to the Jamsuli Electrical office. It was in a plain paper without supporting of necessary documents and also without processing fee of Rs.25/- towards new power supply connection.

7. From the above facts, circumstances and documentary evidence it goes to establish that Smt. K.K. Das, wife of the petitioner was enrolled as a consumer in the year 2000 after illegal abstraction of energy was detected in the dwelling house of the petitioner, but due to sheer negligence, the then J.E., Jamsuli Section, who failed to maintain appropriate record. She was brought on to the billing fold of the Section after regularization during 2004 by the new Sub Division at Jamsuli being separated from Basta Sub Division. The consumer was brought to the billing fold with an arrear of Rs.11,894/- w.e.f. Jan, 2004. The billing agency namely M/s K.L.G. System Ltd. was regularly raising bill on an average basis, in favour of Smt. K.K. Das together with the arrear amounts as she did not pay the same. The record has been maintained in the office by the licensee's employee in the ordinary course of business. Therefore, it is a valid record.

It is quite clear that the consumer Smt. K.K. Das having consumer NO. KED 18671 is the same and one person of village Dundkot, who is none-else but wife of the present petitioner, Shri Pitambar Das. Hence being the karta of the family and in wedlock with the consumer Smt. K.K. Das, the petitioner owes responsibilities to defray the liabilities of his spouse to substitute the consumer ship in his name after making payment of the arrear dues over the said Plot No.847.

8. After hearing the parties and perusal of the enquiry report of CVO, NESCO, we observe that as Smt. Kamala Kumari Das having consumer No. KBD 18671 is the same and one person of village Dundkot, who is none but the wife of Shri Pitambar Das, was a consumer of NESCO. To defray the liabilities of his wife, the petitioner wants to substitute the consumership in his name and has come to the OERC with an irregular and unfair way for seeking new supply connection, without applying in the prescribed form or depositing the required processing fees as per OERC Distribution (Conditions of Supply) Code, 2004.

As the case has no merit, the Commission declines to accept the prayer of the petitioner and directs that he shall clear up all the arrear dues in the name of his wife Smt. K.K. Das to avail new service connection by following the departmental procedure and the licensee

is directed to extend the power supply to the petitioner after observing the departmental formalities following the statutory provisions scrupulously.

9. Accordingly, the case is disposed of.

Sd/-
(B.K. Misra)
Member

Sd/-
(K. C. Badu)
Member

Sd/-
(B.K. Das)
Chairperson