

**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. 54/2010

M/s Pradhan Industries Ltd. Petitioner
Vrs.
E.E., JRED, Jajpur, NESCO Respondent

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

For the Petitioner : Shri Akshaya Kumar Sahani, Authorised Representative.

For the Respondent : Shri Suresh Ch. Dash, Advocate

Date of Hearing : 21.09.2010

Date of Order : 16.12.2010

ORDER

The brief fact of the case is that the petitioner's unit belong to a Medium Industry Category with a contract demand of 74 KW bearing consumer No. 61110133007 under Jajpur Road Electrical Division, NESCO. An agreement was signed between the unit of the petitioner and the licensee-NESCO for supply of power at 11KV. The licensee have not raised the bills as per the tariff fixed by the OERC for medium industry category i.e. 300 p/u. It had raised bills for the month of March, 2002 to April, 2002 and August 2002 to Dec. 2004 @ 320 p/u. For such wrong bills served by the licensee, the petitioner made many representations vide letters dated 27.5.02, 16.7.02, 28.9.02, 12.1.05, 20.05.05, 17.12.05, 07.01.06, 13.7.07 and 19.11.07 for correction of the erroneous bills. Thereafter the licensee raised the bills @ 300 p/u from 2005 onwards but the previous erroneous bills were not revised. The energy consumed by the unit of the petitioner for the month of March, 2006 and April, 2006 is 18638 units and the bill raised by the licensee for said two months is for 34378 units which will require to be revised by them in tune with the meter from abstracting meter reading from January, 2002 to Oct, 2008.

2. Being aggrieved by such inaction of the licensee regarding the representations made by him, the petitioner had filed a Consumer Complaint bearing GRF Case No. 319/2008

before the GRF, Jajpur Road, NESCO for redressal of his grievances. The GRF, Jajpur Road had disposed of the above Case on 26.12.2008 with the following:-

“x x x x x the Forum is of the opinion that bill is to be revised @ 300 p/u for the period from August, 2002 to Dec, 2004 and records of hand revision for the period from March, 2002 to July, 2002 is to be produced to the complainant (here is the petitioner) with a copy to the Forum. Billing units of January-Feb, 2004, Jan, 2005 and that of March, April, 2006 as complained are correct as per opinion of the Forum as this has been arrived on the basis of average consumption or reference available to measure the consumption during the period of defective metering system.

x x x x x x x x”

As the above order of the GRF, Jajpur Road has not been implemented, the petitioner filed this case before the Commission u/S. 142 of the Electricity Act, 2003 for implementation of the same and also for appropriate penalty to be imposed upon the licensee.

3. During hearing on 21.09.2010 the representative of the petitioner, stated that the licensee has implemented the order of the GRF, Jajpur Road after a lapse of one and half years, after the direction of the Commission's vide interim order dated 21.6.2010. But prior to that the licensee has not responded to the aforesaid order of the GRF. He prayed that the Commission should impose penalty on the person who is responsible for such delay in implementation of the said order passed in C.C. Case No. 319/2008.
4. The Commission after hearing the parties observed the followings which is reproduced below:-

“That there is generally a lack of urgency for compliance by the licensee and rather non-compliance is taken as a routine matter. When the petitioner comes to the OERC for implementation of the order and for penalization, the licensee takes steps for compliance. This is a serious laps on the part of the licensee and the employees responsible for implementation of the orders of the GRF/Ombudsman. The Commission views seriously such lapses and attitude of the concerned employees of the licensee. WE, therefore, direct the licensee to file the details regarding the steps taken chronologically to comply with the orders of GRF, progress made with works details on or before 15.10.2010 to the commission.”

5. As per the above direction of the Commission, the Executive Engineer, JRED, NESCO has filed the details regarding the steps taken by the licensee for implementation of the

order passed by the GRF, Jajpur Road in C.C. Case No.319/2008 on 20.10.2010. In his reply the Executive Engineer, JRED, NESCO has stated that after communication of the aforesaid order of the GRF, Jajpur Road on 17.01.2009, the same was lost sight of due to the transfer of the Executive Engineer Shri P.K. Muduli on 09.02.2009. Consequent to his transfer, one Shri Narayan Das was working as Executive Engineer, Jajpur Road Electrical Division from 09.02.2009 to 14.10.2009 who did not take any step for revision of the bills of the petitioner in accordance with the orders of the GRF, Jajpur Road. The petitioner had also never approached the higher authorities of the licensee for revision of the said bills. Shri S.S. Nayak the present Executive Engineer, JRED who joined on 14.10.2009 was busy in different schemes and works of the Govt. and the order of the GRF, Jajpur Road passed in C.C. Case No.319/2008 regarding revision of bills came to his knowledge only on 08.6.2010, when he received the notice of the Commission in the present Case. Thereafter, he tried his level best to implement the aforesaid order of the GRF. Accordingly he has sent the revised bill statement to the petitioner bearing Office letter No.4424 dated 29.6.2010 and also again on 26.7.2010.

6. He also stated in his defence that any consumer who is aggrieved by non- redressal of his grievances under S.42(5) of the Electricity Act, 2003 may make a representation to the Ombudsman for redressal of his grievance. A proceeding u/S.142 of the Electricity Act, 2003 is only maintainable against the order /award or direction issued by 'Ombudsman' who has been appointed by OERC and not against the order passed by the GRF which is purely a licensee's Forum. The petitioner after loosing his right to approach the Ombudsman within the time limit from the date of the order of the GRF, Jajpur Road, has filed this case under S.142 of the Electricity Act, 2003 before the OERC for implementation of the said order and also for penal action against the erring Officers of the licensee after a long lapse of 17 months. He further stated that he, as the respondent, had no ulterior motive to not carryout the order of the GRF, Jajpur Road. The delay in implementation of the said order was due to the frequent transfer of the Executive Engineer of the licensee. The respondent, therefore, offered an unconditional apology for the delay in implementation of the aforesaid order of the GRF, Jajpur Road and also further undertook not to repeat any such practice in future. He also prayed that the Commission to drop the proceeding under S.142 of the Electricity Act, 2003 as the order was implemented by the licensee.
7. After going through the records and submissions, we opine that there is a serious lapse on the part of the licensee and particularly the concerned employees as regards the non-implementation of the orders of the GRF/Ombudsman. In this regard, the contention of

the licensee that the proceeding u/S. 142 of the Electricity Act, 2003 is only maintainable as regards to non-compliance unless an order/award or direction is issued by the Ombudsman is not correct. However, in the instant case, as the licensee has complied with the order of the GRF in the meantime and has revised the bill of the petitioner and also since he has made an unconditional apology for such delay in implementation of the GRF's order and also since he undertakes not to repeat any such practices in future, the Commission having regards to these facts does not wish to proceed further in the matter and directs that in future any failure of non-compliance shall be viewed with the utmost seriousness as a deliberate act and motivated violation by the Licensee entailing the maximum punishment provided under the law including prosecution for non-compliance of orders or directions.

8. Accordingly, the case is disposed of.

(B.K. Misra)
Member

(K. C. Badu)
Member

(B.K. Das)
Chairperson