

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

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Present: Shri S.P.Nanda, Chairperson  
Shri K.C. Badu, Member  
Shri B.K. Misra, Member

**Case No. 104 of 2011**

Sri Susant Kumar Mohapatra ..... Petitioner

Vrs.

MD, WESCO & 2 others ..... Respondents

**In the matter of: An application under S.142 of the Electricity Act, 2003 for non-compliance of the Order dated 11.08.2009 of the Commission passed in Case Nos.17, 18, 19 & 28 of 2007.**

For the Petitioner: Shri S K Mohapatra (in person).

For the Respondent: Shri. Manoj Kumar Singh, GM, CESU, Shri. Jitendra Kumar Mishra, Executive Engineer (Elect.), Talcher Electrical Division, Chainpal & Shri P K Sahoo, S.E.R.A, WESCO.

**ORDER**

**Hearing date: 09.01.2012**

**Order date: 08.02.2012**

The petitioner, Shri. S K Mohapatra, appearing in person submitted that, he has filed the present Case against the respondents for non-compliance of the order dated 11.08.2009 passed by the Commission in Case Nos. 17, 18, 19 & 28 of 2007. He submitted that, basing upon the direction of the Commission passed on 11.08.2009 in the above cases, he was given with the franchise of Pallahada by CESU but he has not been allowed with the franchise for Deogarh, Sub-division

under WESCO. The Manager, TED, Chainpal on 30.11.2011 directed him to come with supporting documents for renewal of the franchise agreement for a period of four months i.e. from 01.12.2012 to 30.04.2012. The respondent No. 3 is imposing such condition which is difficult on his part to execute the agreement. His performance is quite satisfactory which can be enquired into by the Commission. Till that date he may be allowed to operate it's franchise operation on the basis of the present agreement with the existing terms and conditions and he may also be awarded with the franchise operation of Deogarh Sub-division, under WESCO.

2. The Chief Commercial Officer CESU has filed its reply on 04.01.2012 denying the allegations of the petitioner made in the present case, which is taken on record. Shri Manoj Kumar Singh, GM, CESU also filed an additional submission on 07.01.2012 which is also taken on record by the Commission.
3. Shri. Manoj Singh, GM, CESU appearing on behalf of CESU submitted that the Commission, in their order dated 11.08.2009 had directed as follows:

*“In the instant x x x x x x x x x x x x x x x x x x x x x x x x. The franchisee system to be operated by Mr. S K Mohapatra shall be an integrated one involving combination of activities like meter reading, billing and revenue collection, as per the standard terms and conditions of CESU. The performance of Mr. Mohapatra may be reviewed after a period of six months for considering for assignment of his interest in other areas like Chhendipada Sub-division in CESU and Deogarh Sub-division in WESCO area provided in the meantime these areas have not been given to any other franchisee”*
4. Shri Singh submitted that, Shri Mohapatra was engaged as franchisee of Pallahada Electrical Sub-Division. His performance was reviewed after a period of six months, in which it was found that the performance was very poor taking into consideration the overall analysis of the franchise performance. Sri Singh

furnished a single line diagram at the time of hearing indicating that the Pallahada franchise area is served by 17 numbers of 11 KV feeder and all the feeders are provided with working meters to determine the input energy in the Pallahada Sub-division. He assured that the franchise will be supplied with the input meter data of 11 KV feeders every month for verification and cross checking purpose of billing unit vs. Input unit and to ensure that billing efficiency is progressively improved. This exercise to be started forthwith from the current month itself.

5. Shri Singh further submitted that manipulations in the money receipt have been made by the petitioner with respect to the money collected from the consumers and less deposit has been made to CESU. He filed some photo copies of such manipulated money receipts. The photo copy of the money receipts show that the original receipt is issued with a particular amount to the consumer from whom money is received but in the duplicate copy which is forwarded to CESU, a less amount is shown to have been collected from same consumer and accordingly less amounts has been paid to CESU. He cited specific cases. With respect to money receipt No. 360480 of dated 30.09.2010, in the original receipt it has been shown to have been collected Rs. 250/- from one consumer, Mohanty Babu but in the duplicate copy of the same Money Receipt which has been forwarded to CESU Office it has been shown to have collected Rs 25/- from one G. Pradhan.
6. Similarly, in another case with respect to “Original” money receipt No. 197337 dated 10.12.2010 it is shown to have been collected Rs 300/- from one Shri Jalandhar, but in the duplicate bill of the same money receipt it has been shown to have been collected Rs 30/-. Accordingly, though the petitioner has collected Rs 300/- from the consumer, he has deposited Rs 30/- with CESU and thereby he has made unlawful gain of Rs 270/- and has caused financial loss to CESU. This amounts to misappropriation of public revenue which is a serious offence. From the few sample copies of the money receipts produced by the respondent it is seen

that a sum of Rs 3541.00 has been misappropriated which would be evident from the table given below:-

<b>Manipulation of Money Receipt &amp; Less Deposit in CESU by Franchisee under Pallahara Sub-Division</b>								
<b>Sl. No</b>	<b>Book No.</b>	<b>M.R.No</b>	<b>Date</b>	<b>Nam of the Consumer in the Original Receipt</b>	<b>Collection Amount in the original receipt</b>	<b>Name of the Consumer in the duplicate receipt</b>	<b>Deposited Amount in the duplicate amount</b>	<b>Less Deposit</b>
1	26803	360480	30.09.10	Mohanty Babu	250.00	B Pradhan	25.00	200.00
2	30987	197337	10.12.10	Jalandhar Sahoo	300.00	Juna Sahoo	30.00	270.00
3	27411	482180	10.11.10	Jalandhar Sahoo	400.00	Jalandhar Sahoo	40.00	360.00
4	20205	040869	10.08.10	Jalandhar Sahoo	300.00	P Sahoo	30.00	270.00
5	14607	921361	01.05.10	Jalandhar Sahoo	300.00	A.K.Behera	200.00	100.00
6	14607	921358	01.05.10	Santosh Moharana	270.00	Judhistir Pradhan	70.00	200.00
7	K10K	491251	31.08.11	Jalandhar Sahoo	900.00	Giridhari Sahoo	30.00	870.00
8	44961	992082	13.03.11	J Sahoo	300.00	P Sahoo	30.00	270.00
9	26802	360345	30.09.10	Jalandhar Sahoo	400.00	J Sahoo	20.00	380.00
10	40666	133082	10.02.11	Jaladhar Sahoo	300.00	Jamuna Sahoo	20.00	280.00
11	26802	360282	29.09.10	Gobinda Ch. Sahoo	200.00	Gobinda Ch. Behera	34.00	166.00
12	16524	304713	07.06.10		200.00		50.00	150.00
	<b>Total Amount</b>				<b>4120.00</b>		<b>579.00</b>	<b>3541.00</b>

What is most disturbing is that one consumer name has been mentioned in the original receipt but in the duplicate copy of the said money receipt another name has been mentioned with lesser amount.

- Therefore, the allegation of the petitioner that CESU has violated the order of the Commission is far from truth but on the contrary the franchisee, Sri Mohapatra has manipulated money receipt and misappropriated CESU's revenue for which CESU has to initiate both criminal and civil action.

8. The Managing Director, WESCO, Burla has filed its reply on 03.01.2012 which is taken on record. Shri Sahoo, appearing for WESCO, submitted that in compliance to the direction dated 11.08.2009 the petitioner did not participate during the open bidding process for grant of franchisee for Deogarh, Sub-Division. Accordingly, there is no cause of action for invoking the jurisdiction of the Hon'ble Commission u/S 142 of the Electricity Act, 2003.
9. The Commission in its order dated 11.08.2009, at paragraph 10, had held that, the performance of Shri Mohapatra, is to be reviewed after a period of six months for considering assignment of other areas.
10. The performance report submitted by CESU for the period from April-2011 to September-2011 shows that, the performance of the petitioner has gone down. Further, the Commission can not ignore the serious charges of misappropriation of public money made by the petitioner franchise causing financial loss to CESU.
11. The photo copy of the manipulated money receipt (11 nos.) by CESU was perused by the Commission and the Commission prima-facie is satisfied with the allegation of misappropriation occurred during the franchisee operation at Pallahada by the petitioner. Further, the petitioner has been entrusted with the franchisee operation by way of an agreement. If the licensee feels that the continuance of the franchisee is detrimental to the interest of CESU, it can take its own decision to terminate the franchise agreement.
12. Further, as submitted by WESCO the petitioner did not participate in the bidding process to take franchisee for Deogarh sub-division. When, the petitioner voluntarily did not participate, WESCO can not be said to have violated the order of the Commission so as to attract action u/S 142 of the Electricity Act, 2003.
13. CESU pursuance to the direction of the Commission dated 11.08.2009 had engaged the petitioner as franchisee for Pallahara Sub-division. As such, it has not violated the order of the Commission so as to initiate acting u/S 142 of the Electricity Act, 2003. The Commission rather expresses its utmost concern about the serious allegation of misappropriation of public money by the petitioner franchisee, which should be enquired into by CESU by constituting a committee in which the CVO of CESU should be taken as a member. After inquiry if the

misappropriation is confirmed/established, this should be recovered from the franchisee immediately. For such recovery, CESU may take all such legal course of action as available under law. When the parties are to be bound by their terms of the agreement, the Commission is not inclined to interfere with the same. However, the agreement with the franchisee by CESU has been ended on 1.12.2011. Without a valid agreement the franchisee should not be allowed to operate.

14. CESU is further directed to ensure that, there should be detail periodical financial audit with field verification with respect to all the franchisees operating within the area of CESU so as to ensure that there is no loss of revenue to CESU.
15. With the above observation and direction the petition under section 142 is not admitted and accordingly the case is disposed of.

**Sd/-**  
**(B.K. Misra)**  
**Member**

**Sd/-**  
**(K.C. Badu)**  
**Member**

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