

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

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

CASE No. 63 of 2011

M/s. Pradhan Industries Ltd.	Petitioner
Vrs.		
E.E (Elect.), NESCO, jajpur	Respondent

In the matter of: Application under Sec. 142 of the Electricity Act, 2003.

For the Petitioner: Shri B.K.Nayak, Advocate.

For the Respondent: .Shri Suresh Chandra Das, Advocate.

ORDER

Date of Hearing: 22.10.2011

Date of Order: 22.10.2011

1. Shri. B.K.Nayak, Advocate, the learned counsel, appearing on behalf of the petitioner submitted that, the present petitioner has been filed u/S 142 and 146 of the Electricity Act, 2003, for non-compliance of the Order dated 24.09.2010 of the Ombudsman-II passed in C.R. Case No. 37/2010, where in, the Ombudsman-II had directed the respondent to extend the TOD benefit to the petitioner for the period from December, 2007 to December, 2009 calculating 1/3rd consumption of energy every month towards this benefit. The respondent was also directed to calculate the amount of such benefit within one month and adjust the same in the current energy bill. The compliance of the above order, though was directed to be filed within 45 days before, the Ombudsman, but the same has not been done.

2. Shri Suresh Chandra Das, Advocate appearing on behalf of the respondent, filed its objection, which is taken on record. Shri Das learned Advocate appearing on behalf of the respondent, submitted that the present petition is not maintainable in view of the fact that, the correctness, legality and propriety of the Order dtd. 24.09.2011, passed by the Ombudsman-II in CR Case No. 37/2010 has been challenged before the Hon'ble High Court in WP(C) No. 23500/2010 by the respondent and the Hon'ble High Court, by an interim Order dtd. 18.02.2011 passed in Misc case No. 21031 of 2010 (arising out of WP(C) 23500/2010) has stayed the operation of the Order dtd. 24.09.2010 of the Ombudsman-II. Shri Dash, Advocate also filed the photo copy of the above interim Order dtd. 18.02.2011 of the Hon'ble High Court, which is taken into record.
3. Heard the learned counsel appearing on behalf of both the petitioner and the respondent.
4. Since, the Order dtd. 24.09.2010 of the Ombudsman has already been stayed by the Hon'ble High Court and pending before the Hon'ble High Court, the Commission do not want to go further in to merit of the case. As the case is posted for admission, and in view of the submission made by the counsel of the respondent and the interim Order dtd. 18.02.2011 of the Hon'ble High Court, the Commission, is not inclined to admit the Case.
5. Accordingly, the Case is rejected.

Sd/-
(B.K.Misra)
Member

Sd/-
(K.C.Badu)
Member

Sd/-
(S.P.Nanda)
Chairperson