

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

Present : **Shri S. P. Nanda, Chairperson**
 Shri S. P. Swain, Member
 Shri A. K. Das, Member

Case No.86 of 2012

Shri Dasaratha Behera

.....Petitioner

Vrs.

SDO (Electrical), Khunta, NESCO

.....Respondent

In the matter of: **An application under Sections 142 &146 of the Electricity Act, 2003 for non-compliance of the order dated 13.02.2012 of the Ombudsman-II in C. R. Case No.68 of 2011 and also order dated 23.06.2012 of the Commission passed in Case no.38 of 2012.**

AND

Case No.87 of 2012

Smt. Susama Pratihari

.....Petitioner

Vrs

SDO (Elect.), Khunta, NESCO

.....Respondent

In the matter of: **An application under Sections 142 &146 of the Electricity Act, 2003 for non-compliance of the order dated 21.02.2012 of the Ombudsman-II in C. R. Case No.69 of 2011 and also order dated 23.06.2012 of the Commission passed in Case no.37 of 2012.**

For Petitioner: Shri Falguni Rajguru Mohapatra, Advocate appearing on behalf of Petitioners in both the Case Nos. 86 & 87/2012

For Respondent: Nobody is present on behalf of the Respondent in both the Case Nos. 86 & 87/2012.

ORDER

Date of Hearing: 21.10.2014

Date of Order:21.02.2015

Shri Falguni Rajguru Mohapatra, Advocate appearing on behalf of Petitioners in both the Case Nos. 86 & 87/2012 was present. Neither the Respondent namely the S.D.O (Elect.), Khunta Electrical Sub-division, NESCO, Udala, nor his authorized representative was present on repeated calls.

2. The cases are clubbed together and taken up today for hearing as both are similar in nature.
3. During the hearing the Petitioner submitted that the Respondent has not followed the order of the Commission dated 23.06.2012 in Case No. 37 & 38/2012 directing them to comply with the order passed by Ombudsman-II in CR Case No. 68 & 69/2011.
4. The Respondent in his written submission on 27.11.2012 in the above two cases have stated that the cases are filed by the fake person who has committed the fraud and mischief by manipulating the signatures in the name of the real consumers in order to have wrongful gain. The real consumers have settled their dispute with the respondent by availing the benefit under the OTS Scheme and accordingly "No dues certificate" has been issued to the consumers on 09.11.2012. Now there exists no dispute between the parties and the Commission should pass an appropriate order directing the competent authority for proper enquiry to catch the accused-culprit.
5. As per the direction of the Commission vide its Orders dated 30.11.2012, the petitioner in Case No. 87/2012 and the petitioner's son in Case No. 86/2012 had filed their affidavit (as the petitioner died on 29.12.2012). In their affidavits both had stated that they had neither applied for availing of the One Time Settlement (OTS) Scheme implemented by the licensee NESCO nor authorized any person to apply for settlement of their disputed energy bills. Further, they have not received any notice from the Opposite party regarding OTS.
6. Since the Respondent was not present during the hearing, the Commission in their interim Order dated. 22.10.2014 had directed Respondent to file his written submission on the compliance of the orders of the Ombudsman –II as stated by the Petitioner. The Respondent filed a petition to recall the above orders of the Commission since he was not present during the hearing. The Commission duly considered that recall petition and allowed again 15 days more time for filing of his written note of submission including note of arguments as the matters are pending since long with the Commission and the respondent has taken adjournment of hearing and also for filing of reply from time to time without complying the directions of the Commission in the above cases. But no response has been received from the respondent.
7. After hearing the petitioner and perusal of the case records, the Commission observed that in both the cases which are arising out of non-compliance of the Case Nos. 37 &

38/2012 of OERC. Therein the Commission has directed the respondent to comply the aforesaid order of the Ombudsman-II passed in C.R. Case Nos. 68 & 69/2011 within a period of 15 days. It was also mentioned, that in case of failure, suo motu cognizance shall be taken against the erring official of the licensee for non-compliance of the said orders of the Ombudsman-II. The above directions of the Commission have not been complied by the respondent till date evidencing intentional and deliberate harassment of the consumers by the respondent without following the provisions laid down in the Electricity Act, 2003 and rules and regulations made thereunder. The issues raised by the opposite party in his preliminary reply regarding enquiry by the competent authority about the so called fake petitioner, the Commission is not inclined to pass any orders, since the matter was not raised before Ombudsman-II at the time of pleadings. Moreover, Ombudsman-II passed the orders on 21.02.2012, whereas as per the information filed before the Commission, the consumer passed away on 29.12.2012. If the order of Ombudsman would have been implemented, the matter would have been settled within 45 days i.e. say by first week of March, 2012 and the consumer would have been benefited by justice in person; but for the adamant, callous, lackadaisical and non-sympathetic attitude of the respondent.

8. The matter was placed before the Commission and the Commission had passed the following orders in Case No. 37/2012 on 23.06.2012.

“Therefore, the application is disposed of with the direction to the respondent to comply the aforesaid order of Ombudsman-II passed in C.R. Case No. 69/2011 within a period of 15 days failing which suo-motu cognizance shall be taken against the erring official of the licensee for non-compliance of the said order. A copy of such compliance should be submitted before the Commission.”

9. Respondent, neither complied with the order nor submitted any compliance to the Commission. He simply did not take care of the directions. For non-compliance, again petition was filed before the Commission. The respondent reiterated the earlier stand taken before GRF and with matters not connected to implementation of orders of GRF, Ombudsman and the Commission, thus, willfully and intentionally the respondent is avoiding compliance of directions of competent authorities attracting provisions under Section 142 of the Electricity Act, 2003.
10. Thus, we come to the conclusion, that the respondent, SDO (Electrical), NESCO, Khunta has contravened the provisions of the Act and also contravened the direction of

the Commission. Therefore, penalty amounting to Rs.5000 (Rupees five thousand) shall be recovered from SDO, NESCO, Khunta by competent authority of the Licensee M/s. NESCO, responsible for contravention of such direction and provisions of the Act. It is placed on record that Shri Rajkishore Mohanta is the SDO, NESCO, Khunta. If the order of the Ombudsman is not complied within seven working days of issue of this order a further amount of Rs.2000/- (Rupees two thousand) for each day of default shall be recovered from SDO, NESCO, Khunta till such time the order remains uncomplied.

11. With the above direction both the cases are disposed of.

Sd/-
(A .K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson