

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

**Present: Shri A. K. Das, Member/Chairperson
 Shri S. K. Parhi, Member**

Case No. 46/2015

Shri Sarat Chandra Padhi	Petitioner
Vrs.		
SOUTHCO Utility & Others	Respondents

In the matter of: An application under Section 142 of the Electricity Act, 2003 for non-compliance of Order dated 26.09.2015 passed by the Commission in Case No. 46 of 2010.

For Petitioner: Shri S. K. Panda, Advocate.

For Respondent: Shri B. K. Nayak, Advocate.

ORDER

Date of hearing: 09.12.2016

Date of order: 29.03.2017

The Petitioner-Shri Sarat Chandra Padhi, Jarodo, Kabi Surya Nagar, Ganjam has filed the above application under Section 142 of the Electricity Act, 2003 for non-compliance of the Order dated 26.09.2015 of the Commission passed in Case No. 46 of 2010 arising out of the order dated 27.12.2006 of the GRF, Berhampur passed in C. C. Case No. 25 of 2005. The GRF, Berhampur had disposed of the said Consumer Complaint case with the following directions:-

“To test the meter immediately and install the same in the mill premises of the complainant within seven days of receipt of this order failure of which the party will compensate Rs. 100/- to the complainant as per Regulation. x x x x.”

2. During pendency of the said complaint case before the GRF, Berhampur, the power supply to the rice huller of the petitioner was disconnected as there was outstanding arrear of Rs.1,63,333.94/- up to May, 2005 which had not been paid by the petitioner. Thereafter, the petitioner had filed a petition under Section 142 of the Electricity Act, 2003 before this Commission for non-compliance of the above order of the GRF, Berhampur along with a prayer for payment of compensation which was registered as Case No. 46 of 2010. The Commission vide its interim order dated 25.05.2010 in the said case had directed the petitioner to make payment of Rs.50,000/- out of the arrear dues on or before 16.06.2010 and also directed Respondent to restore the power supply thereafter by installing a 3-Phase digital meter in the premises of the petitioner. Besides that, the petitioner would make

payment of the current dues along with the part of the balance arrear dues in the shape of an instalment of Rs.3,000 per month till the final calculation is made by the respondent after taking 3 months consecutive reading with due correction for seasonal variation of load on the rice huller. The Commission further directed that it would hear the matter in detail on merit under Section 142 of the Electricity Act, 2003 after such compliance.

Thereafter, the Commission further heard the matter on 21.09.2010 and had given the following directions as an interim measures:-

“We have heard the parties and perused the case records. A new meter has been installed on 23.6.2010 and power supply was restored on the same day. The respondent requires three months time for the average meter reading for revision/correction of the erroneous bills as per Regulations, i.e. after the rice huller of the petitioner functions regularly. The Commission was informed that the business of Rice hauler runs on seasonal variation. The consumption pattern at the peak season (harvesting period) and off-peak season of Rice huller differ substantially. So taking the average reading of just 3 months after the reconnection and adjusting the arrear amount accumulated for number of years will not be equitable either to the petitioner or to the licensee. Accordingly, the Commission directs that the licensee may after obtaining the average readings for a period of three months, from the reconnection date, must make a provisional Bill for arrear adjustment and the petitioner should clear the arrear after adjustment of Rs.50,000/- paid as advance. The consumer shall continue to pay the current bill. The final arrear adjustment bill shall be prepared by the licensee on the basis of average monthly bill for a full year working of the Rice mill and submit compliance report serving copy to the petitioner.”

3. As per above order of the Commission, the petitioner had deposited Rs.50,000/- only out of the arrear dues on 16.06.2010 for restoration of power supply to his rice huller. Thereafter, the respondent has restored the power supply to the rice huller of the petitioner on 23.06.2010 after installation of a 3-phase digital meter. But till date respondent has not revised the arrear bills amounting to Rs.1,63,323.04/- after taking into account of the new meter reading for which the petitioner is unable to make payment of the balance arrear dues as per direction of the Commission. Therefore, the petitioner has filed the present application seeking direction to the respondents to revise the entire disputed erroneous bill by taking 3 months consecutive average reading of the 3-phase new digital meter reading for one year i.e. from 20.06.2010 to 21.07.2011 and serve the copy of the same to the petitioner for payment of the arrear dues, if any, after adjustment of Rs.50,000/- already paid towards arrear dues.
4. While disposing of Case No. 46 of 2010, the Commission also observed that the respondents had not revised the arrear bill properly as per the direction of the Commission on the basis of average monthly bill for a full year working of the Rice mill vide interim order dated 21.09.2010 after installation of the 3-phase digital meter in the premises of the rice huller of the petitioner. Therefore, the respondents were further directed to comply with the said order

of the Commission in letter and spirit within one month from the date of that order and serve a copy of the said revised bill on the Petitioner to make payment of the arrear. The petitioner was also directed that after receipt of the said revised bill he would make payment of the balance arrear dues, if any, along with the current bills within one month thereafter, failing which the power supply to the rice huller of the petitioner would be disconnected by following the due procedure of law.

5. As the above order of the Commission has not been complied by the respondents, the petitioner herein has filed the above case with a prayer for implementation of the order passed in Case No. 46 of 2010. He has also submitted that though the Commission have directed the respondents to supply the revised bill within one month, the respondents without complying the above direction after expiry of one month of stipulated period has issued vague bill which is not in consonance with the above order of the Commission in letter and spirit. The respondents should revise the bills for the entire disputed period i.e. October, 1998 to May, 2005. The respondents have also disconnected the power supply to the rice huller of the petitioner without following the rules and Regulations of OERC (Conditions of Supply) Code, 2004 from May, 2005 to May, 2010. The petitioner is not liable to pay an amount of Rs.31,900/- towards MMFC charges from Jan, 2006 to May, 2010 as the power supply was disconnected state. The respondents should issue the revised bill from the date of dispute i.e. Oct, 1998 to till the disconnection of power supply up to July, 2005 with an average as per the direction of the Commission vide para 8 of order dated 25.05.2010 by withdrawing an amount of Rs.31,900/- as MMFC charges from Jan, 2006 to July, 2010.
6. The learned counsel appearing on behalf of the respondents has submitted that as per order dated 26.09.2015 of the Commission, the respondents have revised the bills at their end. Out of total amount withdrawal of Rs.65,065/- a sum of Rs.53,212/- had been withdrawn during Sept., 2012 and the rest of the amount of Rs.11,853/- was withdrawn during Oct., 2015. The same is reflected in the bill of the petitioner for the month of November, 2015 and revised bill was served on the petitioner along with the current bill with a request to make payment of an amount of Rs.60,300/- as on Sept., 2015 within one month of receipt of the same failing which the power supply to rice huller of the petitioner would be disconnected.
7. After hearing the petitioner and perusal of the case records, the Commission observed that the above case has arisen out of non-compliance of the order in Case No. 46 of 2010 of OERC. Therein the Commission has directed the respondent to comply the aforesaid order of the GRF, Berhampur passed in C.C. Case No. 25 of 2005 within a period of one month.

The above directions of the Commission has not been complied by the respondents till date evidencing intentional and deliberate harassment of the consumer by the respondents without following the provisions laid down in the Electricity Act, 2003 and rules and regulations made thereunder.

8. The matter was placed before the Commission and the Commission had passed the following orders in Case No. 46 of 2010 on 26.09.2015.

“ xxxxxx the respondents have not revised the arrear bill properly as per the direction of the Commission on the basis of average monthly bill for a full year working of the Rice mill vide interim order dated 21.09.2010 after installation of the 3-phase digital meter in the premises of the rice huller of the petitioner. Therefore, the respondents are further directed to comply the said order of the Commission in letter and spirit within one month from the date of this order and serve a copy of the said revised bill on the Petitioner to make payment of the arrear. The petitioner is also directed after receiving of the said revised bill shall make payment of the balance arrear dues, if any, along with the current bills within one month thereafter, failing which the power supply to the rice huller of the petitioner will be disconnected by following the due procedure of law..”

9. However, Respondents neither complied with the order nor submitted any compliance to the Commission in letter and spirit. Due to non-compliance, the Petitioner has again come before the Commission. The respondents again reiterated the earlier stand taken before the Commission in Case No. 46 of 2010.
10. Thus, we come to the conclusion that the respondents, SDO (Electrical), SOUTHCO Utility, Kabisurya Nagar and the Executive Engineer (Elect.), Aska Electrical Division, Aska have contravened the provisions of the Act and also contravened the direction of the Commission. Therefore, penalty amounting to Rs.5000 (Rupees five thousand) each shall be recovered from each from the SDO (Electrical), SOUTHCO Utility, Kabisurya Nagar & the Executive Engineer(Elect.), Aska Electrical Division, Aska by competent authority of the SOUTHCO Utility for contravention of such direction and provisions of the Act. If the above order of the Commission is not complied within one month of issue of this order a further amount of Rs.2000/- (Rupees two thousand) for each day of default shall be recovered from the respondents till such time the order remains uncomplied.
11. With the above observation the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(A. K. Das)
Member/Chairperson