

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

**Present: Shri U. N. Behera, Chairperson
 Shri A. K. Das, Member
 Shri S. K. Parhi, Member**

Case No. 11/2017

M/s. Ananta Gopal Stone Crusher	Petitioner
Vrs.		
E.E, JRED, NESCO Utility	Respondent

In the matter of: **An application under S.142 of the Electricity Act, 2003 for non-compliance of Order dated 20.12.2016 of Ombudsman-II passed in C.R.Case No.Omb (II) N-58 of 2016.**

For Petitioner: **Shri F. R. Mohapatra and Shri R. K. Behera, authorised representative.**

For Respondent: **Shri Kalpataru Swain, Asst. Manager (Comm.), JRED, NESCO Utility.**

ORDER

Date of Hearing: 22.08.2017

Date of Order:07.11.2017

The present Petitioner M/s. Ananta Gopal Stone Crusher has filed this application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 20.12.2016 of the Ombudsman-II passed in C.R. Case No. OMB (II) N-58/2016. The Ombudsman in his order has directed as follows:

“To revise the MMFC claim in accordance with tariff orders of Hon’ble OERC for the year 2005-06 and onwards and serve revised bill to the Petitioner within 30 days from the date of issue of this order and file compliance to this Forum within 45 days.”

2. The representative of the petitioner further submitted that when the petitioner filed the above case u/Sec. 142 of the Electricity Act, 2003 before the Commission for implementation of order dated 20.12.2016 of the Ombudsman-II in C.R. Case No. 58/2016 and show cause notice was issued by the Commission to the respondent for filing of reply at that time the respondent without implementing the aforesaid order of the Ombudsman-II has filed W.P. (C) No. 3168/2017 challenging the above order of the Ombudsman-II before the Hon’ble High Court of Orissa and obtained an interim stay order. This type of dillydallying attitude of the respondent is only to harass the bonafide poor consumer. The respondent, if aggrieved with the order of the Ombudsman-II they could have challenged the same before the Hon’ble High Court after receiving the copy of the same but instead they have challenged it after receiving

show cause notice issued by the Commission in the present case. Therefore, the respondent may be directed to change this type of attitude towards their bonafide consumers.

3. The representative appearing on behalf of respondent submitted that they have challenged the order of the Ombudsman-II passed in C.R. Case No. OMB (II) N-58/2016 before the Hon'ble High Court of Orissa in W.P.(C) No. 3168/2017 wherein the Hon'ble Court has been pleased to grant an interim stay order on the proceeding of the Commission vide Misc. Case No. 2708/2017 dated 21.07.2017 until further order. The outcome of the said writ petition will be binding on both the petitioner and respondent herein. Therefore, the Commission may drop the proceeding u/Sec. 142 of the Electricity Act, 2003 against the respondent.
4. After hearing the parties and perusal of the case records, we opine that there is no need to keep in abeyance the matter with us further, as there is an interim stay of operation in the present proceeding before the Commission. Therefore, order of the Hon'ble High Court of Orissa in W.P.(C). No. 3168 of 2017 shall be binding on both the parties. Considering submission made by the Petitioner as stated in Para 2 above we give a general direction to the Respondent that the orders the GRF/ Ombudsman should be properly complied with. In case they find any difficulty in implementing any such order, they should go on appeal to the next higher forum available for the purpose without waiting for the Petitioner to approach the Commission under Section 142 of the Act. This would save time and money of the bonafide consumers.
5. With above direction, the case is disposed of.

Sd/-
(S. K.Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson