

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

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

Case No. 13/2017

Sri Suryamani Swain	Petitioner
Vrs.		
E.E (Elect.), 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-60 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 Sri Suryamani Swain 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-60/2016 wherein the learned Ombudsman-II has directed the respondent herein as follows:

“(i). Withdraw the claim towards transformer loss w.e.f. 01.04.2010 to till date and not to claim the same in future bills. (ii) Revise the bills regarding to MMFC as per verdict of the Hon’ble High Court of Orissa passed in W.P.(C). No. 3881/2013. (iii) Revise the bills of the petitioner as per the above direction within 30 days from date of issue of this order and file compliance within 45 days to this forum.”

2. As the above order of the Ombudsman-II had not been complied by the respondent within 30 days, the petitioner filed the above case before this Commission u/Sec. 142 of the Electricity Act, 2003. 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 passed in C.R. Case No. 60/2016 and the 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 filed W.P.(C) No. 3385/2017 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 could have challenged the same before the Hon'ble High Court after receiving the copy of Ombudsman order. Instead the Respondent challenged the same when he received the show cause notice of the Commission. Therefore, the respondent may be directed to change this type of attitude towards its bonafide consumer.

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-60/2016 before the Hon'ble High Court of Orissa in W.P.(C) No. 3385/2017 wherein the Hon'ble Court has been pleased to grant an interim stay order dated 17.05.2017 in Misc. Case No. 2912/2017 arising out of the above writ petition till 30.06.2017 and further the Hon'ble Court vide their interim order dated 09.08.2017 has been pleased to extend the order of stay of operation of the order of the Ombudsman-II passed in C.R. Case No. OMB(II) N-60/2016 until disposal of the above writ petition. The outcome of W.P.(C) No. 3385/2017 will be binding on both the petitioner and respondent herein. Therefore, the Commission may drop the proceeding u/S. 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 of the order of the Ombudsman-II passed in C.R. Case No. OMB (II) N-60/2016 by the Hon'ble High Court of Orissa in W.P.(C). No. 3385 of 2017. The decision of the said Hon'ble Court shall be binding on the both the parties in the present case. 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 promptly complied with. In case they find any difficulty in implementing any such order, they should 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 unnecessary wastage of time and money of the 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