

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

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

**Case No. 15/2017**

M/s. Raja Fly Ash Bricks	.....	Petitioner
Vrs.		
E.E (Elect.),CED, NESCO Utility	.....	Respondent

**In the matter of: An application under S.142 of the Electricity Act, 2003 for non-compliance of Order dated 22.04.2016 of Ombudsman-II passed in C.R.Case No.Omb(II)N-13 of 2016.**

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

**For Respondent: Shri Dharendra Narayan Naik, Dy. Manager (Elect.), JRED, NESCO Utility.**

**ORDER**

**Date of Hearing: 22.08.2017**

**Date of Order:07.11.2017**

The present Petitioner M/s. Raja Fly Ash Bricks has filed this application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 22.04.2016 of the Ombudsman-II passed in C.R. Case No. OMB (II) N-13/2016 wherein the Ombudsman-II has directed both the parties as follows:

*“The respondent is directed to (1) refund the meter rent recovered so far along with interest. (2) Refund the over drawal penalty recovered through monthly energy bill with interest to the petitioner (3) Install a HT meter immediately. (4) The Petitioner is also directed to approach the Appellate Authority within 30 days from the date of issue of this order on the matter of imposition of penalty under Section 126 of the Act.”*

2. The Representative of the petitioner further submitted that when he filed the above case u/Sec. 142 of the Electricity Act, 2003 before the Commission for implementation of order dated 22.04.2016 of the Ombudsman-II passed in C.R. Case No. 13/2016 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 filed W.P. (C) No.4362/2017 challenging the above order of the Ombudsman-II before the Hon'ble High Court of Orissa and no interim stay order has been obtained. This type of dillydallying attitude of the respondent is only meant to harass the bonafide poor consumer. The respondent, if aggrieved

with the order of the Ombudsman-II he 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 the Commission issued show cause notice to them on non-implementation of Ombudsman order. Therefore, the respondent may be directed to change this type of attitude towards of its bonafide consumers.

3. The representative appearing on behalf of respondent submitted that they have complied the order of the Ombudsman-II so far it relates to the direction Sl. Nos. 1 & 3. The Ombudsman has no jurisdiction to pass orders in Sl. No. 2 and 4. The respondent has challenged the order of the Ombudsman-II passed in C.R.Case No. OMB (II) N-13/2016 in respect to Sl. No. 2 & 4 before the Hon'ble High Court of Orissa in W.P.(C) No. 4362/2017 wherein the Hon'ble Court has been pleased to issue notice to the opposite parties fixing the date of hearing on 22.08.2017. In the meantime, the Hon'ble Court has stayed the proceeding before the Commission in Misc Case No. 3751/17 dated 04.09.2017 till 13.10.2017. 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/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 the order of the Ombudsman in respect to Sl. No. 1 & 3 have been complied by the respondent and Sl. No. 2 & 4 have been challenged before the Hon'ble High Court of Orissa in W.P.(C). No. 4362 of 2017. The outcome of the said writ petition will be binding on both the petitioner and respondent herein. 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 have any disagreement 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. Preferably within the period allowed for appeal. This would save time and effort 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**