

**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. 22/2017

Sri Paresh Nath Sahu	Petitioner
Vrs.		
E.E., AED, Anandapur, NESCO Utility	Respondent

In the matter of: An application under S.142 of the Electricity Act, 2003 for non-implementation of Order dated 27.09.2014 of the Ombudsman-II passed in C.R. Case No. Omb (II)N-07 of 2014.

For Petitioner: Shri Akshya Kumar Sahani, Authorised representative.

For Respondent: Shri Ananta Narayan Senapati, Manager (Elect.), Shri Binaya Kumar Sahu, GM (Elect.), NESCO Utility.

Order

Date of hearing: 16.05.2017

Date of order: 09.06.2017

The petitioner Shri Paresh Nath Sahu who is having contract demand of 32KW and has been drawing power at 11 KV under the jurisdiction of NESCO Utility has filed the above case under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 27.09.2014 of the Ombudsman-II passed in C.R. Case No. Omb (II)N-07 of 2014.

2. In the present case, the representative of the petitioner has submitted that the respondent had imposed over drawl penalty on it which was challenged by the petitioner before the GRF, Jajpur Road, NESCO Utility in C.C. Case No.193 of 2013. The said GRF, Jajpur Road vide their Order dated 08.08.2013 had disposed of the above case with the following directions :

“Having dealt with and clarified point-wise under the observation Head, we consider it to record our conclusions of order which are as follows:

- (a) The Opp. Party shall withdraw the over drawl penalty claimed in the energy bill of the petitioner.*

(b) The Opp. Party shall take action as directed at para 6 under observation head.

(c) Since the Petitioner is a HT consumer Opposite party shall install the required HT metering unit in place of existing LT metering arrangement immediately.”

3. As the above order of the GRF was not complied by the respondent, the petitioner had moved to the Ombudsman-II in C.R. Case No. Omb(II)N-07 of 2014 for implementation. The Ombudsman-II vide their order dated 27.09.2014 had disposed of the said case with the following directions:

“The Respondent is directed to implement the order dated 08.08.2013 of GRF, Jajpur Road i.e.(a) Withdrawal of over drawal penalty claimed in the energy bill of the petitioner (b) Installation of HT metering unit. The Respondent is further directed to serve a copy of the revised bill along with its abstract to the petitioner within 30 days from the date of receipt of the letter of acceptance of the petitioner and report compliance to this forum within 45 days.

Regarding the claim under Section 126 of the Act, the petitioner is at liberty to adjudicate this issue through statutory appeal u/Sec. 127 of the said Act to the Appellate Authority within 30 days from the date of this order and the Appellate Authority may accept the appeal if filed by the petitioner within the time limit as stipulated above & adjudicate the same in accordance with law.”

The Petitioner further submitted that instead of implementing the above direction of the Ombudsman-II in C.R. Case No. 07 of 2014, the respondent has disconnected the power supply to the unit of the petitioner. Regarding installation of HT metering unit and withdrawal of overdrawal charges, the respondent has not taken any steps. The respondent has failed to implement the tariff orders for different years of the Commission so also the order of the Ombudsman-II. The load of the petitioner was 32 KW which should be from the LT system of the utility instead the petitioner was forced to bear the cost of HT line sub-station and metering unit for which no remunerative benefit had been extended to him. Therefore the respondent may be directed to restore the power supply to the unit of the petitioner first pending the present dispute thereafter the Respondent should implement the above order of the Ombudsman-II passed in C. R. Case No. Omb(II) No. 07 of 2014.

4. The representative of the respondent has submitted that the order of the Ombudsman-II passed in C. R. Case No. Omb(II)N-07 of 2014 wherein the Ombudsman-II has directed the respondent to carry out the order of the GRF, Jajpur Road passed in C.C. Case No.193 of 2013 to withdraw the overdrawal penalty imposed under Section 126

of the Electricity Act, 2003 and for installation of a HT meter which is quite unfair for which they have been awaiting the judgment of the Hon'ble High Court of Orissa in W.P.(C) Nos. 3881 of 2013 and 2154 of 2014 as the issues are similar in nature wherein the Hon'ble High Court has also stayed the direction of the Ombudsman. He also further submitted that as per Regulation 100 of the OERC Distribution (Conditions of Supply) Code, 2004 power supply to the unit of the petitioner has been disconnected during February, 2015 due to non-payment of electricity arrear dues of Rs.426640.50 and the Agreement for power supply has been terminated vide Office letter No.3626 dated 15.07.2015. Regulation 56 of the supply Code, 2004 regarding installation of HT metering unit is not applicable to the Utility in this case and accordingly estimate has been made vide estimate No. 213/11-12 for 11KV HT metering arrangement for an amount of Rs.92,157.00/- out of which the petitioner is to pay of Rs.90,904.00/- for supply of 32 KW to his unit. The same has been intimated to the Petitioner vide letter dated 18.10.2011 by the utility but the Petitioner without depositing the above cost has approached this Commission for implementation of the order of the Ombudsman-II and for restoration of power supply to his industry.

5. The Commission observed that there is an inordinate delay on the part of NESCO Utility for implementing the order dated 27.09.2014 of the Ombudsman-II passed in C.R. Case No. Omb(II)N-07 of 2014 though there is no barrier in implementing the same. Hon'ble High Court has stayed the order of the Ombudsman in a different proceeding. This matter could also have been placed before Hon'ble High Court. But instead of doing the same the Respondent cannot take excuse of the proceeding pending before Hon'ble High Court in some other case which is not proper and just.
6. In view of the above, the Respondent NESCO Utility is directed to implement the order of the Ombudsman-II passed in C.R. Case No. Omb (II)N-07 of 2014 which has not been implemented by the Respondent in letter and spirit. Without implementing the order of the Ombudsman-II, the respondent has disconnected the power supply to the industry of the petitioner which is unlawful. Therefore, the Respondent is directed to restore the power supply to the industry of the petitioner within seven days from receipt of this order and thereafter take necessary steps for implementation of the order of the Ombudsman-II passed in the above noted case as it has not challenged the same in any higher forum. The petitioner is also directed to pay the electricity dues regularly barring the arrear disputed amount which shall be settled as per Orders of

Ombudsman-II. After the implementation of the Ombudsman order if any dues still remains payable, that is also to be paid by the consumer. Within a period of thirty days

7. Accordingly, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson