

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. 59/2017

Sri Arun Kumar Mishra	Petitioner
Vrs.		
SDO, NESCO, Khunta	Respondent

**In the matter of: An application under Section 142 of the Electricity Act, 2003 for
 challenging the provisional assessment order of the SDO (Elect.),
 NESCO Utility, Khunta passed u/S. 126 of the above Act.**

For Petitioner: F.R.Mahapatra, the authorized representative.

For Respondents: Shri Prasanta Kumar Manna, SDO (Elect.), NESCO Utility.

ORDER

Date of hearing: 04.09.2018

Date of order: 01.01.2019

The present petition filed by Sri Arun Kumar Mishra, S/o: Late Laxmidhar Mishra, At-Manjaritangra, P.O: Khunta, Dist.-Mayurbhanj is under Section 142 of the Electricity Act, 2003 against provisional assessment order of the SDO (Elect.), NESCO Utility, Khunta passed under Section 126 of the above Act.

2. The case is taken up today for hearing on question of admission. The authorized representative of the petitioner submitted that the petitioner is a domestic consumer of NESCO Utility under Khunta Electrical Sub-division having contract demand of 1 KW. On 28.12.2016 the officers of the NESCO Utility had verified the electrical installation of the petitioner and served a report observing therein that the service connection was directly connected to the main switch without any meter. The connected load was found to be 2.646 KW in place of 1 KW. Basing on the above verification report a provisional assessment order for an amount of Rs.30,804/- was made under Section 126 of the Electricity Act, 2003 and served on the petitioner. Being aggrieved by the above provisional assessment order, the petitioner filed a consumer complaint bearing Case No. 64/2017 before the GRF-Balasore, wherein the

said forum dismissed the case with the observation that assessment made by the Assessing Officer for theft of energy u/S. 126 of the Electricity Act, 2003 was beyond the jurisdiction of the forum to adjudicate the matter. Therefore, the petitioner moved to this Commission for mis-utilization of Section 126 of the Electricity Act, 2003 by the respondent by filing the above case under Section 142 of the Electricity Act, 2003 for redressal of his grievances. The respondent has not passed the final assessment order against such provisional assessment order dated 29.12.2016 for which the petitioner was unable to file appeal under Section 127 of the Electricity Act, 2003 against the respondent.

3. During hearing the representative of the respondent submitted that on 28.12.2017 the premises of the petitioner was verified in the presence of the petitioner himself and after finding the un-authorised use of electricity on the spot a verification report was prepared on which the petitioner had executed his signature. Basing on the verification report provisional assessment order for an amount of Rs.30,804/- was made and served on the petitioner. The petitioner without filing show cause reply has moved to the GRF-Balasore in C.C. Case No. 64/2017 wherein, the learned GRF-Balasore has dismissed the case as it has no jurisdiction. Thereafter, the petitioner without following the provision of law has filed this case before the Commission under Section 142 of the Electricity Act, 2003 for mis-utilization of Section 126 of the said Act by the respondent. The respondent has made the final assessment order on 17.03.2017 for an amount of Rs.21,342/- against the provisional assessment order dated 29.12.2016 under Section 126 (3) of the Electricity Act, 2003 as the petitioner has not filed the show cause reply and also was not present during hearing on 22.01.2017. The said assessment order has been served on the petitioner through post.

4. Heard the parties.

It is a case, as per records, where electricity was being supplied to the consumer without any meter, billed at average rates @ 144 unit per month and was regularly being paid by the petitioner. Provisional assessment was made on verification. The petitioner has complained that final assessment was not immediately made and conveyed to him. During hearing, OP stated that the same has been dispatched by post. Petitioner denied receipt of the final assessment order.

Petitioner has approached the Commission under S.142 of the Electricity Act,2003 for failure of respondent to issue final assessment order. Since the final assessment has already been made and pronounced, we find no sufficient justification for proceeding

on this ground against OP u/S. 142 as prayed for by the petitioner. However, the petitioner is at liberty to approach the competent authority, if aggrieved, i.e. the Appellate Authority, as per law, for redressal of his grievances observing due formalities.

5. With the above observation, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson

Heard parties at length. After going through the case records we opine that the application of the petitioner is not entertainable here under Section 142 of the Electricity Act, 2003.