

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT NO.-4, CHUNUKOLI, 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. 72/2017**

Sri Sanjeeb Kumar Giri	.....	Petitioner
Vrs.		
SDO, NESCO, R.E. Sub-division, Baripada	.....	Respondent

**In the matter of:**      **An application under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 23.07.2016 passed in C.R. Case No. Omb (II) N-39 of 2016 of the Ombudsman-II and also the Order dated 06.05.2017 of the OERC passed in Case No. 77 of 2016.**

**For Petitioner:**      Shri Falguni Rajguru Mohapatra the authorised representative.

**For Respondent:**      Shri Satyabrata Sethi, Asst. Manager (Elect.), RE, Baripada, NESCO Utility Prasanta Kumar Manna, SDO (Elect.), Khunta, NESCO Utility.

**ORDER**

**Date of hearing: 12.06.2018**

**Date of order: 17.07.2018**

The present petitioner Shri Sanjeeb kumar Giri under NESCO Utility has filed this case under Section 142 of the Electricity Act, 2003 for misuse of the provisions of Section 126 of the said Act by the respondent S.D.O(Elect.), Khunta, NESCO Utility while making an assessment order.

2. The representative of the petitioner has submitted that the petitioner Shri Sanjeeb Kumar Giri is a Domestic consumer of electricity under the R.E. Sub-division, Baripada, NESCO Utility, Mayurbhanj having C.D. of 5KW. The petitioner has filed the above case under Section 142 of the Electricity Act, 2003 for non-implementation of Order dated 23.07.2016 of the Ombudsman-II passed in C.R. Case No.39 of 2016 so also order of the Commission passed in Case No.77 of 2016 by the S.D.O (Elect.), RE Division, NESCO Utility, Baripada wherein it was directed that the Petitioner should be given opportunity of hearing in proceeding under Section 126 of the Act.
3. The Representative of the respondent has submitted that the order of the Ombudsman-II passed in Case No. 39 of 2016 has been implemented by the Respondent and the same has been served on the petitioner vide letter No. 1330 dated 20.09.2016 with due acknowledgement. Prior to filing of the present case under

Section 142 of the Electricity Act the petitioner had earlier also knocked at the door of this Commission for implementation of the order of Ombudsman and the Commission had disposed of the matter by making the following observation in Case No. 77 of 2016 dated 06.05.2017.

***“On repeated calls the Petitioner is absent. Perused the petition and the counter reply. The Respondent submitted that although as per the order of Ombudsman-II the Petitioner was given two chances to state his stand in this case under Section 126 of the Electricity Act, 2003 he did not appear before Executive Engineer (Electrical), BED, Baripada for this case. The Respondent also brought to the notice of the Commission a letter purported to have been written by the father of the Petitioner where he has admitted that there has been unauthorized use of electricity in the premises of the Petitioner. In view of the above the Petitioner is given another chance to state his stand in this case before Executive Engineer (Electrical), BED, Baripada the Assessing Officer in this case. The Assessing Officer shall pass appropriate order after that under the Act. The Respondent is directed to summon the Petitioner on a suitable date for this purpose. If the Petitioner does not appear before the Assessing Officer on that day it will be presumed that he has nothing to say in this matter and the Assessing Officer shall issue the final order.”***

4. The representative of the respondent has also submitted that in compliance to the above direction of the Commission, the Respondent has issued notice vide their letter no.1298 dated 14.07.2017 for his appearance on 17.07.2017 for consideration on final assessment order. On the said date the authorized representative of the petitioner was present and stated that he has nothing to say and denied to file any written submission on assessment order. Thereafter, the Respondent has passed the final assessment order after going thoroughly in to the case records available with them. The Commission may advise the petitioner if he is not satisfied with the final assessment order of the Assessing authority, he may prefer an appeal under Section 127 of the Electricity Act, 2003 challenging the said final assessment order of the Assessing Officer.
5. Heard both the parties. After going through the case records we opine that the application of the petitioner is not maintainable here under Section 142 of the Electricity Act, 2003 as both the orders of the Commission and Ombudsman have been carried out and reached their finality.
6. With the above observation, the case is dismissed.

**Sd/-  
(S. K. Parhi)  
Member**

**Sd/-  
(A. K. Das)  
Member**

**Sd/-  
(U. N. Behera)  
Chairperson**