

**ODISHA ELECTRICITY REGULATORY COMMISSION**  
**BIDYUT NIYAMAK BHAWAN**  
**PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR**  
**BHUBANESWAR - 751 021**  
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**Present:        Shri U. N. Behera, Chairperson**  
**Shri A. K. Das, Member**

**Case No. 08/2018**

|   |       |             |
|---|-------|-------------|
| M/s. Ganapati Minerals (P) Ltd.           | ..... | Petitioner  |
| Vrs.                                      |       |             |
| The E.E (Elect.), AED, Athagarh & another | ..... | Respondents |

**In the matter of:**    **An application under S.142 of the Electricity Act, 2003 for non-implementation of Order dated 08.02.2017 of the Ombudsman-I passed in C.R.Case No. OM(I) -134 of 2016.**

**For Petitioner:**        Nobody is present.

**For Respondents:**    Shri Laxmi Kanta Mahapatra, Manager(Electrical),AED, Athagarh, CESU and Sri S.K. Bal of M/s RUPL.

**ORDER**

**Date of hearing: 20.11.2018**

**Date of order:29.11.2018**

The present petition has been filed by M/s. Ganapati Minerals (P) Ltd., Kapursingh, Cuttack under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 08.02.2017 passed in C.R. Case No. Om(I)-134 of 2016 of the Ombudsman-I.

2. The petitioner in the above application has submitted that he is a consumer of CESU under Athagarh Electrical Division having contract demand of 34 KW since July, 2010. In the meantime, the respondent has issued a provisional assessment order under S. 126 of the Electricity Act, 2003 as his meter has not been functioning properly. Being aggrieved by the said action of the respondent, the petitioner had approached the GRF, Cuttack and the said forum dismissed the complaint of the petitioner stating that it has no jurisdiction to intervene the order passed under S.126 of the Electricity Act, 2003. Thereafter the petitioner challenged the said order of the GRF, Cuttack through an appeal before the Ombudsman-I in C.R. Case No.134 of 2016. The learned Ombudsman-I disposed of the above appeal with the following directions:-

*“The entire procedure followed by Opposite Party-2 amounts to misutilisation of the statutory norms of the Act and blanket application of Section-126, hence*

*the penal amount debited in the bill is to be quashed. The respondents can only recover the losses from the date, B-phase was found missing on the average consumption of the meter reading after rectification as per Regulation 97 of the OERC Distribution Code, 2004.”*

As the above direction of the Ombudsman-I has not been implemented by the respondent, the petitioner has filed the present case in OERC.

3. The representatives of the respondent has submitted that the Franchise M/s. RUPL who has been engaged in that area of supply by CESU has filed W.P.(C). No. 6393 of 2017 before the Hon’ble High Court of Orissa against the order of the Ombudsman-I passed in C.R. Case No.134 of 2016 and the said writ petition is pending before the Hon’ble Court for adjudication.
4. We observe that the petitioner is absent today. He was also absent on 26.06.2018 when the matter was earlier listed for hearing. It appears that the Petitioner has no interest to pursue the matter here. At the same time we observe that the Respondent-M/s. RUPL has filed W.P.(C). No. 6393 of 2017 before the Hon’ble High Court of Orissa against the order of the Ombudsman-I passed in C.R. Case No.134 of 2016 and the said writ petition is pending before the Hon’ble Court for adjudication. Therefore, we opine that the outcome of W.P.(C). No. 6393 of 2017 which is pending before the Hon’ble High Court shall be applicable to both the petitioner and the respondents herein.
5. With the above observation the case is disposed of.

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

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