

**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  
                  Shri S. K. Parhi, Member**

**Case No. 21/2018**

M/s. Raja-1 Flyash Bricks	.....	Petitioner
Vrs.		
The Executive Engineer (Elect.), CED, NESCO Utility	.....	Respondent

**In the matter of:      An application under S.142 of the Electricity Act, 2003 for non-implementation of order dated 19.02.2018 passed in C.R.Case No.Om(II)N-44 of 2017 of the Ombudsman-II.**

**For Petitioner:**      F. R. Mohapatra, the authorized representative.

**For Respondent:**      Shri D. N. Naik, DM (Legal), NESCO Utility.

**ORDER**

**Date of hearing: 17.07.2018**

**Date of order:23.10.2018**

The present petition filed by M/s. Raja-1 Flyash Bricks, At-Gambharia, Udampur, Dist.-Balasore. The Petitioner has filed this petition under S.142 of the Electricity Act,2003 for non-implementation of order dated 19.02.2018 passed in C.R. Case No. Om(II)N-44 of 2017 of the Ombudsman-II.

2. The authorised representative of the petitioner submitted that the petitioner is a consumer of NESCO Utility having contract demand 50 KW availing power supply at 11 KV by installing 100 KVA, 11/0.4 KV Sub-station since 13.01.2016 under CED, Balasore. The petitioner had filed C.C. Case No. 98/2017 before the GRF-Balasore seeking direction of the Forum regarding refund of estimated amount invested towards capital work, meter rent and cost of LT meter, refund of 6% supervision charges deposited towards construction of Sub-station, revision of MMFC as per maximum demand recorded and also for withdrawal of overdrawal penalty. Being aggrieved by the order of the GRF, Balasore, the petitioner moved to the Ombudsman-II in C.R.Case No. 44/2017 against the order dated 12.06.2017 of the GRF-Balasore passed in C.C. Case No. 98/2017. The learned Ombudsman while disposing the above case has directed as follows:-

- i. The respondent is directed to refund the cost of check meter (LT) to the petitioner through adjustment in the subsequent bills.
  - ii. This order however shall be subject to the final decision of the Hon'ble High Court of Orissa in W.P.(C). No. 29408/2011 and W.P.(C). No. 2154/2014 regarding refund of estimated amount invested towards capital work and MMFC along with overdrawal penalty respectively. The respondent is also directed to revise the bill within 30 days from the date of the receipt of the letter of the acceptance from the petitioner.
3. The representative of the respondent submitted that as per order dated 19.02.2018 of the Ombudsman-II passed in C.R. Case No. 44/2017 the respondent has refunded the cost of the check meter (LT) in the billing for month of April, 2018 and regarding refund of MMFC and overdrawal penalty the respondent has challenged the same before the Hon'ble High Court of Orissa in W.P.(C). Nos. 10153/2014 and 2154/2014 which are sub-judice before the Hon'ble Court. The Order of the Ombudsman regarding refund of estimated amount invested towards capital work shall be subject to the judgment of the Hon'ble High Court in W.P.(C). No. 29408/2011. The outcome of the above writ petitions will be applicable to both the parties herein.
4. Heard the parties at length. After going through the case records we opine that there is no need to proceed further in the matter as the order of the Ombudsman –II passed in C.R. Case No. 44 of 2017 has been partly implemented regarding refund of cost of the check meter and the remaining parts of the said order of the Ombudsman-II have been challenged by the respondent before the Hon'ble High Court of Orissa in W.P.(C) Nos. 29498/2011, 2154/2014 and 10153/2014 which are subjudice regarding the issues for refund of cost of the capital work, MMFC and overdrawal penalty. The outcome of the said writ petitions will be applicable to both the parties herein.
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