

**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. 25/2018

Sri Pradeepta Kumar Panda	Petitioner
Vrs.		
The SDO (Elect.), UED, Udala	Respondent

In the matter of: **An application under S.142 of the Electricity Act, 2003 being aggrieved by the Order dated 11.01.2017 of the GRF, Balasore passed in C.C. Case No.264 of 2016 wherein the Forum has dismissed the case has denied to adjudicate the issues which are coming under the provisions of S.126 of the Electricity Act, 2003.**

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

For Respondent: Shri Subhransu sekhar Mishra, SDO (Elect.), Udala, NESCO Utility.

ORDER

Date of hearing: 17.07.2018

Date of order: 08.11.2018

The present petition filed by Sri Pradeepta Kumar Panda, S/o: Rama Chandra Panda, At- Mahuladiha, P.O: Kaptipada, Dist.-Mayurbhanj. The petitioner has filed the petition under Section 142 of the Electricity Act, 2003 being aggrieved by the Order dated 11.01.2017 of the GRF, Balasore passed in C.C. Case No.264 of 2016.

2. The authorised representative of the petitioner submitted that the petitioner is a domestic consumer of NESCO Utility under Udala Electrical Sub-division having contract demand of 1 KW which was enhanced to 2 KW from February, 2016 and thereafter enhanced to 3.5 KW from June, 2016 onwards . On 22.07.2016 the officers of the NESCO Utility had verified the meter and served a provisional assessment order stating therein that the meter is running, there is no seal on the TP box and meter terminal cover with meter body and that the meter reading on the date of verification was 3656 units and the consumer has consumed power through bypassing the meter. They made an assessment of Rs.66,145/- as penalty and issued a show cause notice against the provisional assessment order dated 23.07.2016 fixing the date of hearing to 25.08.2016. Being aggrieved by the said provisional order under Section 126 of the Electricity Act, 2003 of the Assessing Officer of NESCO Utility, the petitioner has challenged the said provisional order before the GRF-Balasore in C.C. Case No. 264/2016. The learned GRF-Balasore has declined to adjudicate the issues which are coming under the provisions of Section 126 of the

Electricity Act, 2003 and dismissed the case. The Respondent had served the final assessment order vide No. 1394 dated 07.10.2016 without giving any opportunity of hearing under Section 126 (3) of Electricity Act, 2003. Under the aforesaid facts and circumstances the Petitioner prays the Commission to direct the Respondent to give a fresh final assessment order to the Petitioner after giving an opportunity of hearing under Section 126 (3) of Electricity Act, 2003 after which the Petitioner will appeal before the Appellate Authority under Section 127 of the Electricity Act, 2003. Further, the Respondent may be directed not to disconnect the power supply till finalisation of the dispute.

3. The representative of the respondent has submitted that on 22.07.2016, the vigilance team of NESCO Utility had inspected the electrical installation in the premises of the petitioner and found that the petitioner has by-passed the load and in the presence of the petitioner, a report was made on the spot and served on the consumer with due acknowledgment. Basing on the report the respondent has prepared final assessment amount of Rs.63,934/- and served the copy of the same to the consumer through registry post on 25.07.2016 fixing the date of hearing for final assessment order on 25.08.2016. The final assessment order was subsequently passed on 7.10.2016. The petitioner neither preferred appeal under Section 127 of the Electricity Act, 2003 nor has paid the assessment amount till date. The petitioner has filed the above case before the Commission only to harass the respondent without following the prescribed procedure to challenge the assessment order under the Electricity Act, 2003. Prior to filing the case here, the petitioner had filed a consumer complaint before the GRF-Balasore against the aforesaid penal assessment order of the respondent, wherein the forum has declined to entertain the grievance of the petitioner against the penal assessment order as it has no jurisdiction to entertain the application of the petitioner.
4. Heard both parties. After going through the case records we opine that the case is not maintainable before the Commission under Section 142 of the Electricity Act, 2003 as the final assessment order under Section 126 has been pronounced by the respondent.
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