

**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. 37/2018

Sri Ramesh Chandra Sahoo Petitioner

Vrs.

The E.E (Elect.), AED, Athagarh & another Respondents

In the matter of: An application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 21.02.2017 of the Ombudsman-I passed in C.R. Case No.78 of 2016.

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

For Respondents: Shri Laxmi Kanta Mahapatra, Manager (Elect.), AED, CESU.

Nobody is present on behalf of RUPL.

ORDER

Date of hearing: 25.09.2018

Date of order: 18.02.2019

The present petition filed by Sri Ramesh Chandra Sahoo, S/o. Late Sanatan Sahoo, At-Krushnachandrapur, P.O: Khairpanga, Dist.-Cuttack-754031. The petitioner has filed the petition under S.142 of the Electricity Act, 2003 for non-implementation of order dated 21.02.2017 of the Ombudsman-I passed in C.R. Case No.78 of 2016.

2. The authorised representative of the petitioner submitted that the petitioner is a domestic consumer of CESU under Athagarh Electrical division having contract demand of 1 KW. On 11.02.2016 the officers of the respondent verified the meter as well as the connected load of the petitioner-consumer. On testing, the meter was declared defective with a lamp test without mentioning the wattage of the lamp. The connected load is found to be 1.78 KW instead of the approved CD of 1 KW. After spot verification the assessing officer demanded Rs.4,500/- as penal amount without serving any details of the provisional assessment made by them. To avoid disconnection of power supply, the petitioner-consumer had paid the amount in full on the spot under protest. The petitioner thereafter filed a complaint before the SEEC, Cuttack under Regulation 52 of the OERC Distribution Code, 2004 regarding correctness of the provisional verification report. But the authority

remains silent without responding to the complaint of the consumer. Thereafter, the consumer moved to the GRF-Cuttack in C.C.Case No. 690/2016 wherein the learned GRF-Cuttack has dismissed the said case as it is not empowered to adjudicate the matter relating to Section 126 of the Electricity Act, 2003. Thereafter, the petitioner again moved to the Ombudsman-I in C.R.Case No. 78/2016 against the order of the GRF-Cuttack. Wherein, the learned Ombudsman-I passed order on 27.02.2017 as follows:-

- i. In view of the above we direct the designated authority to give an opportunity of hearing to the petitioner in the matter of correctness of the PV report.
 - ii. On the assessment we are not empowered to comment and the petitioner can prefer appeal on receipt of the final order to the Appellate Authority.
3. As the above order of the Ombudsman-I has not been complied by the respondent herein, the petitioner has filed this case u/S. 142 of the Electricity Act, 2003 for implementation of above order of the Ombudsman-I before the Commission.
4. The representative of the Respondent No-1 (EE, AED, Athagarh) has submitted that on 11.02.2016 the officers of the Respondent No-2 verified the meter as well as the connected load of the consumer and found that the meter is defective and the load has been enhanced from 1 KW to 1.7 KW. After spot verification the provisional penal assessment amount of Rs. 4, 500/- was made u/S. 126 of the Electricity Act, 2003 for un-authorizedly use of electricity to avoid disconnection of power supply, the petitioner-consumer has made payment of the said amount on the spot and thereafter filed a complaint before the SE (Elect.), Circle-Cuttack regarding correctness of the physical verification report made by the franchisee M/s. RUPL (Respondent No-2). As the designated authority remains silent without responding the complaint of the petitioner, he moved to the learned GRF-Cuttack in C.C.Case No. 690/2016 and thereafter to the Ombudsman-I in C.R.Case No. 78/2016 as the GRF dismissed the case with the observation that it has no power to entertain the matter u/S. 126 of the Electricity Act, 2003. The learned Ombudsman-I has disposed of the above case by directing the respondents to give an opportunity of hearing in the matter of correctness of the PV report. The prayer of the petitioner has been made u/S. 142 of the Electricity Act, 2003 for implementation of the order passed by the Ombudsman-I, but unfortunately the complaint has not made the designated authority a party to this proceeding. Therefore, the application under Section 142 of the said Act against the Respondent No-1 is not sustainable and liable to be dismissed.
5. The Respondent No-2 in their written statement stated that petitioner in spite of the order of the GRF-Cuttack to prefer appeal before the Appellate Authority under Section 127 of

the Electricity Act, 2003 has filed C.R. Case No. 78/2016 before the Ombudsman-I wherein the Ombudsman-I in its order dated 27.02.2017 has observed that on the assessment made under Section 126 of the said Act they are not empowered to comment and the petitioner can appeal before Appellate Authority on receipt of the final order of the Assessing Officer. The petitioner now raised the said issue after being silent for 16 months. The petitioner has consumed the power illegally for which he did not raise any question against the assessment for long time.

6. Heard both parties. We find that the GRF had dismissed the case with the view that it did not have power to entertain the matter under Section 126 of the Act. This view has also been upheld by the Ombudsman-I. In view of the above, we are of the view that the case is not maintainable under Section 142 of the Electricity Act, 2003. In the order, Ombudsman-I, has directed the designated authority to give an opportunity of hearing to the petitioner on the points raised. Therefore, we direct that this direction of the Ombudsman be complied and a speaking order be passed by the designated authority within a period of four weeks considering issues raised herein and also with the Ombudsman-I.
7. With the above observation, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson