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. 38/2018

Shri Rajat Chandra Acharya	……	Petitioner
Vrs.		
Asst. Manager (Elect.), Udala, NESCO	….....	Respondent

In the matter of: **An application under Section 142 of the Electricity Act, 2003 for mis-utilization of the provisions of Section 126 of the Electricity Act, 2003.**

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

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

ORDER

Date of hearing: 25.09.2018 **Date of order: 08.11.2018**

The present petition has been filed by one Sri Rajat Chandra Acharya. The petitioner has filed the petition under Section 142 of the Electricity Act, 2003 for mis-utilization of the provisions of Section 126 of the Electricity Act, 2003 by NESCO Utility authority.

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. On 21.07.2016 the officers of the respondent verified the meter as well as the connected load of the petitioner-consumer. On testing, the meter was declared as defective and they made provisional assessment amounting to Rs.23,341/- under Section 126 of the Electricity Act, 2003 for un-authorised consumption of power by enhancing CD from 1 KW to 2 KW without obtaining permission of the Utility for the period from August, 2015 to July, 2016. The NESCO Utility Authority also upheld the said amount in their final assessment order made under Section 126 (3) of the said Act and it was served on the petitioner through registered post. The Petitioner stated that the final assessment order was made without giving an opportunity of hearing to the petitioner prior to passing of such final assessment order. Hence finding no other way the petitioner has filed the present case under Section 142 of the Electricity Act, 2003 for mis-utilization of Section 126 of the said Act by the distribution utility.

3. The representative of the respondent submitted that the vigilance team of the Utility had made verification on the premises of the petitioner on 21.07.2016 and found that the petitioner had tampered the meter and had been using 2 KW load against the sanctioned CD 1 KW. After detecting such un-authorised use of electricity on the spot, a spot verification report was prepared in the presence of the petitioner wherein the petitioner refused to give his acknowledgment. However, the verification team after fixing the copy of Spot Verification Report (SVR) near the meter proceeded under Section 126 of the Electricity Act, 2003 and the assessing officer passed provisional assessment order on 25.07.2016 and served the same on the petitioner. After receiving the provisional assessment order the petitioner filed his objection on 18.08.2016 and hearing date was fixed to 25.08.2016 but the petitioner intentionally remained absent during hearing on that date. The assessing officer had made the final assessment order on 13.10.2016 and served the same on 20.10.2016 through speed post. After receiving the final assessment order for an amount of Rs.23,341/- the petitioner remained silent and neither paid the assessment amount nor preferred any appeal against the final assessment order under Section 127 of the Electricity Act, 2003. Now the petitioner has filed this case under Section 142 of the Electricity Act, 2003 before this Commission without preferring appeal taking the plea of misuse of Section 126 of the said Act which is not maintainable. Therefore, the application under Section 142 of the said Act may be dismissed as it has no merit.

4. Heard both parties. After going through the case records we opine that the application of the petitioner is not maintainable under Section 142 of the Electricity Act, 2003.

5. With the above observation, the case is dismissed.

Sd/-	Sd/-	Sd/-
(S.K.Parhi)	**(A. K. Das)**	**(U. N. Behera)**
Member	**Member**	**Chairperson**