

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNUKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

**Present: Shri U. N. Behera, Chairperson
 Shri S. K. Parhi, Member
 Shri G. Mohapatra, Member**

Case No. 60/2018

M/s. Jagannath Stone Crusher	Petitioner
Vrs.		
E.E (Elect.), UED, Udala, Mayurbhanj	Respondent

In the matter of: An application under u/s. 142 against the Executive Engineer(Elect.),UED, Udala, Mayurbhanj for non-compliance of the Order dated 24.04.2017 of the Ombudsman-II passed in Consumer Representation Case No. 53/2017.

For Petitioner: Shri Lalit K Moharana, Advocate

For Respondent: Shri S.C. Dash, Advocate.

ORDER

Date of hearing: 06.10.2020

Date of order: 06.10.2020

M/s. Jagannath Stone Crusher, Radho, Udala, Mayurbhanj has filed the above case under Section 142 of the Electricity Act, 2003 for non-compliance of order dated 24.04. 2018 of the Ombudsman-II passed in C.R. Case No.53 of 2017. The Ombudsman while disposing of the matter has directed the respondent to revise the claimed demand charges as per Regulation 64 of the OERC Distribution (Conditions of Supply) Code, 2004 retrospectively based on available dump report and the tariff orders of the Commission for the respective periods and to act as per the prevailing tariff order of the Commission regarding meter rent and serve the revised bill to the petitioner within 30 days from date of receipt of the order.

2. Due to Covid-19 pandemic situation the Commission had decided to hear the matter through Video Conferencing in the Virtual Court on 06.10.2020. Accordingly the parties had been intimated.
3. The counsel of the petitioner has submitted that the order dated 24.04.2018 of the Ombudsman-II has not been implemented by the respondent till date though there is no stay of operation of the said order. Therefore, the Commission may direct the respondent to implement the said order.

4. The counsel for the respondent has submitted that NESCO Utility has challenged the above order of the Ombudsman-II passed in C.R. Case No.53 of 2017 before the Hon'ble High Court of Orissa in W.P.(C) No.12418 of 2018 along with Misc. Case No.10229/2018 for stay of operation of the above Order of the Ombudsman-II which is subjudice before the Hon'ble Court for adjudication. He further submits that the above writ petition was listed for hearing on 26.11.2019 and upon hearing, the Hon'ble Court was pleased to issue notice to the petitioner herein both in the writ petition as well as the misc. case, fixing next date of hearing on 07.01.2020 for appearance and filing of counter reply. Since the AD on receipt of the notice by the present Petitioner had not returned, the Hon'ble Court was pleased to adjourn the matter to 27.01.2020 awaiting service return from the present petitioner who is Opposite Party No-1 in the above noted writ petition. Though, the writ petition as well as the stay application was listed before the Hon'ble Court on dated 27.01.2020, the same could not be taken up due to want of time. Since then the above writ petition has not been listed and could not be taken up due to the present pandemic Covid-19 situation despite their effort of filing repeated Memos for listing of the case before the Hon'ble Court. Therefore, he prays the Commission to drop the present proceeding subject to the decision of the Hon'ble High Court in W.P.(C). No. 12418 of 2018 which shall be applicable to both the parties.
5. The Counsel of the Petitioner submitted the though the respondent has challenged the above order of the Ombudsman-II passed in C.R. Case No.53 of 2017 before the Hon'ble High Court of Orissa in W.P.(C) No.12418 of 2018 along with Misc. Case No.10229/2018 for stay of operation, the Petitioner has not received the said notice of the Hon'ble High Court. Hence, he prays the Commission to proceed with the present matter.
6. After hearing the parties, the Commission observes that the Order of the Ombudsman-II passed in C.R. Case no.53 of 2017 has been challenged before the High Court in W.P.(C) No.12418 of 2018 along with Misc. Case No.10229/2018 for stay of operation of the said order. Notice has been issued to the Petitioner by the Hon'ble High Court. Therefore, the Commission opines that there is no need to proceed further in the present case. The order to be passed by the Hon'ble High Court in the above writ petition shall be binding on the parties herein.
7. With the above observation, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson