

**ODISHA ELECTRICITY REGULATORY COMMISSION**  
**BIDYUT NIYAMAK BHAWAN**  
**PLOT NO.-4, CHUNUKOLI, SHAILASHREE VIHAR**  
**BHUBANESWAR - 751 021**  
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**Present:      Shri U. N. Behera, Chairperson**  
**Shri S. K. Parhi, Member**  
**Shri G. Mohapatra, Member**

**Case No. 31/2020**

Sri Rupesh Doshi	.....	Petitioner
Vrs		
The E.E (Elect.), CDD-1, Cuttack, TPCODL.	.....	Respondent

**In the matter of:      Application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 07.01.2019 of the Ombudsman-I passed in C.R. Case No. 105/2018.**

**For Petitioner:      Shri Lalit K. Maharana, Advocate**

**For Respondent:      Shri D. R. Ray, Advocate.**

**ORDER**

**Date of hearing: 08.09.2020**

**Date of order: 15.09.2020**

The present Petitioner, Shri Rupesh Doshi has filed the above case under Section 142 of the Electricity Act, 2003 for non- implementation of Order dated 07.01.2019 of the Ombudsman-I passed in C.R. Case No. 105 of 2018. The Ombudsman -I while disposing of the C.R. Case No. 105 of 2018 has directed the Opp. Party-respondent herein to install HT metering system for the consumer-petitioner within four months, failing which the transformer loss cannot be added in the electricity bills of the consumer after four months. The respondent has also been directed to include the remunerative norms in the estimate for three-phase supply extension for cost benefit analysis to determine the gross operating surplus and return on investment.

2. Shri Maharana, the counsel of the petitioner submits that the present case is the second journey of the petitioner to this Commission. Earlier they had approached the Commission for the same reason in Case No. 23/2019 and later withdrew the case to approach proper forum. But they have filed the above petition before the Commission since the Respondent did not withdraw the transformer losses from the bill even after four months. They are being billed under LT category and transformer loss continues to be added in the bill. This violates Regulation 54(3) of the Distribution Code, 2004. Further, the Respondent has not provided any estimate basing on remunerative norms for which the petitioner was unable to approach the appropriate forum.

3. The Learned Advocate for the respondent states that the case is liable to be dismissed as it is hit by the principle of law of estoppel and *res-judicata*. For the self same cause of action the present petitioner had filed a case before the Commission in Case No.23 of 2019, which was disposed of by the Commission vide its order dated 19.08.2019 with the Following observations :-

*“The case was taken up for hearing on question of admission as well as on merit. The petitioner had submitted that the Ombudsman-I while disposing of the above C.R. Case No.105/2018 had directed the respondent to install HT metering system of the consumer within four months, failing which transformer loss cannot be added in the electricity bills of the consumer after four months. The respondent was also directed to include the remunerative norms in the estimate for 3-phase supply extension for cost benefit analysis to determine the gross operating surplus and return on investment and the petitioner was at liberty to approach the appropriate civil Court for any money back or refund of capital expenditure for the scheme becoming remunerative. During hearing, the authorised representative of the petitioner stated that since the respondent had not complied the above order of the Ombudsman-I, they had filed the present petition under Section 142 of the Electricity Act, 2003. But now they would like to withdraw the present petition. Accordingly, he filed a withdrawal petition before this Commission with the prayer to allow the petitioner to withdraw the present case with a liberty to approach the appropriate Court.*

*The counsel appearing on behalf of respondent has submitted that the respondent has complied the order dated 07.01.2019 of the Ombudsman-I passed in C.R. Case No. 105/2018 and the order dated 01.12.2018 passed in C.R. Case No.106/2018, of the Ombudsman-Prayer for withdrawal of the case by the petitioner is allowed and the case is dismissed as withdrawn.”*

4. The Counsel for the Respondent has stated that on the same ground the Petitioner had earlier approached the Commission and later withdrawn the case to approach appropriate court. Now the petitioner has filed the above case on the self same ground/ allegations which should not be entertained by the Commission. The present petition is a time barred one, which is filed after one year of the order passed by the Ombudsman. It is liable to be dismissed on the principle of *res-judicata* and law of estoppel.
5. Heard the parties vide order dtd.19.8.2019. The Commission had granted liberty to the petitioner to approach the appropriate forum on the basis of withdrawal petition filed by him earlier relating to the self same matter. So, in our considered opinion, the present petition is not maintainable. The petitioner is at liberty to approach appropriate forum for redressal of his grievances. Accordingly the petition is dismissed.

Sd/-

**(G. Mohapatra)**  
Member

Sd/-

**(S. K. Parhi)**  
Member

Sd/-

**(U. N. Behera)**  
Chairperson