

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

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

Case No. 56/2020

Shri Gayadhar Pati	Petitioner
Vrs.		
The SDO, (Elect.), Anandpur, NESCO Utility	Respondent

In the matter of: **An Application under Sections 142&146 of the Electricity Act,2003 to impose punishment for non-compliance of order dated 25.02.2020 of the Appellate Authority-cum- Deputy Electrical Inspector, Keonjhar passed in Appeal AAC No.04 of 2016.**

For Petitioner: Shri Manoj Kumar Mishra, advocate on behalf of the petitioner.

For Respondent: Shri Suryakanta Behera, SDO (Elect.), Anandapur Electrical sub-division, NESCO Utility.

ORDER

Date of hearing: 10.11.2020

Date of order:08.01.2021

The present petition has been filed by one Shir Gayadhar Pati a consumer under Anandapur Electricity Sub-Division of NESCO Utility. The Petitioner states that he has filed an appeal under Section 127 of the Electricity Act, 2003 bearing Case No. AAC – 04 of 2016 before Appellate Authority-cum-Deputy Electrical Inspector, Keonjhar challenging the action of SDO (Elect.), Anandapur in imposing an amount of Rs.42,730/- as final penalty for unauthorized consumption of electricity.

2. After hearing both the parties the Appellate Authority on 25.02.2020 disposed of the appeal and gave an observation that there was clear violation of Regulation 155 of OERC Supply Code, 2019 and directed the Opposite Party to revise the provisional bill for the period from July, 2015 to November, 2016 as per the average of six consecutive billing after a new meter was installed without any penalties. In connection with the present order the Appellate Authority passed another order vide No. 284 dated 26.06.2020 where it has been mentioned that the amount of Rs.21,370/- deposited by the appellant/ petitioner is to be refunded through adjustment of the same through monthly energy bill of the appellant/petitioner.

3. The Petitioner further states that taking advantage of adverse situation of Covid-19 pandemic the Opposite Party issued one disconnection notice vide Letter No. 610 dated 20.08.2020 to the Petitioner for payment of Rs.23,092.31 towards outstanding arrear against the electric connection of the consumer. The Petitioner states that he as an appellant before Appellate Authority had deposited Rs.21,370/- out of final assessed amount of Rs.42,730/- which is 50% of the total final assessment amount under the provision of the Act. The Appellate Authority has clearly stated in his order dated 25.02.2020 and 26.06.2020 that the 50% amount deposited by the Petitioner will be adjusted in the forthcoming monthly electric bill in the form of refund. The Petitioner states that the Opposite party has intentionally and purposefully forced the Petitioner to deposit the unpaid dues of Rs.23,092.31 as early as possible within time bound period of 15 days, otherwise electricity will be disconnected from the premises of the Petitioner. Several months have passed from the date of issue of final order dated 26.06.2020 by Appellate Authority but the Opposite party is not taking any step to comply with the said order. Therefore, the Petitioner prays the Commission to initiate proceeding against the Opposite party (SDO (Eelct.), Anandapur) under Section 142 and 146 of the Electricity Act, 2003.
4. The Respondent SDO, (Elect.), Anandapur states that the consumer had been billed @ 144 units per month from month of July, 2015 to November, 2016. The consumer has contract load of 1 KW but recorded demand at the time of verification was 3.44 KW. The consumer was assessed and final assessment order to the tune of Rs.42,730.11 was served on 30.01.2017. The consumer deposited 50% of the final assessment amount which is Rs.21370/- on 20.02.2017 to file appeal against the final assessment order. The consumer had gone on appeal to Appellate Authority and the Appellate Authority passed the order on 25.02.2020 which states as follows:

“The Respondent is directed to revise the provisional bill for the period from July, 2015 to November, 2016 as per the average of six consecutive billing after a new meter is installed, without any penalties.

The entire exercises relating to modification for the final assessment order shall be made within a period of one month from the date of receipt of the order.”

As per the above order of the Appellate Authority one new meter was installed in the premises of the Petitioner on 12.05.2020. After a span of 43 days i.e. on 23.06.2020 it is observed that the consumption of both billing meter and check meter is same. The details of billing meter and check meter are filled in the presence of the Petitioner. A letter from the Appellate Authority bearing No. 284 dated 26.06.2020 was received by his office in which it was directed that the amount of Rs.21370/- deposited by the Appellant was to be refunded through adjustment of the same through monthly energy bill of the Appellant. During the

period from 06/2015 to 11/2016 the billing was done on the basis of 144 Units per month. Since the old meter is found to be correct the actual advancement of units in that meter is 10148 units during that period, the average reading per month should be 597 units for 17 months. Since the consumer has already been billed for 144 units per month he is to be billed balance 453 units per month for 17 months. Accordingly, the final assessment amount shall be Rs.42730.11. No penalty has been imposed on the consumer as per the direction of the Appellate Authority. Since the meter was found to be correct the revised bill has been prepared according to its reading. Therefore, the consumer is to pay the revised billed amount. This has already been communicated to the Petitioner and the Appellate Authority Vide Lr. No. 518 (3) dated 10.07.2020. Disconnection notice dated 20.08.2020 was issued to the consumer for the outstanding bill amount of Rs.23092.31 upto month of June, 2020. In response to the said disconnection notice the Petitioner was advised to pay the demanded amount immediately.

5. We heard the matter carefully. The Appellate Authority in his order has clearly stated that the provisional bill for the period of July, 2015 to November, 2016 should be revised basing on the average six months consecutive billing after a new meter is installed. The Appellate Authority further held that there should not be any penalty. Therefore, it is clear from the order of Appellate Authority that this is not a case of assessment for unauthorized use of electricity rather it is a case of billing during meter getting defective which has been dealt under Regulation 155 of OERC Supply Code, 2019. The Appellate Authority has also stated that Regulation 155 of Supply Code, 2019 has not been followed properly in this case. Since the matter is not related to assessment for unauthorized use of electricity, the Appellate Authority has directed the Respondent to refund 50% of the assessed amount which has been deposited by the Petitioner while filing appeal before the Appellate Authority through adjustment in the monthly energy bill. Therefore, the matter as directed by Appellate Authority should be dealt with as per Regulation 155 of OERC Supply Code which deals with billing with defective meters.
6. Now, the Respondent SDO (Elect.) states that a check meter was installed on the premises of the Petitioner on 12.05.2020 and after lapse of 43 days i.e. on 23.06.2020 it was observed that the consumption of both billing meter and check meter was same. But Regulation 155 of OERC Supply Code stipulates that the provisional bill during defective period should be revised as per the average of six consecutive billing cycle after a new meter is installed. Therefore, the Respondent should have taken the six months average reading after the meter is installed. Instead of that the Respondent had installed a check meter for 43 days and has

declared the original meter to be correct and has billed the Petitioner as per the meter reading of that meter. This is contrary to the direction of Appellate Authority.

7. Therefore, we direct the Respondent to install a new meter at the premises of the Petitioner and take consecutive six months average reading and revise the bill for defective period as held by Appellate Authority i.e. from July, 2015 to November, 2016 strictly as per OERC tariff order for that period. The Respondent is further directed to give credit to the refund amount as directed by the Appellate Authority in the revised bill.
8. Accordingly, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson