

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT NO.-4, CHUNOKOLI, 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. 60/2020**

Shri Pramod Kumar Choudhury	.....	Petitioner
Vrs		
The E.E (Elect.), CDD-I, TPCODL& others	.....	Respondents

**In the matter of:**    **Application for challenging the inaction and illegal action of the respondents in raising arbitrary and illegal bill contrary to the order dated 19.12.2015 passed by the Ombudsman-I in Case No. 52/2015.**

**For Petitioner:**      Shri Brahmananda Tripathy, Advocate.

**For Respondent:**    Shri Deba Ranjan Ray, Advocate on behalf of the Executive Engineer, TPCODL.

**ORDER**

**Date of hearing: 31.08.2021**

**Date of order:25.10.2021**

One Shri Pramod Kumar Choudhury has filed the present petition under Section 142 of the Electricity Act, 2003, challenging the arbitrary bills raised by the Respondent which is contrary to the order dated 19.12.2015 passed by the Ombudsman-I in Case No. 52/2015.

2. The petitioner has submitted that he is a domestic consumer availing electricity for his domestic use since the time of his predecessor namely Shri Gokul Choudhury whose name is appearing in official record for such electric connection. Initially the connection to the petitioner was of 5.5 KW load with Consumer No. DOM-08-035. The bill dated 09.03.2007 showing the meter “OK”, was on actual basis with the bill amount of Rs.861/-. Thereafter, the DISCOM enhanced the load to 8 KW after load verification on 02.04.2007 and made a monthly provisional bill of Rs. 3,544/- on average basis and periodically issued the bill from May, 2007 onwards showing meter ‘defective’. No new meter was installed by the department and such billing continued till the department prepared another verification report on 20.06.2009 which showed the load enhancement from 8 KW to 8.5 KW and the meter was suggested to be

replaced. The DISCOM still continued to prepare the bill on average basis without replacing the meter and when the petitioner asked them on this matter, they told that there would be bill revision after replacement of new meter and bill amount would be decided on actual consumption. The average billing continued and again on 25.08.2014 the department officials entered into house of the petitioner and prepared a meter verification report enhancing the load from 8.5 KW to 18 KW arbitrarily and took the signature of his minor son. Accordingly, the bills were issued arbitrarily at the rate of Rs.14,038/- per month to which the petitioner raised objection through his representation dated 21.01.2015. The petitioner submitted that in this process the department had collected a sum of Rs. 7,20,000/- from the year 2007 to 2014. While the matter stood thus all of a sudden the DISCOM issued another bill dated 06.02.2015 charging an inflated amount of Rs. 4,19,142/- and issued a disconnection notice dated 12.02.2015. Being aggrieved the petitioner approached the Hon'ble High Court of Orissa and the Hon'ble Court vide order dated 03.03.2015 granted liberty to the petitioner to approach the GRF for ventilating the grievances in accordance with the law. Accordingly, the petitioner approached GRF-Cuttack and being aggrieved by the order dated 22.04.2015 of the GRF, he approached the Ombudsman-I in Case No. 52/2015. The Ombudsman vide its award dated 19.12.2015 set aside the order of the GRF and directed the DISCOM to recast the bill of the complainant from April, 2007 to July, 2014 on three months average meter reading of the meter Serial No. CSC 24184 which was re-commissioned and found correct on 12.11.2014 holding the meter reading 175881.4. It was further directed that from September, 2014 onwards, the billing was to be made on actual maximum demand and reading available with the DISCOM.

3. Accordingly, the DISCOM in their letter No. 1263 (6) dated 26.02.2016 disclosed that the electricity bill for the period from April, 2007 to December, 2014 had been revised by taking three months average consumption of the meter installed and upon such revision an amount of Rs.6,63,212/- was credited in the electricity bill of the Petitioner in the month of February, 2015. However, to the contrary the net payable amount in the said letter was shown as Rs.4,51,698/-. The petitioner has submitted that the revised bill dated 26.02.2016 is not in consonance to the order of the Ombudsman. The petitioner has given several representations to the DISCOM pointing out the irregularities in bill revision showing load at 18 KW, 9 KW and sometimes at 7 KW.

But the reply of the department dated 07.09.2020 to the said representations was contrary to the order of the Ombudsman, and also the grievances of the petitioner was not considered. The petitioner submitted that he may be awarded adequate compensation from the DISCOM on account of their negligent attitude for non-consideration of his grievances. Further, the petitioner has requested the Commission to direct the respondent to rectify the several defects in bill revision process in light of the order of the Ombudsman.

4. The respondent-Executive Engineer (Elect.), CDD-I, Cuttack has submitted that the present complaint petition under Section 142 of the Electricity Act, 2003 is frivolous and un-warranted and is a ploy to withhold the payments on the plea of non-compliance of the order of the Ombudsman. The order dated 19.12.2015 of the Ombudsman-I passed in C.R. Case No. 52/2015 is as follows:

*“In view of the observation made, the order of GRF dated 22.09.2015 is set aside. The meter initially declared as defective by MRT team on two occasions i.e. 20.06.2009 and 25.08.2014, but the stands taken by the respondent the meter was tested and found Ok at MRT laboratory in absence of the complainant is not acceptable. The respondent is directed to recast the bill of the consumer from April, 2007 to July, 2014 on the three months average meter reading of the meter bearing Sl. No. CSC-24184 re-commissioned on 12.11.2014 with meter reading 175881.4. The meter is also found correct when rechecked with a parallel meter from 07.10.2015 to 13.10.2015 as per direction of this Forum in presence of the complainant. From September, 2014 onwards the billing is to be made on actual maximum demand and reading available with the respondent.”*

5. The respondent submitted that as per the above order of the Ombudsman, they have revised the energy bills taking into account the average unit of three months i.e. 730 units per month from 12.11.2014 to 11.02.2015 and the same was communicated to the petitioner vide their letter dated 26.02.2016 along with the bill revision statement. On receipt of the same the petitioner vide his letter dated 05.07.2016 requested to revise the bill as per the Ombudsman order and refund the excess amount. But the question of refund does not arise except adjusting the same in future bills as per OERC (Conditions of Supply) Code, 2019 so also Repealed Supply Code, 2004. However, the credited amount after bill revision was reflected in the account of the petitioner and exhausted in the month of March, 2020. During period from February, 2016 to March, 2020, the petitioner was availing power supply and has not paid a single amount even if the consumption unit was invariably much more than 730 units. The Petitioner after receipt of the letter dated 27.07.2016 clarifying his grievance had remained silent

enjoying the power supply but after a lapse of nearly four years he has raised the dispute on receipt of the energy bill dated 05.06.2020 wherein he was called upon to deposit a sum of Rs. 27,966/- after adjustment. Hence, the dispute in question is not only conditioned by the principle of malafied intention but also law of limitation and contrary to the Regulation, 157 of OERC Distribution (Conditions of Supply) Code, 2019. From the grievance letter of the petitioner it is clear that the very intention of the petitioner is to get refund of the money which is beyond the provisions of the Supply Code. Further, the dispute in question has lost its relevance since the Petitioner has enjoyed the benefit for four years.

6. The respondent has further submitted that the petitioner has not pointed out any infraction in the revised bill stating violation of the order of the Ombudsman nor even filed any application before this Commission u/S. 142 during the past four years stating violation of the order. The order of the Ombudsman has been carried out and the adjustment of the amount has been made in future bills till full adjustment without any infraction. The respondent further submitted that all the representations of the petitioner have been disposed of by the respondent passing a reasoned order and after disposal of the representation a fresh cause of action may arise for adjudication of the claim of the petitioner, but the question of violation of the Ombudsman's order does not arise at all as the order has been complied since long. Hence, the dispute in the present petition is conditioned by the principle of law of estoppel, waiver and acquiescence.
7. The respondent has further submitted that the present petition has been filed to keep the public money pending on the plea of dispute. The respondent submitted that if the petitioner was not satisfied in the revision of bill @ 730 units per month as communicated to him he could have filed a petition immediately u/S. 142 of the Electricity Act, 2003 alleging violation of the Ombudsman's order, but he has not done so at the relevant time. On one hand the petitioner claims to revise the bill pursuant to the order of the Ombudsman and on the other he has put forth a fictitious unit of 338 per month which is contrary to the order of the Ombudsman. On perusal of the billing statement it is found that the petitioner is consuming electricity in his premises at a rate much higher than the average units of 730 per month which has been raised pursuant to the direction of the Ombudsman. The petitioner has not explained the basis of calculation for his claim of 338 units per month. Further, the claim of the

petitioner for consumption at 8.5 KW load is baseless as the meter is running and the bills have been charged on the basis of the units recorded through the meter. The petitioner instead of filing for reduction of load as provided under the Supply Code, is trying to regularize the load which was found unauthorised pursuant to the spot verification dated 25.08.2014. This matter was not challenged before the learned GRF or Ombudsman nor has any Forum passed any remarks from 25.08.2014 onwards. So the connected load was 18 KW in the premises and the same has continued. Hence, if the petitioner fails to explain the basis of consumption of 338 units per month, the present petition needs to be dismissed imposing heavy cost treating the petition malafide and filed purposefully to withhold the public money and to harass the public servant.

8. In view of the above, the respondent has submitted that the order passed by the Ombudsman in C.R. Case No. 52 of 2015 has been complied with by them in letter and spirit since 26.02.2016. So the question of violation/infracton of the aforesaid order does not arise at all. Accordingly the present petition u/S. 142 of the Electricity Act, 2003 is a speculative one besides being barred by law of limitation, hence, devoid of any merit and liable to be dismissed with cost.
9. Heard the parties and their written notes of submissions are taken into consideration. The Ombudsman order is reproduced below again for the sake of convenience.

*“In view of the observation made, the order of GRF dated 22.09.2015 is set aside. The meter initially declared as defective by MRT team on two occasions i.e. 20.06.2009 and 25.08.2014, but the stands taken by the respondent the meter was tested and found Ok at MRT laboratory in absence of the complainant is not acceptable. The respondent is directed to recast the bill of the consumer from April, 2007 to July, 2014 on the three months average meter reading of the meter bearing Sl. No. CSC-24184 re-commissioned on 12.11.2014 with meter reading 175881.4. The meter is also found correct when rechecked with a parallel meter from 07.10.2015 to 13.10.2015 as per direction of this Forum in presence of the complainant. From September, 2014 onwards the billing is to be made on actual maximum demand and reading available with the respondent.”*

10. Ombudsman had directed that once the meter was reinstalled in the year 2014, three months' reading was to be taken and accordingly the energy bill was to be re-cast from April, 2007 to July, 2014. From the letter of CESU at Annexure-V it is seen that the three months meter reading has been taken from 12.11.2014 to 11.02.2015 and the bill for the period from 04/2007 to 12/2014 has been re-cast giving credit of Rs.6,63,212/- to the Petitioner. This was also communicated to the Petitioner by the letter of AGM,

CDD-I, Cuttack dated 26.02.2016 (Annexure-V). After that the Petitioner has got the benefit of this credited amount without paying the electricity dues for a period upto to the bill raised on 05.06.2020. This has not been disputed by the Petitioner. From the submission of the Respondent it is clear that bill is being made on the basis of actual consumption recorded in the meter after the meter was reinstalled in the year 2014. Regarding the levy of demand charges (fixed charges) which is based on the connected load of the Petitioner and verified by the Respondent the Ombudsman has not made any observation. If the Petitioner wants further reduction of load he may follow the appropriate provision in the supply Code, 2019 if not already done.

11. Therefore, we find that the order of the Ombudsman-I has been fully complied by the Respondent. The proceeding initiated under Section 142 is hereby dropped.
12. With the above observations and directions, the case is disposed of.

Sd/-

**(G. Mohapatra)**  
**Member**

Sd/-

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

Sd/-

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