

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751021**

**Present: Shri G. Mohapatra, Chairperson (Officiating)
Shri S.K.Ray Mohapatra, Member**

Case No. 127/2021

M/s. Dhruti Construction & Development Private Ltd. Petitioner
Vrs

The Executive Engineer(Elect.),
BCDD-II, BBSR, TPCODL& Others Respondents

In the matter of: Application under Section 142 of the Electricity Act,2003 for non-compliance of order dated 02.08.2021 of the GRF, Bhubaneswar passed in C.C.Case No.184 of 2021 and order dated 12.11.2021 of the Ombudsman-I passed in C.R.Case No.168 of 2021.

For Petitioner: Shri manoj Kumar Patnaik, Director,M/s. Dhruti Construction & Development Private Ltd.

For Respondents: Shri Gyanranjan Behera, Executive Engineer (Elect.), BCDD-II, TPCODL.
Nobody is present on behalf of Smt. Tulasi Manjari Dash,Sri Rangadhar Rath, Smt. Subhashree Rath, Smt, Gitika Tripathy, Smt. Latika Mohapatra & Sri Sarat Kumar Rath.

ORDER

Date of Hearing: 12.04.2022

Date of Order:12.04.2022

M/s. Dhruti Construction & Development Private Ltd., Shanti Vihar, Khandagiri, Bhubaneswar has filed the present petition under Section 142 of the Electricity Act, 2003 for a direction for compliance of order dated 02.08.2021 of the GRF, Bhubaneswar passed in C.C.Case No.184 of 2021 and order dated 12.11.2021 of the Ombudsman-I passed in C.R. Case No.168 of 2021. The learned GRF, BBSR while disposing of C.C.Case No.184/2021 had directed as follows:-

“Therefore, after due consideration of the facts involved in this case, this forum pass this order directing the respondents to shift 100 KVA, 11/04 KV substation erected near Block-C latter on, to the original allocated spot earmarked for Electrical sub-station purpose inside the housing premises, as the disputed transformer for Block-C has been erected at the cost of some of the Flat owners of Block-C, compelling the licensee to ignore the very fact that, there is already existing a 250 KVA, 11/04 KV sub-station in

the allocated place for electrical sub-station purpose, constructed much before this 100 KVA S/S, for providing power supply to the housing Blocks-A & B, as this 100 KVA S/S is also causing safety concerns for the flat owners in its close proximity. If the 250 KVA S/S is already handed over to the respondent and agreement was made only for providing power supply to the Blocks-A&B and there was no inclusion of provision for providing power supply to the third Building Complex i.e. Block-C, then it was incumbents upon the respondent to accept the charges from the flat owners for Block-C for up gradation of the existing 250 KVA S/S in the same Apartment complex or erect and additional 100 KVA S/S at the same existing 250 KVA S/S spot for augmentation of transformer capacity for providing power supply to all the flat owners in a occupation of flats in that Block-C at Block-C flat owners' cost. Or else, if the power supply to this Block-C was already there in the agreement made earlier between the licensee and the builder/land owner/ developer/flat owners for the same housing complex premises at the time of execution and commissioning of the first 250 KVA S/S, then it is incumbent upon the respondent to do it at their own cost, this up gradation/augmentation work of the existing 250 KVA S/S for providing power supply to the Block-C flat owners, if the same 250 KVA S/S has already been handed over to the licensee. Therefore, in the interest of resolution of the dispute and for ensuring safety standards, the respondent will shift the 100 KVA S/S near block-C to the allocated area where the 250 KVA S/S is already existing in the same premises, either act their own departmental; cost/scheme as is agreed by the respondent during the proceeding of the hearing as a corrective measure or may share a nominal part of such shifting estimated amount with all the flat owners of the Block-C, if they, do not have any objection to that, as it is going to resolve their issues of safety once for all and will give individual power supply to all flats owners in the Block-C forthwith on request from flat owners, if any as per TPCODL guideline without any further delay."

As the above order of the GRF, Bhubaneswar has not been complied by the Respondents, the petitioner herein has approached the Ombudsman-I in C.R. Case No.168 of 2021 for compliance of the same by the respondents. The learned Ombudsman –I while disposing of the Consumer Complaint case has directed as follows:-

“ x x x . The O.P.No.1 & 2 are directed to comply with the said order dated 02.08.2021 passed by the GRF, Bhubaneswar in C.C.Case No.184/2021 within a month hence failing which the petitioner would be at liberty to approach the Commission for necessary redressal of his grievances by resorting to the provisions of section 142 of the Electricity Act, 2003.

With the said direction to the O.P.No.1 & 2, the representation of the Petitioner is disposed of at the stage of conciliation."

2. During hearing the E.E (Elect.), BCDD-II, TPCODL submits that being aggrieved by the order dated 02.08.2021 of the GRF, Bhubaneswar in C.C. Case No. 184 of 2021 and

also by the order dated 12.11.2021 of the Ombudsman-I in C.R. Case No. 168 of 2021, the licensee had filed W.P.(C). No. 2817 of 2021 before the Hon'ble High Court of Orissa. The matter was taken up by the Hon'ble High Court on 05.01.2022 for hearing. After hearing the parties, the Hon'ble Court, vide their Order dated 05.01.2022 in I.A.No.12991 of 2021, has been pleased to stay the operation of both the orders of the above noted cases till next date subject to the condition that, power supply to the consumers of the above captioned apartments shall not be disrupted even for a moment. Therefore, he prays the Commission to drop the proceeding in the present case under Section 142 of the Electricity Act, 2003 as the final outcome in W.P.(C). No. 2817 of 2021 pending before Hon'ble High Court of Orissa shall be binding on the parties herein.

3. Shri Manoj Kumar Patnaik, Director, M/s. Dhruti Construction & Development Private Ltd. has agreed with submission made by the E.E (Elect.), BCDD-II, TPCODL during hearing as the Hon'ble High Court, vide their interim Order dated 05.01.2022 in I.A.No.12991 of 2021, has stayed the operation of the orders of GRF and Ombudsman.
4. After perusal of the case records, the Commission opines that there is no need to immediately proceed further in the present case as both the order dated 02.08.2021 of the GRF, Bhubaneswar passed in C.C. Case No. 184 of 2021 and also order dated 12.11.2021 of the Ombudsman-I in C.R. Case No. 168 of 2021, have been challenged before the Hon'ble High Court of Orissa by the Respondents in W.P.(C). No. 2817 of 2021 and the Hon'ble Court has been pleased to stay the operation of the above orders. The final outcome of WP(C) No.2817/2021 shall be binding on both the parties herein.
5. With the above observation the case is disposed of with liberty to file fresh petition in the event the stay order is vacated by the Hon'ble High Court.

Sd/-
(S.K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Chairperson (Officiating)