

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

**Case No. 72/2022**

Shri Raghunath Sahoo	.....	Petitioner
Vrs.		
CEO, TPCODL & Others	.....	Respondents

**In the matter of:**      **Application under Section 142 of the Electricity Act, 2003 for non-implementation of order dated 07.8.2021 and order dated 27.9.2021 of the GRF, Bhubaneswar passed in C.C. Case No.193 of 2021 and Order dated 09.9.2022 of the Ombudsman-I passed in C.R. Case No.158 of 2022.**

**For Petitioner:**              **Shri Krushna Chandra Das, Advocate along with  
Shri Manoj Kumar Sahoo, Advocate**

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

**ORDER**

**Date of hearing: 10.01.2023**

**Date of order: 10.01.2023**

- The Petitioner Shri Raghunath Sahoo has filed the present petition under Section 142 of the Electricity Act, 2003 for initiating action against the Respondent – Executive Engineer (Electrical), TPCODL, Bhubaneswar Electrical Division, Bhubaneswar for non-compliance of the order passed by the GRF, TPCODL, Bhubaneswar.
2. The matter in issue is that Shri Raghunath Sahoo is a consumer of electricity vide Consumer No.004425971 (15-G-07/14) under GPS tariff for contracted load of 5.00 KW. On 5<sup>th</sup> February, 2021, a surprise inspection of the meter installed in the premises of the Petitioner was conducted by a team of Enforcement Cell (TPCODL), Bhubaneswar and a meter verification report was prepared. Subsequent thereto, a penal bill amounting to Rs.2,27,908/- was raised and followed by notice for disconnection of power supply was issued to the Petitioner. The aforesaid amount was confirmed as final assessment as per order dated 24<sup>th</sup> March, 2021 of the Assessing Officer, along with a demand for additional security deposit of Rs.16,325/-.

3. Being aggrieved, the Petitioner approached the Grievance Redressal Forum (GRF) constituted under Section 42(5) of the Electricity Act, by filing Complaint Case No.193 of 2021. Then, upon hearing both parties, i.e. the Petitioner as well as the Respondent, Learned GRF in its order dated 7<sup>th</sup> August, 2021 observed that the verification report is ambiguous and the fault of the Petitioner is not established and directed as follows :-

*“Therefore, in our considered opinion, the respondent/assessing officer may give a patient hearing to the complainant taking into consideration the aforesaid observation of this Hon’ble Forum before deciding the extent of the final assessment amount imposed on the complainant’s bill as per the physical verification report done by the respondent is itself quite ambiguous. The respondent will take the maximum demand recorded in the new digital meter installed in the complainant’s premises for charging the MMFC in the bills thereafter. And for claiming the ASD, the respondent will follow the same as per Clause No.54 and 55 of the OERC Regulations-2019.*

*This order shall be carried out within 15 days.*

*If the petitioner is aggrieved with either by this order or due to non-implementation of the order of the Grievance Redressal Forum in time, he/she can make the representation to the Ombudsman-I, Qr. No.3R-2 (S), Gridco Colony, Bhoi Nagar, Bhubaneswar within 30 days from the date of order of the Grievance Redressal Forums.”*

4. Pursuant to above order of the GRF, the Manager (Commerce), TPCODL heard the petitioner afresh and by order dated 15<sup>th</sup> September, 2021, recommended for reduction of 20% of the assessed amount.
5. Thereafter, the Petitioner again approached the GRF and the GRF again by order dated 27<sup>th</sup> September, 2021 directed that the Assessing Officer is free to visit the Petitioner’s premises to make a re-verification by serving due notice to that effect or by taking the maximum demand derived from the new static meter already installed to make the final assessment of the bill.
6. When the order of GRF was not carried out, the Petitioner filed a writ petition before the Hon’ble High Court of Orissa in WP (C) 3568 of 2022 for a direction to regularize his bills by waiving the penal amount in terms of order of the GRF. Likewise, the Respondent – Executive Engineer (Electrical), TPCODL, Bhubaneswar also filed a writ petition before the Hon’ble High Court of Orissa in WP(C) No.4260 of 2022 challenging the aforesaid orders of the GRF. Hon’ble High Court after hearing the parties and since the issues involved in both the writ petitions being related to same cause of action, disposed of both the writ petitions by a common order dated 30.6.2022 which runs as under :-

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16. *In the instant case the inspection report dated 5<sup>th</sup> February, 2021 under Annexure-1 (in W.P.(C) No.4260 of 2022) is prepared and signed by the 'team leader' – who is the Dy. Manager (elect,) and the preliminary assessment order as well as the final assessment order dated 6<sup>th</sup> February, 2021 and 24<sup>th</sup> March, 2021 respectively under Annexures-2 and 4 have been prepared and issued by the Assessing Officer who is the Manager (Commerce), Rasulgarh Electrical Sub-Division, Bhubaneswar. This is clear from the contents of the Provisional Assessment order dated 6<sup>th</sup> February, 2022. Further, it is clearly noticeable that the authority signed in the Meter Verification Report as team leader is not the same authority signed as the Assessing Officer under the Assessment orders under Annexures-2 and 4. Learned counsel for TPCODL does not dispute such fact and never claim that the Inspecting Officer (team leader) and the assessing officer is the same person. Therefore, in terms of the minutes of the proceeding dated 21<sup>st</sup> September, 2005, the jurisdiction is clearly bestowed on the GRF to entertain the complaint of the consumer, Raghunath Sahoo. As such, no merit is seen in the contentions of the learned counsel for TPCODL to set aside the orders of the GRF as without jurisdiction. As such the Petitioner, i.e. Executive Engineer (Electrical), TPCODL in W.P. (C) No.4260 of 2021 fails in his contention and accordingly the said writ petition is dismissed.*
  17. *So far as the contention of the consumer regarding his prayer in W.P.(C) No.3568 of 2022 is concerned, the same is regarding implementation of the direction of the GRF which is not permissible in the present proceeding in view of clear stipulation under Section 42(6) of the Act. The said provision authorizes the consumer to approach the Ombudsman for non-redressal of his grievance. Therefore, such prayer of the consumer in his writ petition is rejected with liberty given to him to raise his grievance before the Ombudsman in terms of Section 42(6) of the Act, if the Petitioner in W.P.(C) No.3568 of 2022 raises such grievance before the Ombudsman within 30 days from today, scourge of limitation will not apply.*
  18. *In the result both the writ petitions are dismissed. But the consumer who is Petitioner in W.P.(C) No.3568 of 2022 is granted liberty as indicated above.”*
7. Pursuant to above order of Hon'ble High Court of Orissa, the Petitioner approached learned Ombudsman-I in Case No.C.R.158/2022 for non-compliance of the order dated 07.8.2022 and 27.9.2021 passed by GRF, Bhubaneswar in C.C. Case No.193/2021. The learned Ombudsman-I vide his order dated 09.9.2022 had directed as follows :

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*When the matter has already been decided by the Hon'ble Court in the above referred writ petition by dismissing the case of the OPs. I am of the opinion that the aforementioned order of the GRF, Bhubaneswar remains in operation which needs to be executed/ complied/ enforced by the OPs. In fact this Authority is competent to hear the representation of the consumer who is aggrieved by the order of GRF. Here in this case the learned counsel for the Petitioner-Consumer wants to implement the order of the GRF. Though this Authority is not empowered to execute/enforce the order of the GRF, still as per the minutes of second interactive session before OERC and Ombudsman/GRF communicated to this Authority under Letter No.93 dated 13.01.2006, this Authority is administratively empowered by the Hon'ble OERC to take up the non-compliance matters arising out of order of the GRF. Hence, the OPs are hereby directed to comply with the order dated 07.8.2021 & 27.9.2021 passed by GRF,*

*Bhubaneswar in C.C. Case No.193/2021 within a month hence failing which the Petitioner would be at liberty to approach the Hon'ble OERC for necessary redressal of this grievances in terms of provisions of Section 142 of the Electricity Act, 2003."*

8. After the aforesaid proceedings, the Petitioner approached this Commission under Section 142 of Electricity Act, 2003 for implementation of order dated 07.8.2021 and 27.9.2021 passed by GRF, Bhubaneswar in C.C. Case No.193/2021.
9. On being noticed, the Respondent – Executive Engineer (Elect.), Bhubaneswar Electrical Division, TPCODL, Bhubaneswar appeared through their counsel Shri S.C. Dash and submitted to have filed a Review petition before the Hon'ble High Court of Orissa vide RVWPET No.358 of 2022 against the order dated 30.6.2022 passed by the Hon'ble Court in WP(C) No.3568 of 2022 and WP(C) No.4260 of 2022 and accordingly submits to await till passing of the order by the Hon'ble High Court in the said Review Petition.
10. We have heard the Petitioner and the Respondent by hybrid mode and have carefully perused the record. There is no law that after dismissal of the Writ Petition before Hon'ble High Court of Orissa, the direction issued by the Hon'ble Court can be stalled, merely on the mere ground of filing of a Review Petition by the losing party, without any stay order from Hon'ble High Court. Needless to say, it is not clear if the Review Petition has been admitted before the Hon'ble High Court of Orissa. For the sake of clarity, the judicial sustainability of the Review Petition is still unclear. Thus, the grounds for non-implementation of the direction issued by the Hon'ble High Court as raised by the Respondent are untenable.
11. In view of the scenario stated above and under the circumstances, the petition under Section 142 of the Electricity Act, 2003 stands disposed of with direction that the order dated 07.8.2021 and 27.9.2021 passed by GRF, Bhubaneswar in C.C. Case No.193/2021 shall be complied with in letter and spirit immediately failing which necessary order would follow with regard to imposition of penalty on the delinquent officer.
12. With the above direction, the present petition filed by Shri Raghunath Sahoo is disposed of.

Sd/-

**(S. K. Ray Mohapatra)**  
**Member**

Sd/-

**(G. Mohapatra)**  
**Officiating Chairperson**