

**ODISHA ELECTRICITY REGULATORY COMMISSION
PLOT NO. 4, CHUNUKOLI, SAILESHREE VIHAR,
CHANDRASEKHARPUR,
BHUBANESWAR-751021**

**Present: Shri S. C. Mahapatra, Chairperson
 Shri G. Mohapatra, Member
 Shri S. K. Ray Mohapatra, Member**

Case No.15/2023

M/s. Krupalu Solvent, At/P.O:Panikoili,Dist.-Jajpur	Petitioner
Vrs.		
The Executive Engineer (Elect.), Jajpur Road Electrical Division, Jajpur Road, TPNODL, Dist.- Jajpur-755019 and another	Respondents

In the matter of: Application under Section 142 of the Electricity Act, 2003 for non-implementation of orders dated 04.12.2020 of the GRF, Jajpur passed in Case No.16 of 2020 & order passed in Case No.25 of 2020 and Order dated 11.01.2021 of the Ombudsman-II passed in C.R. Case No.24 of 2020.

For Petitioner : Shri Rabin Kishore Behera, the authorised representative

For Respondents : Shri Pramod Kumar Nayak, Executive Engineer(Elect.), JRED, TPNODL.

ORDER

Date of hearing: 08.08.2023

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This matter is taken up today for hearing through hybrid arrangement (virtual/physical).

2. Shri Rabin Kishore Behera, Authorized Representative of the Petitioner and Shri S.C. Dash, Learned Advocate along with Shri Pramod Kumar Nayak, Executive Engineer (Elect.), TPNODL, Jajpur Road for the Respondents-TPNODL do appear. Report of the Ombudsman-II as per Interim order dated 25.04.2023 filed on 02.08.2023 is taken on record.
3. The Authorized Representative of the Petitioner submits that M/s. Krupalu Solvent, Panikoili, Jajpur - the Petitioner has filed the present case under Section 142 of the Electricity Act, 2003 for execution of the order dated 04.12.2020 of the GRF, Jajpur Road passed in both C.C. Case No.16 of 2020 and C.C. Case No.25 of 2020 along with the order dated 11.01.2021 of the Ombudsman-II passed in C.R. Case No.24 of 2020. In C.C. Case No.16 of 2020, while disposing of the petition of the Petitioner, it was observed by the Learned GRF, Jajpur Road in the following words:-

“ The Petitioner has approached the Respondent for remunerative calculations. It is also observed that the Petitioner has agreed to avail power supply making required line and sub-station at own cost during various occasion to remunerative scheme and after depositing 6% supervision charges under Regulation 27 of the OERC Supply, Code, 2019. The Respondent is directed to calculate the remunerative and if positive then refund/ adjust the invested amount for 33KV line only.

The Forum directed the Opposite Party to withdraw the meter rent since initial power supply and refund the cost of check meter (HT meter with accessories) to the Complainant under Regulation 112 of the OERC Supply Code, 2019. The interim order will continue till revision.”

4. Further the Petitioner had filed an application before the Learned GRF, Jajpur Road in C.C. Case No.25 of 2020 for review of its security deposit amount deposited by it with the Opposite Party- TPNODL and while disposing of the said application, the Learned GRF, Jajpur Road has observed as follows:-

“ x x x the contentions placed by the Petitioner before the Forum is correct. The Petitioner executed the agreement with the Chief Operating Officer, NESCO Utility on dated 12.12.2018 for availing phased load and the agreement is validly for a period of five years. The details of load to be availed and time for enhancement is clearly mentioned in the agreement in Clause-3 relating to quantum of supply.

The action of the Respondent/ Opposite Party regarding enhancement not be in order. Although the Petitioner has submitted the inspection report for 850KVA from transformer 1500KVA for availing power supply in phased manner but not to wants the same. Thus, the Petitioner claims for withdrawal of enhancement load of 400KVA after demanding two months demand charges under Regulation 49(vi) of OERC Supply Code, 2019.

Regarding review of security the Respondent is directed to review the Security Deposit under Regulation 53 of the OERC Supply Code, 2019 and if excess then refund/adjust the excess amount from the arrear amount of the Petitioner under Regulation 54(ii) of OERC Supply Code, 2019.

The interim order will continue till revision.”

5. As both the orders were not complied with by the Respondents, the Petitioner again moved the Ombudsman-II in C.R. Case No.24 of 2020 for implementation of the above orders of the GRF, Jajpur Road passed in C.C. Case Nos. 16 & 25 of 2020. The Learned Ombudsman-II while disposing of the above Consumer Representation No.24 of 2020 has issued the directions in the following words:

“ x x x . From the above discussion and after going through the facts & circumstances, it is observed that the Respondent has not implemented the aforesaid orders of the Learned GRF, Jajpur Road. However, in this regard, the Respondent during hearing has sought 15 days time before this Authority for implementation of the same. During hearing, both the parties were also intimated that they will cooperate to each other to resolve the grievance of the Petitioner. As this case is filed before this Authority for implementation of the order dated 4.12.2020 in Case No.16/2020 and order dated 4.12.2020 in Case No.25 of 2020, this Authority is of opinion to direct the Petitioner to cooperate the Respondent in this regard and the Respondent is directed to implement the aforesaid order dated 4.12.2020 in Case No.16/2020 and order dated 4.12.2020 in Case No.25 of 2020 of the Learned GRF, Jajpur Road within 15 days from the date of this order.”

6. Being aggrieved by the above orders of both the Forums, the Respondent-Licensee has filed Writ Petition in W.P.(C) No.7861 of 2021 before the Hon'ble High Court of Orissa. The Hon'ble Court while dismissing the Writ Petition vide their Order dated 20.03.2023 has been pleased to observe, in the operative portion of the order, in the following words:

“7. In the circumstance and further for the clear recording, this Court finds, the contention raised herein in challenge to the orders at Annexure-5 & 8 is not sustainable in the eye of law. In the circumstance, the order at Annexure-8 in the present situation is not challengeable unless the Petitioner is able to prove that there is no such undertaking through appropriate proceeding. This Court accordingly finds, there is no scope for entertaining a challenge by the Petitioner to Annexure-5 herein. In the result, the Writ Petition since not maintainable thus stands dismissed.”

7. We heard the parties. In course of hearing, Learned Counsel appearing for the Respondent-TPNODL and the Executive Engineer (Elect.), JRED, Jajpur Road, TPNODL prayed for allowing time for implementation of the orders of GRF.
8. In view of the above-stated scenario, Respondents-TPNODL is directed to completely work out the compliance of direction of the order of GRF, Jajpur dated 04.12.2020 in Case No.16 of 2020 & Case No.25 of 2020 within two months hence and submit a report of compliance.
9. With the above observation, the case is disposed of.

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

Sd/-
(G. Mohapatra)
Member

Sd/-
(S.C. Mahapatra)
Chairperson