

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

Case No. 48/2023

M/s. S. N. Oxygen (P) Ltd.

.....Petitioner

Vrs.

The Executive Engineer (Elect), AED, Athagarh, TPCODLRespondent

In the matter of: **Application under Section 142 of the Electricity Act, 2003 alleging non-compliance of order dated 29.10.2020 of the GRF, Cuttack passed in C.C. Case No.402/2020.**

For the Petitioner : Shri Tushar Behera, the Authorized Representative.

For the Respondent : Shri Pabitra Mohan Sahoo, Executive Engineer (Electrical), AED, Athagarh, TPCODL

ORDER

Date of hearing: 18.07.2023

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

2. The present petition has been filed by the Petitioner-M/s. S. N. Oxygen Pvt. Ltd. for implementation of order dated 29.10.2020 of the GRF, Cuttack passed in C.C Case No.402 of 2020 .The learned GRF, Cuttack while disposing of the above Consumer Complaint has directed as follows:-

“ 1. The O.P.is directed to settle the claim of the complainant taking arrear as on 05/2014 along with 2(two) months demand charges to close the consumer account as per Clause-16 of the OERC Regulations, 2004.

2. On such termination of the agreement, the O.P. is directed to adjust arrears from the (i) Security Deposit(s) (ii) interest on security deposit(s) if not paid earlier from the date of such deposit(s) at notified bank rate interest rates of RBI as per Clause-21 of OERC Regulations, 2004, (iii) Excess meter rent claimed as per RST of relevant years and CESU circulars in accordance to the observations of the Forum given above.

3. O.P.is directed to refund the excess security deposit if any with applicable bank rates after completion of the termination of procedure and adjustment of all dues as on date of termination.

4. If any dues remain to be payable by the complainant after the said termination, O.P. is directed to recover the same as per available Regulatory procedures.

The case is disposed of accordingly.”

3. As the above order of the GRF, Cuttack was not complied with by the Respondent-Executive Engineer (Electrical), Athagarh, the Petitioner moved the Ombudsman-I

filing a Representation registered as C.R. Case No.74 of 2021 and the learned Ombudsman-I disposed of the said Consumer Representation vide its Order dated 26.07.2021 directing the Respondent-Executive Engineer (Electrical), Athagarh to comply with the order of the GRF, Cuttack passed in C.C. Case No. 402 of 2020.

4. Respondent-the Executive Engineer(Elect.), AED, Athagarh submitted that being aggrieved by the order dated 29.10.2020 passed in C.C. Case No.402 of 2020, they have filed a review petition before the learned GRF, Cuttack seeking review of the order dated 29.10.2020 passed by the learned GRF, Cuttack in consonance with the Regulation 16 of the OERC Supply Code, 2004. Respondent further submitted to have filed a Writ Application before the Hon'ble High Court of Orissa in W.P.(C) No.36003 of 2021 and Hon'ble High Court after hearing the parties, vide their order dated 17.03.2023 has dismissed the said Writ petition with the following observations:

“2. x x x x the writ petition brings to the notice of the Court that while bringing the writ petition on the Board of this Court on 15.11,2021, the Petitioner (Respondent herein) has already made an attempt for review by filing the application before the GRF, the Original authority involving C.C. Case No.402 of 2020 appearing at Annexure-11.From Pleading at paragraph-19 of the Writ petition, this Court finds as follows:

“19. That the Petitioner (Respondent herein) vide his letter dated 06.11.2021, copy filed herewith as Annexure-10 has written to the GRF, Cuttack seeking clarification/modification & correction of the order dated 29.10.2020 as passed in C.C. Case No.402 of 2020 in consonance` with Regulation-16 of OERC Supply Code, 2004 which is also pending for consideration.”

3.Undisputedly there is pendency of the review attempt of the Petitioner (Respondent herein) before the GRF, Cuttack. It is at this stage, there is no scope for the petitioner (Respondent herein) to pursue the writ remedy. In the circumstance, this Court finds the petitioner (Respondent herein) is not permitted to avail both the forums inasmuch as attempting by way of review to the GRF order and also involving a challenge to the GRF order in the pendency of the review application in the High Court.

4. As a result, this Court finds the writ petition is not entertainable at this point of time. The writ petition thus dismissed, as not entertainable. Petitioner is at liberty to pursue his review remedy provided the same is not lawfully disposed of in the mean time.”

5. As it appears in the above referred Writ Petition, the Hon'ble High Court has been pleased to direct the Petitioner to pursue review remedy before the GRF, Cuttack, the question of compliance of the order of GRF as well as Ombudsman-I does not arise at this stage and accordingly, the petition is dismissed as not maintainable.
6. With the above observation, the case is disposed of.

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

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. C. Mahapatra)
Chairperson