

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

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

**Case No. 24/2024**

Sri Panchanana Kuanar, S/o.Saroj Kuanar,  
At- Babajidihi, P.O: Duburi,  
Dist.- Jajpur-755026

..... Petitioner

Vrs.

The Assessing Officer-Cum-S.D.O (Electrical),  
Duburi Electrical Sub-Division,TPNODL,  
Duburi, Jajpur-755026

..... Respondent

**In the matter of: Application under Section 142 of the Electricity Act, 2003 alleging non-compliance of order dated 16.11.2022 of the Learned GRF, Jajpur Road passed in C.C. Case No.108 of 2022.**

For Petitioner: Shri Rabin Kishore Behera, Authorized Representative.

For Respondent: Shri S.C. Dash, Advocate and Shri Alok Kumar Das, Executive Engineer (Electrical), Kuakhia Electrical Division, TPNODL.

**ORDER**

**Date of Hearing: 21.05.2024**

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The Petitioner, Sri Panchanana Kuanar, S/o.Saroj Kuanar, At- Babajidihi, Po- Duburi, Dist.- Jajpur has filed a Petition under Section 142 of the Electricity Act, 2003 alleging non-compliance of order dated 16.11.2022 of the Learned GRF, Jajpur Road passed in C.C. Case No.108 of 2022.

2. The case of the Petitioner is that he is a bonafide consumer under the Respondent-Licensee with Contract Demand 2 KW under LT GPS tariff since, 2020. Some Officials of the Respondent-Licensee verified his electrical installation and after such inspection, the Respondent-Licensee served a provisional Assessment Order bearing No.552 dated 12.08.2022. According to the Petitioner, on 25.08.2022, he submitted a show cause reply against the provisional Assessment Order, but the Respondent-Licensee did not serve any final Assessment Order to the Petitioner. Being aggrieved by the same, the Petitioner filed a Complaint before the Learned-GRF, Jajpur Road and upon hearing the parties, Learned

GRF, Jajpur Road was pleased to pass the following Order dated 16.11.2022 on his Complaint:

*“Heard both the parties. The observation noted below are the outcome of the records submitted and the statements by the parties.*

*The Opposite Party verified the installation of the complainant on 08.08.2022. The consumer is availing power supply through defective meter for a long period due to lack of keen interest in the part of the Opposite Party for replacement of meter which ought not be as the said defective meter was to be replaced within the stipulated period. The Opposite Party has incriminated that the complainant is availing more power against the CD taking into consideration of the availability of some Electrical equipments/appliances. The complainant has submitted a purchase voucher of dated 25.07.2022.*

*Moreover, the Opposite Party has not served the Final assessment Order in time with all relevant documents within the stipulated time as laid down which violates Regulations 165 OERC Distribution (Conditions of Supply) Code, 2019 so as to enable the complainant to move to the Appellate Authority. The Opposite Party served a Final Assessment Order No.690 dated 03.11.2022 after hiatus of long period.*

ORDER

*As per the observation noted above, the Forum directs as follows:*

*The Opposite party is directed to act accordingly taking into consideration of not scrupulously following the Regulation 165 OERC Distribution (Conditions of Supply) Code, 2019.*

*The case is deposed off accordingly. The Opposite Party is directed to submit the compliance report to the Forum.”*

3. When the aforesaid order of the Learned-GRF was not complied with, the Petitioner approached the Hon’ble High Court of Orissa vide W.P. (C). No.2272 of 2024 praying to quash the Assessment Order and revise the energy bill as per the OERC Distribution (Conditions of Supply) Code, 2019. Upon hearing the parties, the Hon’ble Court disposed of the said case with the order as quoted below:

*“ 1. This matter is taken up through hybrid mode.*

*2. Petitioner in this writ petition prays for a direction to the Opposite Parties to quash the assessment order and also prays for a direction to revise the energy bill as per the Odisha Electricity Commission Distribution (Conditions of Supply), Code, 2019.*

*3. The matter was listed on 9th February, 2024, when Mr. Maharana, learned counsel for TPNODL brought notice of this Court that assailing the energy bill, the Petitioner had approached the Grievance Redressal Forum, Jajpur. Alleging non-compliance of the order of GRF, Petitioner had moved the Ombudsman in CR No.41 of 2023. Suppressing the said material facts, this writ petition has been filed.*

*4. By filing an additional affidavit, the Petitioner admitted suppression of material facts.*

*5. Mr. Maharana, learned counsel for TPNODL submits that in view of suppression of facts, this writ petition should be dismissed with exemplary cost.*

*6. In view of the above, this Court is not inclined to entertain the writ petition.*

*7. At this stage, learned counsel for the Petitioner prays for withdrawal of the writ petition.*

*8. Accordingly, the writ petition is dismissed as withdrawn.”*

4. While the matter stood thus, the Petitioner has filed the present Petition under Section 142 of the Electricity Act, 2003 praying for following reliefs:

- “ a. To comply the order dated 16.11.2022 passed by the Learned GRF, TPNODL, Jajpur Road, Jajpur vide C.C. Case No.108 of 2022 & reconnect the power supply immediately;*
- b. To penalize the Respondent under Section 142 of the Indian Electricity Act, 2003 for the delay periods;*
- c. And may pass any other order(s), direction(s), relief(s) as deem fit and proper;*
- d. And for such act of kindness, the complainant shall as in duty bound ever pray.”*

5. The Respondent-Licensee has submitted its reply stating inter-alia that the order of the Learned GRF, Jajpur Road in C.C. Case No.108 of 2022 is in violation of the laws as the Assessment order has been passed under Section 126 of the Electricity Act, 2003. If the Petitioner has any dispute against the said Assessment Order, then he should prefer an Appeal against the said order before the Appellate Authority after complying with the conditions mentioned in Section 127 of the Electricity Act, 2003 read with Clause No.167 to 170 of the OERC Distribution (Conditions of Supply) Code, 2019. Therefore, the impugned order deserves to be reviewed by the Commission and set-aside accordingly.

6. The main point of controversy that needs to be addressed is stated hereafter:

*“Whether the order dated 16.11.2022 of the Learned-GRF, Jajpur Road passed in C.C. Case No.108 of 2022 is executable within the scope of Section 142 of the Electricity Act, 2003.”*

7. We heard the parties through virtual mode. Vide the landmark judgments passed by the Hon’ble Supreme Court of India in the matters of the Executive Engineer Vrs. Sitaram Rice Mills” and “Kerla State Electricity Board & Ors Vrs Thomas Josef alias Thomas M.J, Civil Appeal Nos. 9252-9253 of 2023, it is categorically held by the Hon’bel Apex Court as under:

*“ the provisions of section 126 read with Section 127 of the Act, 2003 become a complete Code in themselves and hence in view of the language of Section 127 of the 2003 act. A final order of Assessment passed under Section 126 (3) s an order appealable before the appellate authority only.”*

8. Law is also well settled that the Assessment Order (including its legality, sustainability, etc.) passed under Section 126 of the Electricity Act, 2003 is completely beyond the jurisdiction of the Learned GRF and same can be decided by the Appellate Authority only

in accordance with the provisions laid down under Section 127 of the Electricity Act, 2003 read with Clause No.167 of the OERC Distribution (Conditions of Supply) Code, 2019. In this regard, we drew support from the Judgment dated 01.07.2013 passed by the Hon'ble Supreme Court in Civil Appeal No.5466 of 2013 titled U.P. Power Corporation Ltd. & Ors Vs. Anis Ahmad.

9. In view of above discussions, we do observe that there remains no order to be executed. The prayer of the Petitioner does not fall within the scope of the Section 142 of the Electricity Act and as such is not entertainable and stands rejected.
10. The case is accordingly disposed of.

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

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