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ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
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Present: **Shri Pradeep Kumar Jena, Chairperson**
 Shri Sushanta Kumar Ray Mohapatra, Member
 Shri Biswajit Mohanty, Member

Case No. 73/2025

Smt. Manasi Parida, Petitioner
Vrs.
The Executive Engineer (Electrical),
BCDD-II, TPCODL & Others Respondents

In the matter of: **Application under Section 142 of the Electricity Act, 2003 alleging non-compliance of order dated 16.11.2024 of the learned GRF, Bhubaneswar at Khordha passed in C.C. Case No172 of 2024 and also Order dated 08.04.2025 of the learned Ombudsman-I passed in C.R. Case No.115 of 2024.**

ORDER

Date of Hearing: 04.11.2025

Date of Order: 14.11.2025

This is an application under section 142 of the Electricity Act, 2003 wherein the Petitioner has sought the intervention of the Commission for compliance of the order dated 08.04.2025, passed by the Learned Ombudsman-I in C.R. Case No.OM(I)-115/2024 arising out of the order dated 16.11.2024, passed by the Learned GRF, Bhubaneswar in CC No.172/2024 (BCDD-II).

2. The facts leading to the presentation to the instant application may be stated as follows:

(a) That the Petitioner-Smt. Manasi Parida by registered sale deed dated 15.02.2021 purchased two Plots bearing No.741 and 742 in village Injana from the lawful owners thereof i.e. the wife and the three sons of Late Nagendranath Panda. She constructed a new building over her purchased properties and after the completion of the construction; she applied for a 2 KW electrical connection under domestic category from the TPCODL, which is represented by the Respondent in the present application. On 16.12.2022 the electricity connection was provided vide Consumer No.80035980335. Subsequently, on 08.02.2023 another electricity connection for the 1st floor of the same building, vide Consumer No.80036411835,

was provided to the Petitioner on her application. The Petitioner is all along paying the electricity dues in respect of these two connections. However, on 12.05.2024, the Respondent through its Meter Reader issued erroneous bills to the tune of Rs.15,098/- and Rs.15,796/- against the two-electricity connection vide Consumer A/c No.80035980335 and Consumer A/c No.80036411835 respectively. The Petitioner had approached the Respondent for the revision of the bills based on actual meter reading. But the billing dispute remained unresolved.

(b) That prior to 16.12.2022, when the 1st connection was given to the Petitioner, there was no such electric connection to the premises pertaining to Plot No.741 & Plot No.742. When the Respondents did not respond to her repeated request for revision of the bills, the Petitioner filed CC No.172 of 2024 before the Learned GRF, Bhubaneswar which was finally disposed of on 16.11.2024 with a direction to the Respondents to segregate the arrears payable against the premises pertaining to Plot No.741 & Plot No.742 for pre- 15.02.2021 and post-15.02.2021 (when the Petitioner purchased the land) observing that the arrears due for the pre-15.02.2021 period (the pre-acquisition period) shall be paid by the previous owner while the bill payable for the post-15.02.2021 period (the post-acquisition period) shall be paid by the Petitioner. The Learned GRF, Bhubaneswar further directed the Respondents to prepare a final bill calculating the outstanding arrears up to December, 2022 and allow the Petitioner to settle the bill accordingly. While advising that the Respondent must ensure due diligence in addressing the liability of the Petitioner to pay the arrears for the pre-acquisition period, the Learned GRF has instructed both the parties to resolve the matter amicably and promptly.

3. Being dissatisfied with the above directions of the Learned GRF, the Petitioner carried the matter to Learned Ombudsman-I, Bhubaneswar in CR Case No.OM (I)-115 of 2024 which was finally disposed of on 08.04.2025 with the following directions:

“The Respondent shall clearly raise bills in respect of the Plot No.741 & 742, Mouza Injana giving benefits of OTS 2020 strictly in accordance with the stipulation of that scheme and the Petitioner shall clear bills raised after revision. The Petitioner is at liberty to clear the dues of electricity in consonance with the Section 69 of the Indian Contract Act.”

4. The Respondents were directed to place their show cause and accordingly they, through the Respondent No.1 (EE, BCDD-II, TPCODL), have filed a written statement wherein they have raised objection over the implementation of the order of the Learned Ombudsman. While accepting the averments of the Petitioner with regard to two separate electricity connections (2 KW each) to her premises on 16.12.2022 and

08.02.2023 against Consumer A/c No.80035980335 and A/c 80036411835 for Plot Nos. 741 & 742 of village-Injana respectively, the Respondents have stated in their written statement that a 3rd electricity connection in the name of Shri Ashok Kumar Panda (the Vendor No.2 named in the sale deed dated 15.02.2021) against Consumer A/c No.80030310470 was provided to the premises that carried an outstanding dues up to February, 2023 to the tune of Rs.27,431/-. It is stated that the Petitioner is liable for the clearance of this outstanding dues against the previous owner of the premise. The Respondent in the written submission has stated that as per the order passed by the Learned Ombudsman, the arrear dues was revised for the period from October, 2022 to February, 2023 and consequent upon this revision, an amount of Rs.6,781/- has been withdrawn and the same has been credited equally to the Petitioner's A/c.80035980335 and 80036411835. With regard to giving benefit of OTS scheme as per direction of Ombudsman, it is stated in the written submission that the same was no longer in force and therefore the outstanding electricity dues payable by the Petitioner cannot be settled under this scheme. It is alleged that the Petitioner had consumed electricity from the connection provided under CA No.80030310470 and is otherwise bound to clear the outstanding dues inasmuch as the previous consumer namely Ashok Kumar Panda is no longer in occupation of said premises. It is specifically stated in the written statement that there were no electricity dues outstanding against the connection vide CA No.80030310470 up to 14.02.2021 i.e. till the execution of the sale deed dated 15.02.2021 in favour of the Petitioner. Thus, the gist of the claim of the Respondent is that the outstanding dues as stated above are towards the consumption by the Petitioner and therefore she is liable to pay the same. This has been acknowledged both by the Learned GRF as well as the Learned Ombudsman.

5. We have carefully heard both the Petitioner and Respondents through hybrid mode and meticulously examined their assertions besides perusing the documents filed by them. Facts are forthcoming to the effects that prior to the execution of the sale deed dated 15.02.2021, there was electricity connection to the premises pertaining to Plot No.741 & 742 in the name of one of the Vendors of the Petitioner, namely Shri Ashok Kumar Panda. The claim of the Respondents that the account standing in the name of Shri Ashok Kumar Panda having no outstanding dues as on 15.02.2021, is found to have not been adequately refuted by the Petitioner. In course of the hearing, drawing our attention to the averments of her Sale Deed dated 15.02.2021, it is submitted by the Petitioner that her purchased land was a vacant land and therefore, there was no occasion for the same to have a connection of electricity. However, Learned Ombudsman has

mentioned in his observation that Learned GRF has passed the order exonerating the present Petitioner from paying the bills raised against previous owner. For the limited purpose of the disposal of an application under section 142 of the Electricity Act, 2003 this Commission is not supposed to decide this disputed fact especially when the records of the Respondents do show that there was an electricity connection to the premises comprising Plot No.741 & 742. We also do not accept the contention of the Petitioner that this premises despite being recorded as *Gharbari* did not have any structure thereon. Moreover, it is not mandatory for a consumer to have a permanent structure over the premises for which he places a request before the licensee/supplier for electricity connection thereto. We also do not find prudence over the assertion of the Petitioner that without the aid of the electricity she could raise a two-storied building over her premises that she purchased on 15.02.2021. We therefore, assume that the Petitioner must have taken the aid of power, supplied through CA No.80030310470 for erecting her building over the premises in question. It is however, pertinent to note that the Commission is not fact-finding authority and a limited scope available with us to examine the allegation of the non-compliance of the orders of the forums constituted under Section 42 (5) of the Electricity Act and to ensure its compliance as far as practicable, of course keeping in mind the other legal provisions.

6. The Petitioner has come up with a prayer for implementation of the order dated 08.04.2025 (supra) inasmuch as this order is deemed to have merged with the final order of the Learned GRF, Bhubaneswar passed in CC No.172 of 2024. Thus, our limited scope is to ensure the compliance of this order of the Learned Ombudsman if at all no such legal hurdles arise making the same otherwise non-enforceable and therefore, non-executable.

7. As stated above, the Learned Ombudsman has directed the Respondents to raise bills in respect of Plot Nos. 741 & 742 giving benefits of the OTS 2020 strictly in accordance with stipulation of the Scheme in a bid to settle the dispute raised by the Petitioner over the claim of clearance of the outstanding dues. It is forcefully submitted on behalf of the Respondents that this direction is a nullity and therefore cannot be enforced inasmuch as the OTS 2020 was launched on a different context which has since become infructuous by efflux of time.

8. To have a better understanding about the application of the OTS 2020, we feel it appropriate to place the following observation of this Commission, made in the order dated 22.12.2022, passed in Case No.122/2021 (*TPCODL & Others Vrs. GRIDCO & Others*):

“12. In view of the above observations & analysis, the Commission approves OTS Scheme 2022 with the following broad guidelines:

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b) The proposed OTS Scheme is only meant for settlement of the past arrears accumulated prior to the effective dates (i.e. takeover) by present DISCOMs (TPCODL, TPWODL, TPNODL & TPSODL) and does not pertain to period after takeover. Arrears outstanding as on the respective Effective Dates of takeover of DISCOMs i.e. arrears outstanding as on 31.05.2020 for Utilities: CESU (now TPCODL), 31.12.2020 for SOUTHCO (now TPSODL) & WESCO (now TPWODL) and 31.3.2021 for NESCO (now TPNODL) shall be considered as Eligible Amount.

XX XX XX XX XX XX XX”

Thus, it is evident from the above order that the OTS 2020 is applicable to the arrear dues payable or outstanding during the pre-vesting period. The present case relates to the TPCODL that became the Distribution Licensee with effect from 01.06.2020 for the area including the area where the premises in question is located. Fact of the matter is that no such dues was held outstanding against the premises in question as on 31.05.2020. The undisputed fact that emerges out in course of the hearing is that no dues was pending till 14.02.2021 as arrear against CA No.80030310470 linked to the premises in question. In other words, the OTS 2020 is found to have no application to the said connection as the arrear, referred to by the Respondents in respect of this Account, is for the post-14.02.2021 (the post-acquisition of premises) period i.e. long after the cut-off date for application of the OTS Scheme i.e. 31st May, 2020. In this backdrop we need to examine whether the direction imparted in the order dated 08.04.2025 (supra) by the Learned Ombudsman-I is fit to be enforced at our instance in an application under Section 142 of the Electricity Act, 2003.

9. Law is well settled that the executing court is not permitted to go beyond the decree in examining its correctness either as an appellate authority or a reviewing authority. At the same time, its power is not taken away for refusing to execute a decree which is a nullity i.e. null and void or which has become un-executable under certain conditions. Besides, as per Section 47 of the Code of Civil Procedure the executing court has the power to determine the question *inter-alia* relating to the execution or satisfaction of the decree. That is to say, if the executing court finds that the decree or order cannot be executed and therefore, be satisfied, it may not execute the same. These legal principles squarely apply to a Regulatory Commission that exercises its power under Section 142 of the Electricity Act, 2003 to ensure effective execution /

implementation of the orders of different forums, established under Section 42 (5) of the said Act. Here in this case, the OTS Scheme 2020 has been directed by the Learned Ombudsman-I to be considered for resolution of the dispute pertaining to the outstanding dues in respect of the premises in question. This Scheme having long since been closed and being no longer in operation, the Learned Ombudsman-I ought not to have given emphasis thereon, especially when the arrear dues do not relate to the pre-vesting period. The non-existence of the Scheme has rendered the order dated 08.04.2025 (*supra*) a nullity which is therefore, legally unfit to be enforced. The Respondents had the opportunity to bring to the notice of the Learned Ombudsman regarding the non-enforceability of the order through a review application but such failure, in our opinion, does not otherwise confer the power on the Commission to execute this un-executable order. In essence, the instant application under Section 142 of the Electricity Act is found not entertainable.

In view of the above observations, we find no merit in the application which is accordingly rejected.

Sd/-
(B. Mohanty)
Member

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

Sd/-
(P. K. Jena)
Chairperson