

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.433 of 2017

Epari Madhab Rao

....

Appellant

Mr. Bikash Jena, Advocate

-versus-

***Central Electricity Supply
Company of Orissa Ltd. and
others***

....

Respondents

Mr. Debaranjan Ray, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

19.10.2022

Order No.

03.

1. The challenge in the present writ appeal is to an order dated 16th October, 2017 passed by the learned Single Judge dismissing writ Petition No.5088 of 2002 filed by the present Appellant on the ground that he had an efficacious of alternative remedy of an appeal under Regulation 110 (2) of the Orissa Electricity Regulatory Commission Distribution (Condition of Supply) Code, 1998 (hereafter 'Code').

2. This was the second round of litigation before the learned Single Judge at the instance of the present Appellant. In the first round the Appellant had filed O.J.C. No.3049 of 2002 aggrieved by the demand of penalty raised by the Respondent electricity undertaking as penalty under Regulation 105 (2) of the Code pursuant to an inspection had taken on the business premises of the Appellant by the Respondent on 2nd March, 2002. The said writ petition was disposed of by the learned Single Judge on 26th April, 2002 noting

that the Appellant had already deposited Rs.80,000/- for immediate power supply and the power supply had been restored. The learned Single Judge directed the Designated Authority (DA) in terms of Regulation 52 of the Code to dispose of the complaint dated 11th March, 2002 of the Appellant after giving him an opportunity of hearing and further that till final decision of the DA, power supply would not be disconnected to the Appellant on the ground that the balance amount has not been paid.

3. Thereafter the DA passed an order dated 8th November, 2002 upholding the finding of tampering of the meter and also the penal bill. This led to the second round of litigation with the Appellant filing in W.P.(C) No.5088 of 2002 assailing the penal bill. Learned Single Judge noted in the impugned judgment dated 16th October, 2017 that under Regulation 110 (2) of the Code, the Appellant had the remedy of an appeal before the Chief Executive Officer against the order of the DA.

4. Learned counsel for the Appellant referred to Regulation 110 of the Code which reads as under:

“110. (1) A consumer aggrieved by any action or lack of action by the engineer under this Code may file a representation within one year of such action or lack of action to the designated authority of the licensee above the rank of engineer who shall pass final orders on such a representation within thirty days of receipt of the representation.

(2) A consumer aggrieved by the decision or lack of decision of the designated authority of the licensee may file a representation within forty-five days to the chief executive officer of

the licensee who shall pass final order on such a representation within forty-five days of receipt of the representation.

(3) In respect of orders or lack of orders of the chief executive officer of the licensee on matters provided under Section 33 of the Act, the consumer may make a reference to the Commission under Section 37(1) of the Act.”

5. It was submitted by learned counsel for the Appellant that under Regulation 110 (2) of the Code an appeal would lie only against a decision of the DA under Section 110 (1) and not the decision of the DA under Regulation 52 of the Code.

6. The Court is unable to agree with the above submission. There is nothing in the wording of 110 (2) which limits the appeal to the CEO against the decision of the DA only under 110 (1) of the Code. The wording is broad enough to accommodate an appeal against the decision of the DA under Regulation 52 of the Code as well.

7. In the circumstances, the Court is unable to find any error committed having committed by the learned Single Judge which calls for interference. The appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge