

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9327 of 2020

***The Executive Engineer (Electrical)
CESU, Kendrapara Electrical
Division-II, Kendrapara & another***

***Petitioners
Mr. S.C. Dash, Adv.***

-Versus-

Sumanta Parida & another

Opp. Parties

CORAM:

**JUSTICE S. TALAPATRA
JUSTICE M.S. SAHOO**

**ORDER
16.09.2022**

Order No.

03.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S.C. Dash, learned counsel appearing for the petitioners.
- 3.** By means of this writ petition, the order dated 13.12.2019 delivered in C.C. Case No. GRF/KED-II/618/2019 by the Grievance Redressal Forum, CESU, Paradeep has been challenged.
- 4.** By the said Judgment dated 13.12.2013, the GRF has returned the findings, which are as follows:

“4. On perusal of the records it is found that, there is two nos. of 1 phase service connection and one 3 phase connection already stands in the aforesaid property. One is in the name of Sri Akshya Ku. Parida father of the complainant bearing consumer A/c No.02163226 with outstanding arrear amount of Rs.43,541.64 up to 10/2019. Second one is stands in the name of Sri Kalandi Ch. Parida bearing A/c No.02162743 with arrear amount of Rs.1,57,974/- up to 11/2017 and one 3 phase service

connection stands in the name of Sri Abhaya Ku. Parida bearing consumer A/c. No.MAI-092 with arrear of 2,495.51 up to 10/2019. But demand regarding payment of arrear of all the three consumer account number is not at all acceptable. The complainant is liable to pay the arrear which pending in the name of his father but he is not liable to pay the arrear which pending against others. In course of hearing the complainant also agreed to pay the arrear which pending against others. In course of hearing the complainant also agreed to pay the arrear amount which pending against his father but after revision of bills. It is clear from the admission of the complainant that the arrear amount of Rs.43,541.64 which pending against his father Sri Akshya Ku. Parida bearing A/c. No.02163226 is disputed but we also cannot ignore the demand of the O.P. for clearance of arrear dues. But in the present scenario demand of Rs.43,541.64 from the complainant is also illegal as the arrear is disputed, on the other hand depriving the complainant from Power Supply is also injustice to the complainant. So considering the factual point of the case we are of the considered view to direct the complainant to pay Rs.20,000/- towards arrear amount pending against his father with an undertaking to clear the balance arrear dues after revision and the O.Ps. are also directed to provide new 3 phase service connection to the complainant after receipt of Rs.20,000/- without prejudice. That apart the O.P. shall not insist any NOC from other co-sharers from the complainant. The power supply shall be provided to the complainant within the stipulated time."

(Emphasis added)

5. Apparent it is that revision of the electricity bills has also been ordered. The compliance report is directed to be submitted to the forum within a month, failing which it shall be treated as non-compliance of the order.

6. According to Mr. Dash, learned counsel for the petitioner the said order is unsustainable, as the Opposite Party No.2 did not have the eligibility to apply for the electricity connection. In this regard, Mr. Dash, learned counsel has referred to the following passages from

the writ petition in order to highlight the fundamental grounds of objection:

“8. For that the impugned order for revision of the arrear outstanding against Consumer A/C No.02163226 in the name of Akhaya Kumar Parida at the behest of the complainant in absence of any dispute by the consumer at any point of time being illegal & non-application of mind of the GRF is also not sustainable in law & as such liable to be quashed.

9. For that the impugned order of the GRF not to insist any NOC from other co-sharers is against the requirement of law as referred above since there is huge arrear of Rs.1,57,974/- in the very same plot against Consumer A/C No.02162743 in the name of the recorded tenant Sri Kalandi Charan Parida & due to non-payment of the said arrear dues, Power supply is under disconnection till date. There being all possibility of electricity to be utilized in the said disconnected premises it will be given to the complainant being nephew of the defaulted consumer & there will be misappropriation of the Licensee's dues as Revenue of the Utility, the aspect of which was not taken into consideration by the GRF. Hence, the impugned order is liable to be quashed as non-compliance of mind.

10. For that the GRF while passing the impugned order has not applied its mind to fact & aspect that there already exists an electric service connection vide Consumer No.02163226 with unpaid arrear, there is no need to provide another 3 phase service connection to the very same premises in the name of the complainant as son of the existing consumer in absence of any separation, Sub-Division or creation of new title in respect of the very same premises in question in the name of the complainant. The impugned order being against the requirement of law is liable to be quashed.”

7. A bare reading of those passages illustrates that the GRF has committed serious illegality by directing revision of the arrear against the consumer, namely Sri Akshaya Kumar Parida [father of the

petitioner] against A/C No.02163226. It has been stated that the GRF has exceeded its authorities while passing the said direction. Moreover, as Akshaya Kumar Parida did not come before the GRF for any redress, no direction ought not to have been passed in absentia.

8. Denial of the extension of electricity connection (3-phase) is based on the fiscal principle.

According to Mr. Dash, learned counsel, non-payment of the arrear itself is prohibitive in taking any favourable action according to the demand of the Opp. Party No.1.

9. We have anxiously considered the submissions of learned counsel for the petitioner, perused the findings and the order of the GRF. We do not find any prejudice has been caused to the petitioner as, so far as the ownership of that land or its assignment is concerned. The GRF has directed to submit a no-objection certificate from the owner of the land [the father of the Opposite Party No.1] and that from all the co-sharers of that land. That apart, an amount of Rs.20,000/- has been asked to be deposited by the Opp. Party No.1 and to pay the revised arrears subsequently.

10. We would also like to note that, if any consumer has defaulted in payment of the electricity charge or due rent or the penal rent, the petitioners have the remedy to follow, but for someone else's default, a prospective consumer cannot be punished. But true it is that but the petitioner may demand the authority to use the land. The GRF has ensured that.

11. As directed by the GRF, the NOC shall be taken from the petitioner's father, Sri A.K. Parida, having A/C No. 02163226. The Opp. Party No.1 shall pay off the entire outstanding, as would be revised, standing in the name of Sri A.K. Parida as condition-

precedent for extension of the electricity line. However, the GRF has reduced the amount to be paid initially at Rs.20,000/-. The remainder has to be paid by the Opp. Party No.1. Any breach may invite penal action from the petitioner.

12. Having observed thus, we do not find any merit in this writ petition and accordingly, the same is dismissed.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge



Subhasis



