

IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.21627 of 2022

***The Executive Engineer (Elect.)
Kuakhai Electrical Division., TPNODL, Jajpur***

Petitioner
Mr. P.K. Tripathy, Adv.

-Versus-

***OMUDSMAN-II, Odisha Electricity
Regulatory Commission, BBSR & Anr.***

Opp. Parties

CORAM:
JUSTICE S. TALAPATRA
JUSTICE M.S. SAHOO

ORDER
16.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr. P.K. Tripathy, learned counsel appearing for the petitioner. By means of this writ petition, the petitioner has questioned the legality of the order dated 23.06.2022 (Annexure 9 to the writ petition) passed by the OMBUDSMAN-II in C.R. Case No. OM (II) N- 14 of 2022.
3. Mr. Tripathy, learned counsel has drawn our attention to the objection filed by the petitioner in the proceeding before the OMBUDSMAN-II (Annexure 8 to the writ petition). It has been

submitted that the OMBUDSMAN-II has not taken cognizance of the said objection and passed the impugned order brazenly.

4. Hence, according to the petitioner, the order of the OMBUDSMAN-II is palpably wrong in as much as no process can be taken forward once the application for extending and upgrading the supply was rejected and that rejection order is not challenged. The said fact of rejection was laid in the above mentioned objection.

5. The Opposite Party No.2 had applied for change of the category of supply from 30 KV. That rejection has generated new cause. Initially, the Opposite Party No.2 had applied by filing a physical application, which was returned to the Opposite Party No.2 with instruction that the system has been changed and all applications relating to HT and EHT shall only be filed online and no other mode is entertained by the petitioner.

6. There is no dispute that the Opposite Party No.2 had filed such application, but as the application was not made online that was returned with instruction. The Opposite Party No.2 filed a complaint being Complaint Case No.04 of 2022 in the GRF, Jajpur Road, being aggrieved.

7. By the order dated 14.02.2022 the GRF had disposed of the complaint. The operative part of the said order reads as follows:

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

a. The petitioner should clear the arrear dues and comply to Clause-17(i) of OERC Distribution(Condition of Supply) Code, 2019 and submit other relevant documents as per law.

b. The O.P. is directed to process the application and effect the power supply in the stipulated time as prescribed in the Regulation on observing proper departmental formalities.”

8. Mr. P.K. Tripathy, learned counsel has fairly submitted that after the said order was passed, the Opposite Party No.2 had cleared all the arrear dues and complied the requirement of Clause 17 (i) OERC Distribution (Condition of Supply) Code, 2019. It has been also admitted by Mr. Tripathy, learned counsel for the petitioner that the said order dated 14.02.2022 as passed by the GRF in C.C. Case No.02 of 2022 has not been challenged by the petitioner at any point of time.

9. At this juncture, we really fail to perceive how subsequently when the matter reached to the OMBUDSMAN-II, the petitioner could reject the application as they were under direction of the GRF to process the application and effect power supply within the stipulated time as prescribed by the Regulation on observing proper departmental formalities.

10. But it is true at the same time as is evident from the objection filed by the petitioner as available in Annexure-8 to the writ petition that the petition, subsequently filed online by the Opposite Party No.2 was rejected, notwithstanding the said order dated 14.02.2022. As the Opposite Party No.2 felt aggrieved partly by the order passed by the GRF, he had approached the OMBUDSMAN-II. The OMBUDSMAN-II reappraised all the materials and also considered the order dated 14.02.2022.

11. After recording the reasons, the OMBUDSMAN-II has passed the following order:

“1. The respondent is directed to provide a new power supply of 30 KVA load to the petitioner’s industrial premises from his existing 100KVA 33/0.4KV Sub-station on LT after observing all formalities under rules and regulations in force within 15 days from

the date of receipt of letter of acceptance from the petitioner and file compliance before this Authority within 30 days.”

12. Mr. Tripathy, learned counsel has strenuously argued before us that after the application of the Opposite Party No.2 stood rejected, the OMBUDSMAN-II did not have any authority to pass such direction as passed by the impugned order. Having due regard to the submission made by Mr. Tripathy, learned counsel and on perusal of the records as available before us, we are of the view that the petitioner had committed serious illegality by acting on the application of the Opposite Party No.2 and rejecting the same, when the order dated 14.02.2022 passed by the GRF was in force and unchallenged by the petitioner. As such, the said action being illegal, the petitioner is directed to restore the application of the Opposite Party No.2 which has been rejected during the pendency of the proceeding before the OMBUDSMAN-II and act according to the order passed by the OMBUDSMAN-II, as we do not find any infirmity in the said order. Moreover, that order is in no manner prejudicial to the petitioner. The said order dated 23.06.2022 (Annexure- 9 to the writ petition) shall be complied with by 30.09.2022

13. The writ petition, subject to the observation made above, stands dismissed.

14. There shall be no order as to costs.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge

