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**ORDER**  
**OF**  
**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**IN THE MATTER OF**  
**SRI MADAN MOHAN DEY**

**- VS -**

**WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LTD**

**CASE NO. COMP/WBSEDCL/331/15-16**

IN RE COMPLAINTS OF SRI MADAN MOHAN DEY UNDER SECTION 142 OF THE ELECTRICITY ACT, 2003 FOR NON-COMPLIANCE WITH THE ORDER DATED 13.05.2014 ISSUED BY THE OFFICE OF THE OMBUDSMAN OF WEST BENGAL ELECTRICITY REGULATORY COMMISSION AND FORWARDED TO WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED VIDE NO. OMBUD/W-1609 AG/13/2035 DATED 15.05.2014.

**PRESENT:**

**SRI R. N. SEN, CHAIRPERSON**

**SRI AMITAVA BISWAS, MEMBER**

**DATE: 07.12.2016**

Order of the Commission regarding complaints of Shri Madan Mohan Dey under section 142 of the Electricity Act, 2003 for non-compliance with the Order dated 13.05.2014 issued by the Office of the Ombudsman of the Commission and forwarded to West Bengal State Electricity Distribution Company Limited vide No. OMBUD/W-1609 AG/13/2035 dated 15.05.2014

Noting by Office or Advocate	Sl. No.	Date	Office notes, reports orders or proceedings with signature
		07.12.2016	<p style="text-align: center;"><u>ORDER</u></p> <p>1.0 One Shri Madan Mohan Dey, S/o Late Kanailal Dey, Vill. &amp; P. O. Chakmakrampur, P. S. KGP (L), Dist. Paschim Medinipur, West Bengal, Pin 721149 (hereinafter referred to as the "complainant") submitted an application to the West Bengal Electricity Regulatory Commission (hereinafter referred to as the "Commission") dated 29.10.2015 stating, inter-alia, that the Ombudsman, West Bengal Electricity Regulatory Commission appointed under Section 42(6) of the Electricity Act, 2003 (hereinafter referred to as the "Act"), had in his settlement order dated 13.05.2014 issued directions to the West Bengal State Electricity Distribution Company Limited (in short "WBSEDCL") for payment of compensation @ Rs. 500.00 for each additional day of delay in effecting connection from the period from 04.09.2010 to 22.07.2011 (322 days) and a further compensation @ Rs. 500.00 per additional day for 816 days from 29.10.2011 to 21.01.2014 amounting to Rs. 5,69,000.00 and the same was forwarded to them vide letter no OMBUD/W-1609 AG/13/2035 dated 15.05.2014 of the Office of the Ombudsman.</p> <p>The complainant submitted vide his application that the Order dated 13.05.2014 of the Ombudsman has not been complied with by WBSEDCL.</p> <p>2.0 On perusal of the petition along with the documents submitted by the complainant, the Commission admitted the matter and decided to hear it. Accordingly, notices to both the complainant and WBSEDCL (the licensee) were served under no. WBERC/Comp/WBSEDCL/329/15-16/1345-1346 dated the 09<sup>th</sup> November, 2016 intimating that the</p>

			<p>hearing would take place on 17.11.2016 at 11.30 hours at the office of the Commission.</p> <p>3.0 The Commission took up the hearing on 17.11.2016 as scheduled. Shri D. Gupta, Chief Engineer, CRM Cell, WBSEDCL represented WBSEDCL in the hearing. Sri Samar Bijoy Ghosh, claiming to be working cultivator, along with the complainant Sri Madan Mohan Dey attended the hearing with due authorization.</p> <p>4.0 The representative of WBSEDCL submitted that the impugned order dated 13.05.2014 issued by the Ombudsman of WBERC has been challenged before the Hon'ble High Court at Calcutta which has not yet been disposed of by the Hon'ble High Court. Hence, he is unable to make any comment on the subject.</p> <p>5.0 In this connection, the Commission brought to the notice of the representative of WBSEDCL to the order of the Hon'ble Supreme Court dated 22.08.2016 passed in the matter of WBSEDCL – Vs – WBERC vide SLP (C) No. 18779 of 2016 (West Bengal State Electricity Distribution Company Limited – Vs – Mandira Mukherjee &amp; Ors.). The relevant part of the order of the Hon'ble Apex Court is quoted below:</p> <p>Quote:</p> <p style="padding-left: 40px;">UPON hearing the counsel the Court made the following ORDER</p> <p style="padding-left: 40px;">The Special Leave Petitions are dismissed.</p> <p style="padding-left: 40px;">Application(s) pending, if any, shall stand disposed of accordingly.</p> <p style="text-align: right;">Unquote:</p> <p>6.0 The Commission observed that it finds no reason to give any</p>
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			<p>cognignence to the writ petition stated to have been filed by WBSEDCL before the Hon'ble High Court at Calcutta, since, the order of the Hon'ble Supreme Court has conclusively settled the issue raised in the SLP as referred to above. Moreover, the Commission has not been served with any such notice confirming filing of a "review petition" before the Hon'ble High Court at Calcutta.</p> <p>7.0 The representative of WBSEDCL submitted that in the SLP (C) No. 18779 of 2016 (West Bengal State Electricity Distribution Company Limited – Vs – Mandira Mukherjee &amp; Ors.), WBSEDCL had only challenged the authority of the Ombudsman in awarding order for compensation but the merit of any of the order of Ombudsman was not challenged. Therefore, by virtue of the orders of Hon'ble Supreme Court, only the authority of the Ombudsman in regard to award of compensation payable to the consumers has been settled. But, in the writ petition before the Hon'ble High Court, the power as well as the merit of the order dated 13.05.2014 issued by the Ombudsman in the instant case has been challenged and the same is pending before the Hon'ble High Court at Calcutta for disposal</p> <p>8.0 The Commission observed that the statement made by the representative of WBSEDCL during the hearing requires further examination before passing any order in the instant case for payment of compensation as directed by the Ombudsman of the Commission. The Commission directed WBSEDCL to submit a detailed statement in writing covering all the aspects of the submission made during the hearing within 15 days from the date of receipt of this order. However, if, on examination of the submission of WBSEDCL, it is found that the contention of WBSEDCL is not tenable and that the Commission has been misled, then the Commission will impose penalty on WBSEDCL, as deemed fit, and direct payment of compensation to the consumer concerned as already ordered by the Ombudsman.</p>
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Order of the Commission regarding complaints of Shri Madan Mohan Dey under section 142 of the Electricity Act, 2003 for non-compliance with the Order dated 13.05.2014 issued by the Office of the Ombudsman of the Commission and forwarded to West Bengal State Electricity Distribution Company Limited vide No. OMBUD/W-1609 AG/13/2035 dated 15.05.2014

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			<p>9.0 Let a copy of this order be served upon Shri Madan Mohan Dey and WBSEDCL.</p> <p style="text-align: center;">Sd/- <b>(AMITAVA BISWAS)</b> MEMBER</p> <p>Dated : 07.12.2016</p> <p style="text-align: right;">Sd/- <b>(R. N. SEN)</b> CHAIRPERSON</p>
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