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ORDER

OF

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF

SRI PRADIP KUMAR MAITY

- VS -

WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LTD

CASE NO. COMP/WBSEDCL/324/ /14-15

IN RE COMPLAINTS OF SRI PRADIP KUMAR MAITY UNDER SECTION 142 OF THE ELECTRICITY ACT, 2003 FOR NON-COMPLIANCE WITH THE ORDER DATED 31.10.14 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-399 AG/13/4088 DATED 03.11.2014.

PRESENT:

SRI R. N. SEN, CHAIRPERSON

SRI AMITAVA BISWAS, MEMBER

DATE: 25.01.2017

Order of the Commission regarding complaints of Shri Pradip Kumar Maity under section 142 of the Electricity Act, 2003 for non-compliance with the Order dated 31.10.14 issued by the Office of the Ombudsman of the Commission and forwarded to West Bengal State Electricity Distribution Company Limited vide No. OMBUD/W-399 AG/13/4088 dated 03.11.2014

Noting by Office or Advocate	Sl. No.	Date	Office notes, reports orders or proceedings with signature
		25.01.2017	<p style="text-align: center;"><u>ORDER</u></p> <p>1.0 One Shri Pradip Kumar Maity, S/o Late Nityananda Maity, Vill. Dalbolda, P. O. Bodhra, P. S. Ramnagar, Dist. Purba Medinipur, West Bengal, Pin 721423 (hereinafter referred to as the "complainant") submitted an application to the West Bengal Electricity Regulatory Commission (hereinafter referred to as the "Commission") dated 31.07.2015 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 31.10.2014 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 issuing quotation for 122 days from 13.8.2011 to 12.12.2011 and a further compensation @ Rs. 500 per additional day of delay in effecting electricity connection for 385 days from 16.2.2012 to 06.03.2013 amounting in total to Rs. 2,53,500 within a month of the order, and the same was forwarded to them vide letter no. OMBUD/W-399 AG/13/4088 dated 03.11.2014 of the Office of the Ombudsman.</p> <p>The complainant has submitted vide his application that the Order dated 31.10.2014 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/324/14-15/2044(1-2) dated the 04th January, 2017 intimating that the hearing would take place on 19.01.2017 at 11.30 hours at the office of the Commission.</p>

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		<p>3.0 The Commission took up the hearing on 19.01.2017 as scheduled. Shri D. Gupta, Chief Engineer, CRM Cell, WBSEDCL represented WBSEDCL in the hearing. Sri Pradip Kumar Maity, the complainant, attended the hearing.</p> <p>4.0 The representative of WBSEDCL submitted that the impugned order dated 31.10.2014 issued by the Ombudsman of WBERC has been challenged before the Hon'ble High Court at Calcutta, and the WP 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 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 & Ors.).</p> <p>6.0 The representative of WBSEDCL submitted that WBSEDCL has filed a review petition before the Division Bench of the Hon'ble High Court at Calcutta against the order of the Apex Court.</p> <p>7.0 The Commission finds no reason to give any cognizance 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 notice confirming filing of a "review petition" before the Division Bench of the Hon'ble High Court at Calcutta.</p> <p>8.0 The representative of WBSEDCL submitted that in the SLP (C) No. 18779 of 2016 (West Bengal State Electricity Distribution Company Limited – Vs – Mandira Mukherjee & Ors.), WBSEDCL had only challenged the</p>
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			<p>authority of the Ombudsman in awarding order for compensation but the merit 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 31.10.2014 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>9.0 On being asked by the Commission to submit before the Commission the specific details that constitute the merit of the writ petition that has been filed before the Hon'ble High Court at Calcutta, the representative of WBSEDCL could submit only one reason i.e., the application by the complainant before the Ombudsman was delayed by more than 4 months. However, the representative of WBSEDCL submitted that only after going through the writ petition, he can submit the detailed reasons cited as merit of the writ petition. The Commission was not convinced with the arguments. Moreover, it emerged that there is no stay order with regard to compliance of the orders of the Ombudsman.</p> <p>10.0 In view of the above, the Commission directed WBSEDCL to go through the writ petition between the lines and see if there is any merit at all. If in the negative, payment of compensation should be made to the complainant within 30 days from the date of receipt of the order. If, however, in the affirmative, WBSEDCL shall 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. It is made clear that, if on examination of the submission of WBSEDCL, it is found that the contention of WBSEDCL is evasive and misleading the Commission will impose penalty on WBSEDCL, as deems fit.</p>
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			<p>11.0 Let a copy of this order be served upon Shri Pradip Kumar Maity and WBSEDCL.</p> <p>Sd/- (AMITAVA BISWAS) MEMBER</p> <p>Dated : 25.01.2017</p> <p>Sd/- (R. N. SEN) CHAIRPERSON</p>
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