



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

IN THE MATTER OF

SK. ABU TORAF

- VS -

WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LTD

CASE NO. COMP/WBSEDCL/420/19-20

IN REGARD TO THE COMPLAINTS OF SK. ABU TORAF UNDER SECTION 142 OF THE ELECTRICITY ACT, 2003 FOR NON-COMPLIANCE WITH THE ORDER DATED 04.09.2018 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-125 SSS/2017/1295 DATED 30.10.2018.

PRESENT:

SRI SUTIRTHA BHATTACHARYA, CHAIRPERSON

SRI DURGADAS GOSWAMI, MEMBER

SRI PULAK KUMAR TEWARI, MEMBER

DATE: 03.05.2021



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Order of the Commission regarding complaints of Sk. Abu Toraf under section 142 of the Electricity Act, 2003 for non-compliance with the Order dated 04.09.2018 issued by the Office of the Ombudsman of the Commission and forwarded to West Bengal State Electricity Distribution Company Limited vide No. OMBUD/W-135 SSS/2017/1295 dated 30.10.2018

Noting by Office or Advocate	Sl. No.	Date	Office notes, reports orders or proceedings with signature
			<p style="text-align: center;"><u>ORDER</u></p> <p>1.0 One Sk. Abu Toraf, S/o Sk. Abul Hazem, Vill. Baragarh, P. O. Natunhat, P. S. Mangalkote, Dist. Purba Bardhaman, PIN 713147, West Bengal (hereinafter referred to as the "Complainant") approached the West Bengal Electricity Regulatory Commission (hereinafter referred to as the "Commission") with an application dated 22.05.2019 stating 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 04.09.2018 issued the following directions to the West Bengal State Electricity Distribution Company Limited (in short "WBSEDCL") and the same was forwarded to them vide letter no. OMBUD/W-125 SSS/2017/1295 dated 30.10.2018 of Office of the Ombudsman.</p> <p>a) That the OP shall refund the amount in excess of Rs. 13,500.00 to the complainant;</p> <p>b) That the OP shall pay compensation of Rs. 2,92,000.00 to the complainant within one month from the date of receipt of this order;</p> <p>c) The OP shall submit a report of compliance.</p> <p>The complainant alleged vide his application to the Commission for non-compliance with the Order dated 04.09.2018 of the Ombudsman by WBSEDCL.</p> <p>2.0 On perusing the contents of the petition filed by the Complainant and on going through the documents submitted by the Complainant the Commission was of the view that the matter required careful</p>



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			<p>examination. The Commission admitted the matter and decided to hold an e-hearing and served notices to both the Complainant and WBSEDCL (the licensee) under no. WBERC/Comp/WBSEDCL/420/19-20/474-475(I-V) dated the 15th March, 2021 intimating that the e-hearing was to be held on 12.04.2021 at 14.30 hours.</p> <p>3.0 The e-hearing was held on 12.04.2021 as scheduled. Shri Sanjay Kumar Bhunia, Chief Engineer, CRM Cell, WBSEDCL was present during the meeting. The complainant (or his representative) did not attend the e-hearing.</p> <p>4.0 During the hearing, Sri Subhashis Roy, on behalf of WBSEDCL, submitted that WBSEDCL has filed a writ petition before the Hon'ble High Court at Calcutta challenging the order dated 04.09.2018 issued by the Ld. Ombudsman in case no. W-135 SSS/2017.</p> <p>5.0 The Commission enquired as to why WBSEDCL has filed the petition before the Hon'ble High Court at Calcutta after a lapse of more than two and half years. The order with certain directions including submission of compliance report was passed by the Ld. Ombudsman in the month of April, 2018. Since then, WBSEDCL has neither complied with the order of the Ld. Ombudsman nor they have submitted any status report on the subject. The copy of the petition under section 142 submitted by the complainant to the Commission was also forwarded to WBSEDCL by the Commission vide its letter No. WBERC/Comp/WBSEDCL/420/19-20/4197 dated 17th June, 2019 with a request to submit the status report on the directions given by the Ld. Ombudsman in his order dated 04.09.2018. In reply WBSEDCL stated vide letter dated 28.06.2019 that WBSEDCL has directed their lawyer to file a petition before the Hon'ble High Court at Calcutta challenging the order of the Ld. Ombudsman, in question. But, after that no information has been received from the WBSEDCL in regard to their submission of petition before the Hon'ble High Court, or the status report on the compliance of the order dated 04.09.2018 issued by the Ld. Ombudsman.</p>
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			<p>6.0 The Commission, also enquired as to how WBSEDCL showed an outstanding payment of Rs.1,50,477.50 till 2015 against the complainant when there was no supply of electricity due to damage of transformer in 2009. In reply, the representative of WBSEDCL said that he has taken the charge recently and he can reply only after going through the documents available with him. However, the representative of WBSEDCL confirmed that the bills raised on the complainant after the damage of the transformer has been deleted from the system and he will send a report on the same shortly to the Commission.</p> <p>7.0 Upon enquiring by the Commission as to whether WBSEDCL has received any stay order from the Hon'ble High Court on the order of the Ld. Ombudsman. The representative of WBSEDCL in reply stated that they have just filed the petition before the Hon'ble High Court at Calcutta and that they have not received any stay order from the Hon'ble High Court at Calcutta in this respect.</p> <p>8.0 The Commission observed that the respondent has only two options open before them i.e. either WBSEDCL shall comply with the order of the Ld. Ombudsman or they will have stay order against the order, in question, of the Ld. Ombudsman from the court of law. But, unfortunately, they have neither complied with the order nor they have applied before the court of law in time. From the documents, it appears that the order was passed by the Ld. Ombudsman on 04.09.2018 whereas, WBSEDCL decided on 28.06.2019, more than nine and a half months later, to challenge the order of the Ld. Ombudsman and finally filled on 8th April, 2021 which is more than two and a half years in totality. It is a gross negligence on the part of the respondent. The Commission, opined that simply filing a petition before the Court of Law challenging the order of the Ld. Ombudsman cannot be treated as a stay order. Therefore, WBSEDCL will either comply with the order or obtain stay order against the order, in question, within seven days. However, the representative of WBSEDCL requested to grant 15 days' time.</p>
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			<p>9.0 The Commission further expressed their bewilderment as to which legality WBSEDCL can ignore the order of the Ld. Ombudsman, which is valid in law, for such a long time and file the petition challenging the said order after the proceedings under section 142 started. The Commission made it very clear that either the licensee shall have to comply with the order of the Ld. Ombudsman or obtain a stay to the Order of the Ld. Ombudsman in time.</p> <p>10.0 In view of above, the Commission directed that</p> <p>a) WBSEDCL shall submit the compliance report to the Commission within 24th April, 2021.</p> <p>b) The next hearing is fixed on 27th April, 2021 at 14.30 hours.</p> <p>11.0 Let a copy of this direction be served upon WBSEDCL.</p> <p>Sd/- (PULAK KUMAR TEWARI) MEMBER</p> <p>Sd/- (DURGADAS GOSWAMI) MEMBER</p> <p>Sd/- (SUTIRTHA BHATTACHARYA) CHAIRPERSON</p> <p>Dated: 03.05.2021</p>
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Mausumi Guha Roy
(Mausumi Guha Roy)
Secretary

