

W.P.(C) No.7449 of 2018

**W.P.(C) No.7449 of 2018 &
Interim Application No.6357 of 2018**

02. 03.05.2018

This writ petition is against the order dtd.23.2.2018 passed by OMBUDSMAN in Consumer Representation Case No.OM(II)(W)-13 of 2017 as also the order dtd.23.09.2016 passed by the Grievance Redressal Forum in case No.53 of 2016.

It has been contended by the learned Sr. Counsel representing the petitioner that the provision of Clause 110 of the Orissa Electricity Regulatory Commission Code, 2004 (in short OERC Code, 2004) has not been taken into consideration by the authorities while adjudicating the issue in right perspective.

According to the learned Sr. Counsel the notice has been given in pursuance to the provision of clause 110 of the OERC Code 2004 but the same has not been taken into consideration only for the reason that the notice has not been given giving therein 7 days time, as such the order passed by the Forum has been affirmed by the OMBUDSMAN.

This court after hearing learned Sr. Counsel for the petitioner and after going through provision of clause 110 of the OERC Code, has found that the condition precedent for applicability of the Clause 110 of the OERC Code, 2004 is that the consumer may on giving seven days notice in writing to the engineer of such break-down or unfitness take a reduced supply of power as may be necessary and feasible. In such a contingency, he shall not be liable to pay

the charges in accordance with the agreement but he shall pay minimum monthly charges, demand charges where such charges are payable on the basis of the maximum demand recorded in the demand meter and energy charges on the basis of actual energy consumed.

Learned Sr. Counsel for the petitioner has referred to the notice of Lock Out dtd.12.2.2016 and by putting reliance upon the same it has been submitted that the requirement of notice as per the provision of clause 110 has been filled up. But in the order passed by the OMBUDSMAN the said notice has been held not in pursuance to the clause 110 of the OERC Code, 2004 since there is no stipulation in the notice showing willingness for taking reduced supply of power due to break-down as per the condition stipulated in clause 110 of the OERC Code, 2004.

In view thereof let notice be issued to the opposite parties through registered post with A.D. both in the writ petition as well as in the Misc. Case. Requisites be filed within two days. Notice be made returnable before 3.7.2018.

List this case on 3.7.2018.

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S.N. Prasad, J.