

Before the Ombudsman, K.E.R.C. Bangalore

Present: Shaik Ahmed,
Ombudsman

Case No.OMB/B/G-44/2008/4783

Dated 22.08.2008

Complainant :

Mr.Alfred Mathew
C/O APCO Concrete Blocks
& Allied Products,
No.805, 14TH Cross, 1st Phase,
J.P.Nagar,
BANGALORE-560078
(Represented by Mr.Shashi Subramaniam)

Respondents:

1. The Asst.Executive Engineer(Ele)
S-10 Sub Division, BESCOM
J.P.Nagar
BANGALORE-560078.
2. Consumer Grievance Redressal Forum,
BESCOM, Central Stores Premises,
Near E.S.I. Hospital,
Rajajinagar,
BANGALORE-560010.

This is an appeal filed by the Complainant against the Order dated 23.4.2008 passed by CGRF, BESCOM, in file No.CGRF/47/2007/2539 to 2544. The Complainant is represented by Mr. Shashi Subramaniam who has been heard on 28.7.2008. The facts of this case are that the Complainant is a Consumer of electricity supplied to his brick factory (RR NO.BGP 130) located at Gollarapalya, Kanakapura Road Cross, Bangalore Rural District. The 1st Respondent had issued him a Demand Notice of Rs.2,65,793 on 13.7.2007 towards the arrears for the period from 1.12.2004 to 1.6.2007 due to change of C.T. ratio (Meter Constant)

carried out on 30.11.2004.

The Complainant had objected the Demand on the ground that no demand for the period exceeding 2 years could be collected as per the provisions of Clause 4.13 of KERC (Electricity Supply) Code, 2004. The 1st Respondent considering the objection of the Complainant has revised the demand from Rs.2,65,793/- to Rs.1,95,274/- restricting it for a period of 2 years. But subsequently, the 1st Respondent has withdrawn the revised Demand and called upon the Complainant to pay the arrears of Rs.2,65,793/- for the entire period of 31 months on the ground that the Company is entitled to collect the dues of any duration as per the Order of the Hon. High Court of Karnataka passed in Writ Petition No.2568 of 1989 (Banhatti Cooperative Spinning Mills Ltd. V/s K.E.B). The Complainant has further stated that the 1st Respondent has threatened to disconnect the power supply if the Demand of the entire 31 months amounting to Rs.2,65,793/- was not paid. Fearing disconnection of the power supply, the Complainant has paid the entire amount of Rs.2,65,793/- on 18.6.2008 under protest. He had approached the CGRF, BESCOM seeking a direction to the 1st Respondent to set aside the Demand as the same is not in conformity with the law. The CGRF, after hearing both the parties, has rejected the petition holding that the Demand of Rs.2,65,793/- made by the 1st Respondent in his Letter dated 13.7.2007 was in order.

The 1st Respondent has submitted the replies to the contentions made by the Complainant. He has stated that the Demand of Rs.2,65,793/- is in order as the Company can collect the short claim for any period as per the judgement rendered by the Hon.High Court of Karnataka in WP No.2568/89 and Writ Appeal No.2408/90.

I have gone through the records furnished by both the parties and also heard the representative of the Complainant. Under Section 56(2) of the Electricity Act, 2003, the dues for the period exceeding 2 years cannot be collected unless such dues are shown continuously as recoverable arrears of charges towards supply of electricity. This provision of law is in force from 10.6.2003. The Demand Notice issued by the 1st Respondent on 13.7.2007 includes the arrears for the period exceeding 2 years which are preferred for the 1st time without showing the same as arrears which became due from 1.12.2004. This Demand Notice is, therefore, against the provisions contained in Section 56(2) of the Electricity Act, 2003. The 1st Respondent had rightly considered the objection of the Complainant and restricted the Demand for 2 years as provided under Clause 4.13 of KERC (Electricity Supply) Code, 2004, which is issued by the Commission under the provisions of the Electricity Act 2003. But the action of the 1st Respondent to re-revise the Demand for the period exceeding 2 years is against the provisions of Section 56(2) of the Electricity Act 2003. The CGRF has also not considered the above provisions of law. Hence the Order dated 23.4.2008 passed by CGRF, BESCOM, in file No.CGRF/47/2007/2539 to 2544 is set aside as its decision is contradictory to Section 56(2) of the Electricity Act, 2003. The 1st Respondent is directed to adhere to the revised Demand of Rs.1,95,274/- calculated for a period of 2 years and refund the amount collected over and above this amount by way of adjustment in future bills.

The Complaint, therefore, is allowed.

(Shaik Ahmed)
Ombudsman

1. Shri Alfred Mathew, C/o APCO Concrete Blocks & Allied Products, No.805, 14th Cross, 1st Phase, J.P.Nagar, Bangalore-560078.

2. Consumer Grievance Redressal Forum, BESCOM, Central Stores Premises, Near E.S.I. Hospital, Rajajinagar, Bangalore-560010.

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3. The Asst,Executive Engineer(Ele), S-10 Sub Division, BESCO, JP Nagar, Bangalore-560078

4. The Managing Director, BESCO Corporate Office, K.R.Circle, Bangalore-560001

5. PS to Hon.Chairman 6. Secretary 7.Consultant (O.C.A.) 8. Director(Tariff)

9. Chairpersons of all CGRF

OMB/B/G-44/2008

10.07.2008

Mr.Alfred Mathew,
C/o Apro Concrete Blocks
& Allied Products,
No.805, 14th Cross, 1st Phase,
J.P.Nagar,
BANGALORE-560078.

Sir,

We are in receipt of your Appeal dated 20.06.2008. We have received the comments from the Licensee on the points raised by you in your appeal. In case you have any additional evidence to adduce or documents to furnish in support of your case, you may appear in person or through your representative before the Ombudsman on **28.07.2008** between 11.00 AM to 5.00 PM in the office of K.E.R.C. In case you do not do so, your case would be decided on the records already available with us.

Yours faithfully,

(Shaik Ahmed)
Ombudsman