

**Before the Karnataka Electricity Regulatory Commission, Bangalore**

**Dated this the 23<sup>rd</sup> day of September 2004**

**Present**

- |                                  |          |                 |
|----------------------------------|----------|-----------------|
| <b>1. Sri. Philipose Matthai</b> | <b>-</b> | <b>Chairman</b> |
| <b>2. Sri. H.S. Subramanya</b>   | <b>-</b> | <b>Member</b>   |
| <b>3. Sri. S.D.Ukkali</b>        | <b>-</b> | <b>Member</b>   |

**Case Nos: OP - 07/2004**

**Between**

Sri Raghuv eer V Kustagi,  
r/o Sri Mahalaxmi Restaurant,  
Bank Road,  
Gadag.

**Petitioner**

**and**

1. The Managing Director,  
HESCOM,  
Eureka Junction,  
Deshpande Nagar,  
Hubli.
2. The Chief Engineer, Elec.,  
O & M Zone,  
HESCOM,  
Navanagar,  
Hubli.
3. The Executive Engineer, Elec.,  
O & M Division,  
Hescom,  
Tabib Land, Hubli.
4. The Asst.Exe. Engineer, Elec,  
Rural Sub-Division,  
Hescom,  
Tabib Land, Hubli.
5. The Asst.Exe. Engineer, Elec,  
CSD, Hescom,  
Gadag.

**Respondents**

(By Sri. S. Sriranga, Adv.)

The Petitioner was a registered consumer of Respondent No.4, bearing No. MP 3718/P7/D5, which he voluntarily got disconnected in May 2001. The sanctioned load of this installation was 93.34 HP. It was noticed by the audit that the consumer had exceeded the contract demand and hence he was back billed for Rs. 76, 785/- for the period from Dec. 1999 to Jan 2001. The Petitioner had challenged this back bill before the First Appellate Authority, which dismissed the appeal. Thereupon he had preferred the second appeal before the Second Appellate Authority, which was also dismissed.

2. We have heard the Petitioner and the learned Counsel for the Respondents. Both the Petitioner and the learned Counsel for the Respondents have filed their written submissions and have pleaded that the case may be decided on the basis of their written submissions. We have gone through the submissions in detail.

3. The Petitioner has claimed in his petition that the Second Appellate Authority has not passed the order and therefore prayed that the recovery of the back-bill be stayed till the orders are passed. The Respondents have, however, pointed out that the Second Appellate Authority has already passed the orders on 4.12.2003, dismissing the appeal and that the order was sent to the Petitioner by Registered Post, and the same came back without service with the remark that 'the address was insufficient', and thereafter, the order was got served on the Petitioner through the Respondent No.5. The Petitioner has changed his stand and is now requesting the Commission to consider his petition in the form of appeal against the orders of the 2<sup>nd</sup> Appellate Authority. The Petitioner claims that the Appellate Authorities did not give him proper opportunity. The Petitioner attributes the back bill to the defective meter and also claims that the arrears cannot be recovered under section 56(2) of the Electricity Act, 2003, as it is more than 2 year-old.

4. Evidently, the Petitioner has not taken a consistent stand about his case. He had statutory right to appeal to the First and Second Appellate Authorities which he has exercised and the matter has reached finality with the Second Appellate Authority passing order on 4.12.2003. The only provision under which the Commission could look into his case is by invoking suo motu powers under Regulation 44.10 of KERC (ES & D) Code 2000-2001. The Petitioner has not made out any case under this provision, and we are not inclined to invoke the suo motu powers.

5. In view of the above we reject the petition and order accordingly. The Petition is **rejected**. No costs.

**Sd/  
(Philipose Matthai)**

**Sd/  
(H.S.Subramanya)**

**Sd/  
(S.D.Ukkali)**