

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 14th day of October 2004

Present

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

Case Nos: OP - 11/2004

Between

Sri D.R.Thimmashetty,
#972, 65th Cross,
5th Block.
Rajajinagar,
Bangalore - 10.

Petitioner

and

1. Managing Director,
BESCOM,
K.R.Circle,
Bangalore - 1.
2. Superintending Engineer (Elect),
O & M Bescom,
Siddaveerappa Extension,
Davanagere.
3. Asst Exe. Engineer, (Elect), Vigilance,
KPTCL, HESCOM
Veena Plaza, Unakal,
Hubli.
4. Asst Exe. Engineer, (Elect),
O & M Sub Division,
BESCOM
Adadi Road,
Davanagere.

Respondents

(By Sri S. Sriranga, Adv.)

The Petitioner has filed petition against the back bill of Rs. 1 33 889/-, levied on him after the 3rd Respondent had held that the petitioner was supplying water through his irrigation pump set to a nearby Dhaba by means of an underground pipe.

2. The facts of this case, in a nutshell, are as follows. -

The Petitioner is a registered consumer of Bescom having RR No. HBIP - 9, using the energy to run an irrigation pump set. On 24.11.2000, the vigilance staff had inspected the premises of one Sukh Sagar Dhaba, having RR No. HBP - 12. The Vigilance staff had noticed that a rooftop sintex tank and two troughs of the Dhaba were getting water from the IP set of the Petitioner, by means of an underground pipe. Therefore, the Petitioner was back billed for Rs. 1 33 899/-. The Petitioner had preferred an appeal against this back bill to the 1st Appellate Authority by paying 25% of the billed amount. The said Authority had partially allowed the plea of the Petitioner and reduced the calculated consumption to 25 % of the billed units and directed the Respondents to raise the revised back bill. The Petitioner has contended that water was supplied to the Dhaba through his installation for drinking water purposes on humanitarian grounds and it was not sold. Hence there was no commercial use of water. He also claims that the Gram Panchayat had given permission to the hotel a day before the inspection and therefore the back bill should be limited for a period of one day only and not for six months. He prays for the refund of the 25% bill amount paid by him with interest.

3. The Respondents have put in appearance and have filed detailed statement of objections. The Respondents have contended that the Dhaba is a registered consumer bearing RR No. HBP - 12 and is in existence since 8.5.1989, and that it is being run on commercial lines.

4. We have heard the Petitioner and the learned Counsel for the Respondents. We have also considered the written submissions made by both the parties. It is not in dispute that water was being supplied from the I.P.set to

the Dhaba although the period of use and the quantity of water supplied has not been ascertained. The said Dhaba is being run on commercial lines since 1989 and was not started a day before the inspection as claimed by the Petitioner. It is hard to believe that the Petitioner gave water to the Dhaba on humanitarian grounds, as claimed by him, bearing all the energy charges. Dhaba is certainly not a charitable institution or a free water-hut for the use of the public.

5. However, we notice that the Respondent No.3 has back billed the installation, as if it were a theft case under Regulation 44.07 of 1988 Supply Regulations. This ought to be a case of misuse of energy under Regulation 44.02 and should be assessed under that Regulation. Therefore the assessment of back bill by the Vigilance is not in accordance with the law. As a matter of fact, the quantum of energy misused and the period of misuse are required to be assessed by the jurisdictional Ass. Executive Engineer alone and the Vigilance staff should not have ventured to make such assessments.

6. Therefore, we are of the view that the intervention by the Commission under suo motu powers, vested in it under Regulation 44.10 of ES & D Code of 2000-2001, is necessary. We therefore direct the Respondent No. 4 to assess the quantum of energy misused and the period of misuse under Regulation 44.02 of KEBSR -1988. The basis for assessing the period and the quantum of energy misused shall be recorded by the Asst. Executive Engineer, (Ele.), and intimated to the Petitioner, giving him an opportunity of being heard and revise the back bill. He should complete this exercise within one month of the receipt of this order. The Petitioner is at liberty to approach the Commission, if he feels that the basis for assessing the period and the quantum of energy misused are not reasonable.

7. Under these circumstances, the petition is **allowed**. Ordered accordingly.

Sd/
(Philipose Matthai)

Sd/-
(H.S.Subramanya)

Sd/-
(S.D.Ukkali)