

No.N/47/11

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION BANGALORE

Dated 22nd December 2011

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Complaint No. 05/2011

BETWEEN

M/s. Ravi Products
No.60, Hill View Buildings
Nayandahalli, Mysore Road
BANGALORE – 560 039
(Represented by M/s. Shridhar Prabhu Associates) ... Petitioner

AND

1. The Asst. Executive Engineer (Ele.)
O&M Division, BESCO
BANGALORE – 560 001
2. Mangalore Electricity Supply Company Limited
1st Floor, Paradigm Plaza, A.B. Shetty Circle
MANGALORE – 575 001
3. Bangalore Electricity Supply Company Limited
K.R. Circle
BANGALORE – 560 001
4. Chamundeshwari Electricity Supply Corporation Limited
No. 927, L.J. Avenue, Saraswathipuram
New Kantharaja Urs Road
MYSORE – 570 009
5. Gulbarga Electricity Supply Company Limited
Station Road
GULBARGA – 585 101
6. Hubli Electricity Supply Company Limited
Navanagar, P.B. Road
HUBLI – 580 025
(Represented by Asst. Law Officer, BESCO) ... Respondents

1. In this complaint, the petitioner has sought for framing of Regulations providing for the procedure to be followed by a consumer while preferring an appeal under Section 127(1) of the Electricity Act, 2003, besides seeking certain directions on the appeal filed by the complainant.

2. We have heard Sri Shridhar Prabhu, learned counsel for the Complainant and Sri Vinayak, Assistant Law Officer for BESCO.

3. In our view, this complaint as regards the appeal filed by the consumer is not maintainable before this Commission. As held by the Hon'ble Supreme Court in the case of Maharashtra State Distribution Co. Vs. Lloyd Steel Industries Ltd. (AIR 2008 SC 1042) no individual consumer disputes can be adjudicated by this Commission. This judgment is respectfully followed by this Commission in several cases. Duly following the settled law the complaint regarding complainant's pending appeal is liable to be rejected as not maintainable.

4. The issue relating to the prayer for framing Regulations providing for detailed procedure to be followed by a consumer, time for disposal of appeal under Section 127(1) of the Electricity Act, 2003, we are of the opinion that under Section 127(1) read with Section 181(2)(zo) of the Electricity Act, 2003, this Commission can only prescribe the form of preferring an appeal and the manner in which such form shall be verified and fee for preferring the appeal. This Commission has already framed required Regulations namely KERC (Procedure for filing appeal before Appellate Authority) Regulations, 2005. These Regulations meet the requirement of Section 127(1) of the Act and nothing more is required to be done by this Commission.

5. In exercise of the powers conferred under Section 127(1) this Commission cannot prescribe any time limitation in disposal of appeals as sought as such prescription of time are not permissible in law unless statute itself prescribe limitation.

6. Section 127(3) of the Electricity Act, 2003 mandates that the appellate authority shall dispose of the appeal after hearing the parties (emphasis supplied). Law is well settled on the term 'right of hearing'. 'Right of hearing' as held by the Hon'ble Supreme Court in the case of M/s. Hindustan Petroleum Corporation Vs. Darius Shapur Cherai (AIR 2005 SC 3520) would mean effective hearing. However, what is the 'effective hearing' cannot be precisely defined as it will depend on the facts of each case. In our view, Section 127(3) of the Electricity Act, 2003 itself provides for enough safeguards to the consumers, as the 'right of hearing' includes granting of sufficient time, expeditious disposal, etc. We are sure that all Appellate Authorities designated under Section 127 of the Electricity Act, 2003 are aware of the legal position stated above and will act accordingly.

7. In the light of the foregoing discussions, this complaint is rejected.

Sd/-	Sd/-	Sd/-
(M.R. SREENIVASA MURTHY)	(VISHVANATH HIREMATH)	(K.SRINIVASA RAO)
CHAIRMAN	MEMBER	MEMBER