

BEFORE THE ELECTRICITY OMBUDSMAN

No. 16 C-1, Miller Tank Bed Area
Vasanthnagar, Bengaluru-560 052.

Present: S.S. Pattanashetti
Electricity Ombudsman

Case No.OMB/H/G-115/2011

.....

1. Dr.V.M. Kerudi,
Kerudi Complex,
Ashok Circle,
Ranebennur-581115, : Appellants.
Haveri District.

2. S.V.Kerudi
S/o V.M. Kerudi
922, Kerudi Complex
Ashok Circle, Ranebennur-581115
Dist.Haveri. Mob:9449121976.

VS

1. The Assistant Executive Engineer(Ele),
HESCOM, O & M Sub-Division,
Ranebennur-581115, Dist.Haveri
2. The Chairperson, CGRF, HESCOM, Neelagoudar
Complex, P.B. Road
Haveri. :Respondents.

In pursuance of the order dated 7th Day of June 2018 of Hon'ble
High Court of Karnataka in Writ Petition Nos.109357-

109358/2017(GM-KEB) filed by Dr.V.M Kerudi, this case was taken up for hearing on 9-07-2018 and finally on 17-07-2018. In this Writ Petition the Hon'ble High Court has remanded the matter to the Ombudsman to reconsider the issue raised by this Court in the order dated: 21-04-2016 passed in W.P No.27065-66/2012 in accordance with the directions given therein and to pass a Speaking Order.

The Hon'ble High Court of Karnataka in W.P. No.27065-66/2012 in the order dated: 21-04-2016 has stated as follows:

“Para 9: The Appellate Authority has not applied its mind to the official memorandum dated: 08-05-2002 vide annexure-F, whereunder the specified load of one of the buildings had been enhanced from 14 KW to 21 KW. It has not applied its mind to the fact that as per Clause 3.1.7 (c), as long as the requested additional load is within the specified load already sanctioned to the installation, then as per ES & D 2000-01, if the applicant had already remitted the cost of service line at the rates prevailing on the date, there would be no necessity of collecting service line cost for the additional load. Petitioner is fortified in this contention by the internal communication of the General Manager addressed to the Superintending Engineer on 25-08-2008 produced at Annexure-M, wherein reference has been made to the provisions contained in Clause 3.1.7(c). According to the petitioner, if his contentions are accepted, then there would be no necessity at all to collect augmentation and other charges of

Rs.1,17,000/- towards supply of 18 KW of additional load during the year 2008 and another sum of Rs.1,17,000/- towards supply of additional load to the third floor during the year 2009. This aspect of the matter has to be re-considered by the Appellate Authority.”

Proceedings in respect of this complaint filed before this authority was conducted on 09-07-2018 and on 17-07-2018 in accordance with the orders of Hon’ble High Court in WP No.27065-66 of 2012 and 109357-1093358/2017 (GM-KEB). Hon’ble High Court in WP No.109357-109358 was pleased to direct this authority to look into the issue identified at paragraph 8 of the order in WP no. 27065-27066/2012 which reads as under.

“Whether the respondent – Assistant Executive Engineer, HESCOM, Ranebennur , had levied and collected excess amounts from the appellant while sanctioning power at various points of time?”

The complainant Dr.V.M.Kerudi and respondent AEE, HESCOM, Ranebennur were present during the hearing and reiterated the stand they had already taken at various points of time. In order to examine whether the respondent AEE,HESCOM, Ranebennur has in fact levied and collected excess amount, it becomes necessary to examine.

a) Whether the ‘D’ Block can be treated as separate.

- b) Whether clubbing of the premises as sought to be done by AEE is sustainable.

Now, I proceed to analyse the issues.

After careful and anxious consideration of documents and submissions made by the parties to this proceeding the following points emerge for consideration.

- a) It is not in dispute that various officers of HESCOM right from the year 2000 have confirmed that 'D' block is separate and gone on record that necessary approvals could be given for additional loads. This view is once again reiterated in the communication of GM(Technical) vide his letter dt.03-12-2008, wherein he has confirmed that 'D' block is separate and necessary approvals could be given. It is settled position of law that once the highest functionary in machinery has expressed its opinion on a particular issue, then it would not be appropriate for authorities subordinate to such functionary, to take a contrary stand. It becomes clear that it is not open for HESCOM officers below to give an interpretation contrary to the decisions of their superiors. The view taken by GM (Tech) that 'D' block is separate has neither

been modified nor rescinded which goes to show that the need for revising the decision does not arise at all.

b) By virtue of the above communication the requirement of clubbing all the blocks and treating them as one does not arise at all. In the absence of such compelling reasons this authority is not inclined to dismiss the view taken by several officers to the effect that 'D' block is separate and therefore the clubbing of all the installations in the scheduled premises does not arise at all.

c) For the foregoing reasons, this authority directs the respondent AEE, HESCOM, Ranebennur, to verify the account of the complainant and ascertain the amount held in excess of actual requirement, and satisfy himself about the correctness of consumer's claims.

In the light of the above discussions I pass the following:

NO.OMB/H/G-115/2011/D-1107

Dated: 16-10-2018

ORDER

1) To treat 'D' block as separate and refund excess amounts already paid by the complainant along with applicable interest up to and inclusive of date of refund by way of cheque.

2) This order to be complied within 30 days of the order and compliance to be reported.

3) No costs.

Sd/-
(S.S.Pattanashetti)
Electricity Ombudsman

To:

- 1) Dr.V.M.Kerudi, Kerudi Complex, Ashok Circle
Ranibennur-581115, Haveri District.
- 2) S.V.Kerudi, S/o V.M. Kerudi,922, Kerudi Complex
Ashok Circle, Ranibennur-581115,
Dist.Haveri.Mob:9449121976.
- 3) The Assistant Executive Engineer(Ele), O & M Sub-Division,
HESCOM, Ranibennur-581115.
- 3) The Chairman, CGRF, HESCOM, Neelagoudar complex
P.B. Road, Haveri.
- 5)The Managing Director, Corporate Office, HESCOM,P.B Road,
Navanagar,Hubli-30
- 6) PS to Hon'ble Chairman,KERC
- 7) PS to Hon'ble Member (A),KERC, 8)PS to Hon'ble Member(M),KERC
- 9) PS to Secretary, KERC

BEFORE THE ELECTRICITY OMBUDSMAN

No. 16 C-1, Miller Tank Bed Area
Vasanthanagar, Bangalore-560 052.

Present: S.S. Pattanashetti

Electricity Ombudsman

Case No.OMB/H/G-115/2011

Dated: 19-09-2018

.....
Dr.V.M. Kerudi
922, Kerudi Complex
Ashok Circle
Ranibennur-581115
Haveri District

: Appellant.

VS

- 4) Electricity Ombudsman for the State of Karnataka,
No.C-1, Miller Tank Bed Area
Vasanthanagar,
Bengaluru-560 052.
- 5) The Assistant Executive Engineer,
HESCOM, O & M Sub-Division
Ranibennur-581115
(Represented by Advocate
Sri H.V. Devaraju, No.39, Shop No.24,
Mezzanine Floor, A,S,V,N,V,Bhavan
K.G. Road, Bangalore-560 009.
3. The Chairperson, CGRF,
Neelagoudar Complex
P.B. Road, Haveri

: Respondents.

