

**BEFORE THE ELECTRICITY OMBUDSMAN**

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)  
Vasanthanagar, Bengaluru-560052.

Present: **B.V. Patil,**  
**Prl. District Judge (Retd)**  
Electricity Ombudsman,  
**Case No. OMB/B/G-363/2019**  
**Dated 18/11/2020**

In the matter of

Sri K.S Ravikumar,  
Flat No. 404, B-8,  
Kailash Apartments,  
Jnanabharathi Enclave,  
Mysore Road, Kengeri,  
Bengaluru – 560059.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Elec),  
O & M K-1 Sub-Division, BESCO,  
Mysore Road, Kengeri,  
Bengaluru - 560056.
- 2) The Assistant Engineer (Elec),  
O & M K-1 Sub-Division, BESCO,  
Mysore Road, Kengeri,  
Bengaluru - 560056.
- 3) Chairperson, Consumer Grievance Redressal Forum (CGRF)  
Bengaluru Urban District,  
Superintending Engineer (Ele),  
West Circle Office, BESCO,  
CA Site, No. 05, West of Chord Road,  
3<sup>rd</sup> Stage, Bhima Jyothi, HSBC Layout,  
Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bengaluru – 560079.

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Respondents

- 1) This Appeal/Representation preferred before this authority by Sri K.S Ravikumar questioning the legality of the order passed by the Consumer Grievance Redressal Forum Bengaluru Urban District (herein after referred as CGRF), bearing No. CGRF 55/2018-19/13.03.2019/1625-27, dated 15.07.2019 under Clause 21.2 of KERC Regulations 2004. After communication of the order passed by the CGRF, Appellant/Complainant submitted their appeal memo on 13.08.2019. The appeal was registered in this office on 14.08.2019, hence the appeal is in time.
- 2) The brief facts of the case are that the Appellant and his wife purchased 3 BHK flat from BDA, the flat was registered in the name of the wife of the Appellant Smt. K.A Neetravathi. The Appellant is paying the electricity consumption charges regularly. The complex in which the wife of the Appellant purchased the flat, consisting of 308 flats in number sharing a common boundary. Kailash-BDA Apartment Owners Welfare Association was formed in the year 2015 for the purpose of maintenance and repairs on common areas within the Kailash Apartment Complexes. The office bearers of the Kailash Association dominated by a group of persons belonging to one particular community, who are prejudiced and biased against the Appellant and his family

members who are belonging to SC Community and ignoring their grievances and problems.

- 3) Each flat in the said complexes had a separate electricity connection with separate meter. The complex of the Appellant consisting of 7 floors, each floor had 4 flats, in the ground floor a meter room consisting of 28 meters belonging to all the 28 flats situated in the complex. The RR No. K1D-21244 was transferred in the name of wife of the Appellant Smt. K.A Neethravathi after purchasing the flat in her name. The meter box is belonging to the consumer and not the association. The electricity is a fundamental essential service, the key of the meter box owned by the wife of the Appellant is illegally retained by the Kailash Flat Owners Welfare Association (herein after called as Association) which is against to the law. The office bearers of the association have illegally and arbitrarily disconnected the power supply to the Appellant's flat on several occasions, the Appellant lodged complaint before the BESCOM Customer care on various dates. Due to the illegal disconnection of the power supply by the office bearers and the electrician of the Kailash Association, the personal work of the Appellant was disrupted, who was unable to prepare for his All India Bar Council Examination, which affected his day

to day activities. The office bearers of the association are very influential persons with police, BESCO. In spite of the complaint lodged before the said authorities, no action was taken against them. The Respondent No. 1 failed to resolve the issue of disconnection, intentionally refused to take action against the perpetrators of illegal disconnection of the power to the Appellant's flat. Even though the Appellant on several occasions contacted to the mobile of the AEE (Ele.) Respondent No. 2 arrogantly refused to take any action against the illegal disconnection. Wife of the Complainant who is pursuing PHD did not attend her wide range of activities due to the illegal disconnection. The Appellant filed several complaints against the Respondent No. 1 & 2, who did not taken appropriate action of restoration of power supply to the flat of the Appellant. No enquiry was held against the erring officials. The Appellant filed a complaint before CGRF on 10.01.2019, CGRF without examining the case of the Appellant in a right prospective, passed an ante dated order dismissing the complaint.

- 4) The Appellant questioning the legality of the order passed by the CGRF filed the present appeal contending that;

- a) The order passed by the CGRF, Bengaluru Urban is illegal and incorrect, the same is an outcome of non-application of mind.
- b) CGRF has failed to take into consideration that the Appellant lodged several complaints before the Respondent No. 1 and his subordinate officials reporting the illegal disconnection, the Respondent No. 1 failed to get the power supply restored to the flat of the Appellant.
- c) The CGRF has failed to take into consideration that access to electricity supply should be considered as right to life in terms Article 21 of the Constitution.
- d) The CGRF has failed to take into consideration that the Appellant being a consumer of the Respondent No. 1 under Section 2 (15) of the Electricity Act, the supply of electricity being a public service, if any illegal disconnection is done by the office bearers of the association or private individuals it amounts to a criminal offence.
- e) CGRF has failed to take into consideration that power is supplied and power consumption charges will be raised by the Respondent No. 1 and not by the association or the society.

- f) CGRF has failed to take into consideration that the Respondent No. 1 has wrongly interpreted Regulation 2.51 of COS which deals with points of commencement of supply.
  - g) CGRF has failed to take into consideration Section 50 & 138 of the Electricity Act 2003. When the Appellant prayed for conducting enquiry into the various incidents of illegal disconnection of the power to his flat, the Respondent No. 1 failed to initiate disciplinary action against the perpetrators of illegal disconnection of power supply.
  - h) CGRF has failed to take into consideration the prayer of the Appellant for awarding punitive and compensatory damages for financial losses suffered by the complainant and his family due to the illegal disconnection of power supply to the flat of the Appellant and failed to consider the prayer of the Appellant directing the Respondents to hand over the key of the meter box to the Appellant, prayed for allowing the appeal.
- 5) After registering the appeal, notice was issued to both the parties which was duly served. It was informed to both the parties through letter dated 18.06.2020 of this office in respect of the availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer

Grievance Redressal Forum and Ombudsman) Regulation 2004, for settlement through Conciliation and Mediation, to appear before this authority on 22.07.2020. However, the parties did not availed the benefit of the said provision, the matter was not settled either through mediation or conciliation. Accordingly, the case was taken up for hearing.

- 6) On several occasions the matter was adjourned for final hearing at the request of the Appellant. However, lastly on 06.11.2020 the Appellant did not turned up and submitted his oral arguments, though this authority afforded an opportunity to file the written arguments in this case by the Appellant in the office on or before 10.11.2020, the Appellant did not availed such an opportunity, did not submitted his written arguments. Oral arguments of the Appellant were taken as heard.
- 7) The Respondent No. 1 & 2 filed their written submissions contending that the Appellant is not a consumer of the installation bearing RR No. K1D-21244, which was serviced in the name of AEE BDA Housing projects in respect of the flat No. 404, B8, 4<sup>th</sup> floor, Kailash Apartments. The said installation which was standing in the name of AEE BDA was transferred in the name of the wife of Appellant Smt. K.V. Neethravathi on 29.09.2018. On

15.04.2018 the Appellant registered a complaint through helpline complaining the interruption of the power supply to his flat, immediately the line man visited the spot found no interruption of power supply up to the meter input point, however MCB which was installed on the consumer's side was switched off, the lineman switched on the MCB, power supply to the flat of the Appellant was restored. Thereafter on several occasions the Appellant registered complaints through helpline reporting the interruption of power supply to his flat, immediately after registering the complaints the same was attended by the officials of the Respondent No. 1 who noticed that on all occasions there was no interruption on power supply up to the input of the meter point. All the complaints registered by the Appellant were attended by the Respondent No. 1 without loss of time. The Respondent No. 1 being a Licensee company have to maintain the service line to supply the power to the consumer up to the input of the electricity meter as defined under Condition 2.51 of COS. At no point of time the power supply was disrupted up to the input of electricity meter pertaining to the power connection of the Appellant. When the officials of the Respondent No. 1 inspected the premises on the complaint of Appellant regarding the interruption of the power



supply, they found that at all the times the MCB was switched off. On enquiry it was found that there is an internal dispute between the Appellant and the members of the association with regard to the payment of maintenance charges, MCB was switched off by the officer bearers of the association which was admitted by the Appellant himself in his complaint lodged before the jurisdictional police. The copies of the complaints produced in the case clearly indicates that the Respondent No. 1 never disconnected or interrupted the power supply to the flat of the Appellant. The Respondent No. 1 is nothing to do with the internal dispute between the Appellant and his association. The Appellant has made false and fictitious allegations which are far from truth. The CGRF on taking into consideration the facts and circumstance of this case including the various regulations of COS, rightly dismissed the complaint. The disconnection of the power supply to the flat of the Appellant was by the association of flat owners, such being the case there is no deficiency of service on the part of the Respondent No. 1. The Appellant has not approached this authority with clean hands, the Appellant is in the habit of filing one or other complaint to harass the officers of the Respondent No. 1, the Appellant is not a registered consumer, he has no locus standy to

file the complaint before the CGRF and an appeal before this authority. Therefore, prayed for dismissal of the appeal.

8) On the above contentions the point that arise for consideration of this authority is;

a. Whether the order bearing No. CGRF 55/2018-19/13.03.2019/1625-27, dated 15.07.2019 passed by the CGRF Bengaluru District, rejecting the complaint of the Appellant is illegal, perverse, liable to be interfered by this authority?

9) My answers to the above point is in the;

a. Negative.

For the following,

### **REASONS**

- 10) I perused the appeal memo, the records submitted along with the appeal, the documents submitted by the Respondent No. 1 and his written arguments including the order passed by the CGRF Bengaluru District.
- 11) Before advertng with the contentions raised by the Appellant, I would like to refer some of the undisputed facts in this case.
- 12) It is not in dispute that the flat bearing No. 404, B8, 4<sup>th</sup> floor, Kailash Apartments was purchased by Smt. K.A Neetravathi who

is the wife of the Appellant. On the basis of the application filed by the consumer, the Respondent No. 1 ordered to transfer the installation bearing RR No. K1D-21244 in the name of Smt. K.A Neethravathi who is the registered consumer of the Respondent No. 1. It is submitted that the Appellant who claims to be the husband of the registered consumer had no locus standy to file the complaint either before the CGRF or an appeal before this authority, therefore the appeal filed by the Appellant is not maintainable.

- 13) Before considering this contention, I would like to refer Section 2 (g) and (h) of KERC (CGRF & Ombudsman) Regulations 2004 which reads as under: -

*2 (g) 'Complaint' means any grievance made by a consumer with regard to supply of electricity by the licensee, provided that grievance falling within the purview of any of the following provisions of the Act are excluded from the jurisdiction of the Forum:*

- (1) unauthorized use of electricity as provided under Section 126 of the Act*
- (2) offences and penalties as provided under Section 135 to 139 of the Act*
- (3) accident in the distribution, supply or use of electricity as provided under Section 161 of the Act.*

*2 (h) 'Consumer' means any person who is supplied with electricity for his own use by a licensee under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee.*

- 14) On conjoint reading of the definitions referred supra makes it clear that a consumer means any person who is supplied with electricity for his own use by a Licensee under the Electricity Act or other Regulations. Admittedly in this case Smt. K.A. Neetravathi in whose name the above said installation was transferred by the Respondent No. 1, who is the registered consumer. No installation was serviced or connected in the name of the Appellant at Kailash Apartments constructed by the BDA. In order to show that the Appellant is a consumer as defined under the above said regulation the Appellant did not produced any material before this authority. In the absence of such material the documentary evidence produced in this case clearly proves that Smt. K.A Neethravathi is a registered consumer under Respondent No. 1. Section 2 (g) of the above said regulations makes it clear that any grievance made by a consumer with regard to supply of electricity by the licensee company, a complaint can be filed before the CGRF. Admittedly, the records produced in this case makes it clear that the registered consumer is Smt. K.A Neethravathi who did not filed any

complaint before the CGRF Bengaluru Urban. The Appellant Sri. K.S Ravikumar who claims to be the husband of Smt. K.A Neethravathi filed the complaint assuming himself that he is a consumer under the Respondent No. 1, even though Smt. K.A Neethravathi was the registered consumer of the Respondent No. 1. Therefore, the Appellant who filed the complaint before the CGRF claiming himself as a consumer had no locus standy or he is not an aggrieved person to file such complaint, accordingly the very complaint filed before the CGRF by the Appellant who is not the registered consumer is not maintainable. Therefore, the appeal filed by the Appellant challenging the order of the CGRF Bengaluru Urban before this authority is also not maintainable, on this count alone the appeal and the complaint filed by the Appellant before this authority and before the CGRF respectively are liable to be dismissed.

- 15) Be that as it is, now I will consider the appeal filed by the Appellant on merits.
- 16) It is an admitted fact that on 29.09.2018 and also on subsequent dates registered several complaints with Respondent No. 1 through helpline alleging that the power supply to his flat was interrupted. The lineman and other officials of the Respondent No.1 inspected

the spot and found that there was no interruption of power supply up to the meter point and MCB installed by the Consumer was switched off on all the occasions. The lineman switched on the MCB power supply was restored. On enquiry by the officials of the Respondent No. 1 it was found that there was an internal dispute between the Appellant and the office bearers of the Kailash-BDA Apartments Owners Welfare Association regarding the payment of maintenance charges, the power supply was switched off by the office bearers. There was no disruption/interruption of power supply up to the meter input point, at any time when the Appellant complained of power interruption to his flat.

- 17) Before considering the question involved in this case, I would like to refer Condition 2.51 of COS which reads as under: -

*2.51 'POINT OF COMMENCEMENT OF SUPPLY' means the outgoing terminals of the Licensee's metering system fixed in the premises of the Consumer in case of LT installations and the outgoing terminals of the Licensee's Metering cubicle placed before any Consumer's apparatus in case of HT installations. In the absence of any metering cubicle or the metering being on the LT side in case of HT installations, the point of commencement of supply shall be the incoming terminals of the Consumer's main switchgear.*

- 18) On plain reading of the regulation referred supra makes it clear that point of commencement of supply to the LT installations

commences from the outgoing terminals of the Licensees metering system fixed in the premises of the consumer. Admittedly the outgoing terminals of the Licensees metering fixed in the premises of the Appellant was intact, there was no power interruption up to the points of commencement of supply, thereby it is clear that power supply up to the outgoing terminals of the licensees metering system fixed in the premises of the Appellant was proper, there was no disruption of power till the point of commencement of supply. Therefore, the contention of the Appellant that there was a disruption of power supply by the Respondent No. 1 does not hold water.

- 19) On Plain reading of the documents including the appeal memo filed by the Appellant clearly indicates that the Appellant himself while lodging a complaint before the jurisdictional of police admitted that President and Secretary of the Kailash-BDA welfare association disconnected the electricity supply to the flat of the Appellant and not the BESCO. The relevant recitals in the complaint reads as under: -

*“I learnt that, it is not BESCO but the Arun Kumar (President), Ramalingaiah (Secretary) and Abhishek (Local Electrician) of the Kailash BDA Apartment Owners Welfare Association, who have disconnection electricity services to my house”.*

On plain reading of the above said recitals makes it clear that the President and Secretary of the Apartment owners association have disconnected the power supply to the flat of the Appellant and not the Respondent No. 1. The recitals in the various complaints including the appeal memo makes it clear that there is an internal dispute between the Appellant and Apartment owners association regarding the payment of maintenance charges, it is the President and Secretary of the association who have disconnected the power supply to the Appellant by switching off the MCB. Absolutely there is no deficiency of service on the part of the Respondent No. 1 in supplying the power to the installation standing in the name of wife of the Appellant.

- 20) If these facts are taken into consideration, it is manifestly clear that the Respondent No. 1 Licensee Company did not disconnected the electrical supply to the flat of the Appellant. Due to the internal dispute between the Appellant and the association, it is the association which has disconnected the power supply to the flat of the Appellant. As per Section 13 of the Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1972, if any essential supply was cut off by the association or any person in the management including the



manager of the association, such a contravention has to be complained by filing an application before the competent court by the aggrieved person to restore such essential supply. In this case when a complaint was lodged by the Appellant alleging disconnection of the power supply to the Respondent, the Respondent No. 1 on inspection of the installation found that there is no interruption in the power supply up to the point of commencement of supply. If at all power supply to the flat of the Appellant is disconnected illegally by the association, the Appellant has to approach competent court for the redressal of his grievance. Admittedly the Assistant Executive Engineer (Ele.) did not disconnect the power supply of the Appellant, the Appellant himself admitted that the power supply to the flat was disconnected by the association for non-payment of maintenance charges, such is the case absolutely there is no deficiency of service by the Respondent No. 1 in supplying the power to the flat of the Appellant. The CGRF on taking into consideration the grievance alleged by the Appellant rightly held that there is an internal dispute between the Appellant and the association, the switching off the MCB was by association and not by the Respondent No. 1. As per Clause 2.51 of COS, the Respondent No. 1 has to maintain

power supply up to the point of commencement of supply, the power supply up to the metering system fixed in the premises of the consumer was intact, there is no disruption of power supply up to the point of commencement of supply, rightly dismissed the complaint. Hence point No. 1 is answered in the negative.

- 21) On examination of the order passed by the CGRF Bengaluru Urban, the same does not suffers from any material infirmities, the same is not perverse, liable to be interfered by this authority. Looking from any angle the appeal filed by the Appellant is devoid of merits liable to be dismissed.
- 22) In the result, I proceed to pass the following;

**No. OMB/B/G-363/2019/D-1504**

**Dated 18-11-2020**

**O R D E R**

The appeal is dismissed.

Sd/-  
(B.V. Patil)  
Electricity Ombudsman.

- 1) Sri K.S Ravikumar,  
Flat No. 404, B-8,  
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Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bengaluru – 560079.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PA to Secretary, KERC.