

BEFORE THE ELECTRICITY OMBUDSMAN

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

Present: S.S Pattanashetti,
Electricity Ombudsman,

Case No. OMB/M/G-340/2019

Dated 22/07/2019

In the matter of

Dr. Gopalkrishna K
Medical Director,
Benaka Health Centre,
Main Road,
Ujire-574220
Belthangady Taluk,
Dakshina Kannada District.

Represented by:

Ms. Gauthami S. Bhandary,
Advocate,
116, Railway Parallel Road, 8th Cross,
Kumara Park West,
Bengaluru-560020. -

Appellant

Vs

- 1) The Assistant Executive Engineer (Electrical),
O & M Ujire Sub-Division, MESCOM,
Ujire-574240,
Belthangady Taluk,
Dakshina Kannada District.
- 2) Chairman, Consumer Grievance Redressal Forum (CGRF)
MESCOM, Dakshina Kannada District/
Superintending Engineer (Ele.)
MESCOM, O & M Circle, P.B No. 240,
Attavara,
Mangaluru-575001. -

Respondents

1. This Application/Complaint is filed by Dr. Gopalkrishna K, Medical Director, Benaka Health Centre, Ujire, Belthangady Taluk, Dakshina Kannada District/(Appellant/Complainant), under the provisions of Clause 21.2 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004, in Form 'B' challenging the order No. ಮವಿಸಕಂ/ಗ್ರಾ.ಕು.ನಿ.ವೇ/18-19/ಬ-5/ದಕ-8/12431-435 dated 08/03/2019 of CGRF, Dakshina Kannada District, before this Authority, by inter-alia seeking the following reliefs:
 - a) To set aside the order dated 08-03-2019 passed by Respondent-2/CGRF, MESCOM, Dakshina Kannada District;
 - b) To quash the written Notice dated 14-05-2019 issued by Respondent-1/Assistant Executive Engineer (Ele.) O & M Sub-Division, MESCOM, Ujire, Dakshina Kannada District.
2. Brief facts, which are relevant to the case as claimed by the Appellant/Complainant, are as follows:
 - a) The Appellant/Complainant is proprietor of Benaka Health Centre, a multispecialty Hospital operating in Ujire since the year 2000 for which he has availed Electricity connection from MESCOM through MSBL-7368 and the said connection was being supplied in the form of Uni-directional meter until October 2016. The average monthly consumption was 2171 units and the maximum consumption in a particular month was 3035 units, and also paying bills regularly and diligently without any blemish.
 - b) It is further stated during the month of October 2016, MESCOM authorities approached him and conveyed the benefits of Roof Top Solar installation in his hospital and also emphasized upon the savings that are likely to be generated by solar installation. Relying

upon the said information given by the MESCOM authorities, it was decided to instal Roof Top Solar at the hospital and got into an agreement with M/s Orb Energy Private Limited as recommended by MESCOM. It is further stated that M/s Orb Energy Private Limited alongwith MESCOM installed Roof Top Solar and a bi-directional meter in the year October 2016 amounting to Rs 25,00,000/- and also entered into a Credit Sale Agreement with M/s Orb Energy private Limited. It is further stated that the Appellant/Complainant also entered into Power Purchase agreement with MESCOM.

- c) It is further stated that after availing Roof Top Solar installation by the Appellant/Complainant from November 2016 till May 2018, MESCOM was issuing bills regularly and the same was being paid to MESCOM regularly. The average bill amount was Rs 2,500/- to Rs 3,500/-. It is further stated that in the month of June 2018 all of a sudden Respondent No.1 issued a letter bearing No. ಸ.ಕಾ.ಇಂ(ಎ)/ಸ.ಇಂ(ತಾಂ)/ಉ/2018-19/406-409 dated 13-07-2018, directing the Appellant/Complainant to pay Rs 7,26,233/- towards revised bill claiming that there were certain anomalies in the earlier bills. It was the case of the Respondent-1 that instead of considering import and export units from the main meter installed in solar meter, the bills were given only by considering the export units and as such, it was imperative to revise the bills from the date of installation of solar.
- d) It is further stated that when the Appellant/Complainant, approached and enquired with Respondent-1, it was informed that the meter

reading of the unused electricity during the period of November 2016 to May 2018 was done wrongly and the latest supplemental bill was issued after rectifying the same. It was further warned that if the payment is not made within the month of June, then the Electricity connection to the Appellant's Hospital would be disconnected.

- e) It is further stated that prior to the installation of Roof Top Solar Unit the average monthly consumption was 2171 units. However, after installation of the solar unit, it was shown that the average electricity consumption from MESCOM was 4698 units and from the solar installation, the average monthly consumption was shown as 2500 units. Thus, the total average monthly consumption was shown as 7198 units, which is almost three times the average monthly consumption prior to the solar installation.
- f) It is further stated that on comparing the earlier bills, the Appellant/Complainant raised objection in writing to MESCOM officials and the officials from M/s Orb Energy Private Limited. However, for the utter shock of the Appellant/Complainant, both the parties started blaming each other and meanwhile tried to shift the burden on the Appellant/Complainant. Therefore, when the Appellant/ Complainant insisted on verification of his objection with MESCOM officials, for which they agreed and stated that, the verification will be done after one month by installing new meter.
- g) It is further stated that on 1st August 2018, new meter was installed and solar unit was disconnected. When the verification was done on 31-08-2018, it showed reduction by 3184 units. If the availability of 2500 units from the solar installation were taken into

consideration, then the average monthly consumption of the appellant would be 684 units. It is further stated that an objection was filed on 24-09-2018 by stating that before installation of solar in the hospital premises, the consumption of electricity was between 1900 units to 2100 units, but soon after installing of solar, the consumption of electricity has raised from 4500 units to 5000 units. He requested MESCOM to instal check meter and to provide with the actual consumption of electricity in the hospital and later provide with the right bill after detailed inspection for about a month. It is further stated that after taking into consideration objections filed by the Appellant/Complainant the Respondent-1 mechanically passed an order stating that the bill was wrongly raised in the Bi-directional check meter instead of Bi-directional main meter. Thus, inspite of fault on part of MESCOM, the Respondent-1 directed the Appellant to pay a total amount of Rs 7,26,233/- towards the revised bill in the order dated 22-12-2018. Being aggrieved by the order passed by the Respondent-1, the Appellant/Complainant approached the Respondent-2 for redressal of his grievance. But the Respondent-2 by wrongly interpreting both on factual and legal aspects has passed a non-speaking order and thereby upheld the order passed by Respondent-1. It is further stated that being aggrieved by the order passed by Respondent-2 the Appellant/Complainant has approached this authority seeking justice on the following grounds:

- i) The impugned order dated 08-03-2019 passed by the Respondent-2 is perverse, arbitrary, and contrary to the settled principles of law. The same is devoid of merits and is liable to be set-aside.

- ii) The action of MESCOM authorities in issuing a letter unilaterally without assigning any reasons or hearing the Appellant/Complainant that too after prolonged days of twenty months and demanding to pay a sum of Rs. 7,26,233/- is in gross violation of principles of natural justice. It is settled principle of law that every administrative action must be informed by reason failing which it amounts to arbitrariness. The rule of law contemplates governance and not by whims and fancies of any individual to whom the governance is entrusted for time being in force.
- iii) The Respondent-2 has failed to consider the factual aspects and materials placed on record and also the data that was provided by the Appellant/Complainant with regard to the consumption of electricity. It is therefore prayed before this Authority to set aside the impugned order passed by the Respondent-2 which is illegal, arbitrary and opposed to the settled principles of natural justice and as such the same is liable to be quashed.
- 3) Both the parties were informed vide this office letter No. OMB/M/G-340/2019/D-1287 dated 29-05-2019, regarding availability of provisions in Sub-Regulation 1 of Regulation 20 of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement through conciliation and mediation and to appear before this Authority on 11/06/2019. However, they have not availed the benefit of the said provision. The case was listed for hearing on 11/06/2019, 27-06-2019, 08-07-2019 & 16-07-2019.
4. In the parawise replies filed by the Respondent-1 on 07-06-2019, it is stated that for the installation bearing RR No. MSBL 7368, there is no dispute as regard to payment of bill and average units

consumed for the period from 01-11-2015 to 01-10-2016. MESCOM authorities never approached the Appellant/Complainant for installation of Roof Top Solar to the Hospital. In fact Appellant/Complainant himself has taken decision to enter into agreement with M/s Orb Energy private Limited and installed 25 KWs Roof Top Solar unit on 22-10-2016. It is further submitted that after availing Roof Top solar installation from November 2016 to May 2018 the consumer has paid the bills regularly. However, the Assistant Executive Engineer (E) MESCOM, LT Rating Sub-division, Bantwal has conducted inspection and noticed that instead of considering import and export units from the Bi-directional main meter only export units from main meter and Bi-directional check meter was considered and bills issued from November 2016 to May 2018 and instructed to issue short claim bill as per Company Regulations. Hence letter was issued to the Appellant/Complainant to pay revised supplementary bill of Rs 7,26,233/-as per KERC (Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka) Regulations, 2004 Regulation 29.03 and to file objections if any. The Appellant/Complainant filed his objections on 24-07-2018 to the revised bill. As per KERC Regulations the Appellant/Complainant was called, enquiry conducted and a final order was passed stating that the revised bill issued is in order, and he should pay the bill within the prescribed date, failing which power supply would be disconnected.

5. In the hearing held on 11-06-2019 the Respondent-1/AEE was asked to furnish the following details on the next date of hearing.

- a) Consumption of power by Appellant/Complainant from 2000 to 2015, when sanctioned load was 25 KW;
 - b) Consumption from 2015 to October 2016 when the sanctioned load was enhanced in 2015 to 50 KW;
 - c) Consumption, generation and difference after the installation of roof top solar from November 2016 onwards;
6. On the next date of hearing the Respondent-1/AEE furnished information available in his office right from January 2006 upto November 2016 month wise before the installation of Roof Top Solar unit. It can be seen from the information given by the Respondent-1/AEE that the average monthly consumption of electricity for hospital of the Appellant/Complainant has gradually increased from 1239.917 in 2006 to 3550.667 in 2014. The Appellant/Complainant applied and took from the licensee additional power load of 26 KWs on 20-03-2014. From April 2014 to November 2016, the average monthly consumption of electricity has also gone up from 1509.889 units in 2014 to 2083.818 unit in 2016. Solar Roof Top unit was installed on the roof top of Appellant's hospital in October 2016. The average monthly consumption of electricity from MESCOM has been 4651.99 and average monthly generation of electricity from the Solar Roof Top unit has been 2139.03 during the period from 01-12-2016 to 31-03-2019. The average monthly consumption of power both from MESCOM as well as from Solar Roof Top unit has been 6791.02 units. In the written submission made by Respondent-1/AEE dated 07-06-2019 he has stated that, when the Appellant's hospital was started way back in the year 2000 it was only a normal hospital. Over the years the number of patients increased, number of beds

increased and they availed additional power load in 2014 and the hospital became a multi-specialty hospital, as a result of which the consumption of electricity increased drastically. On 27-06-2019 at the time of hearing the Respondent-1/AEE explained the billing procedure by showing the register brought with him and where the mistake had occurred and how it was set right by issuing supplementary bill. The Respondent-1/AEE has said that if the Appellant/Complainant has any doubt regarding running of the meter, they can get it tested following the procedure prescribed under Clause 27.01 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. He also offered to the Appellant/Complainant payment of the outstanding amount by instalments in the hearing held on 16-07-2019. After seeing the information submitted by the Respondent-1/AEE and the documents brought with him, the Advocate of the Appellant on 27-06-2019 offered to pay the electricity dues of the licensee in instalments. The Advocate for the Appellant/Complainant submitted that the Appellant/Complainant is ready to pay the short claim of Rs 7,26,233/- to the licensee in instalments spread over a period of three (3) years. Accordingly, a written submission was made by the Appellant's Advocate. The Respondent-1/AEE said that although there is no provision to give 3 years time to pay the dues in instalments, however as a special case the Appellant/Complainant may be asked to pay the dues in instalments within one year.

7. After going through the submissions made by both the contesting parties, perusing the records submitted, and hearing their arguments I proceed to pass the following order:

O R D E R

The Appellant Benaka Health Centre, Ujire, Belthangady Taluk, Dakshina Kannada District to pay the electricity dues of Rs 7,26,233/- without interest to the licensee in 18 (eighteen) Equal Monthly Instalments, starting from August 2019.

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

- 1) Dr. Gopalkrishna K
Medical Director,
Benaka Health Centre,
Main Road,
Ujire-574220
Belthangady Taluk,
Dakshina Kannada District.
- 2) Ms. Gauthami S. Bhandary,
Advocate,
116, Railway Parallel Road, 8th Cross,
Kumara Park West,
Bengaluru-560020.
- 3) The Assistant Executive Engineer (Electrical),
O & M Ujire Sub-Division, MESCOM,
Ujire-574240,
Belthangady Taluk,
Dakshina Kannada District.
- 4) The Chairperson/CGRF,
Superintending Engineer (Ele.),
MESCOM, O & M Circle, P.B No. 240,
Attavara, Mangaluru-575001.
Dakshina Kannada District.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PS to Secretary, KERC.
- 9) Chairperson of all CGRFs in the State.

