

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/H/G-346/2019

Dated 22/10/2019

In the matter of

Sri Santosh Yallappa Jakati,
Duradundeshwar Khanavali,
Old Bus Stand Road,
Bagalkot – 587101.
Bagalkot Taluk and District.

- Appellant

Vs

- 1) The Assistant Executive Engineer (Electrical),
O & M City Sub-Division, HESCOM,
Bagalkot – 587103.
 - 2) Chairman, Consumer Grievance Redressal Forum/(CGRF)
Bagalkot District,
Office of Superintending Engineer (Ele),
O & M Circle, Navanagar,
Bagalkot - 587102.
- Respondents

- 1) This Appeal/Complaint is filed before this Authority, by Sri Santosh Yallappa Jakati, (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. ಬಿಜಿಕೆ/ಅಇಂ(ವಿ)/ಉಲೆನಿ/ಸಲೆ/ಹಿಸ-1/2018-19/1200-1204 dated 15-05-2019 of CGRF, Bagalkot District, by inter-alia seeking the following reliefs:

To provide permanent electric power supply connection under Commercial Tariff in place of temporary connection provided.

- 2) Brief facts, which are relevant to the case on hand, as claimed by the Appellant/Complainant are as follows:

The Appellant/Complainant is the owner of E-Model Plot No. 23-E in Sector No. 18 of Unit 1 in Bagalkot, Navanagar. This Plot No. 23-E was allotted to his father by BTDA as per the direction of the Hon'ble High Court of Karnataka, in lieu of acquisition of his commercial corner plot for formation of road. No compensation has been taken by the Appellant/Complainant's father for the commercial plot acquired from him, on the other hand compensatory plot has been allotted. The Appellant/Complainant's father started construction of a hotel (Khanavali) in this Plot No. 23-E after obtaining temporary power sanction on 25-02-2012 to electrical installation bearing RR No. NANT-1921. On 28-01-2016 the Appellant/Complainant applied to the Licensee (HESCOM) for permanent power sanction for domestic purpose. On 09-03-2016 the Superintending Engineer, HESCOM has given approval for obtaining permanent power sanction on self-execution basis. However, in the endorsement dated 23-09-2016 issued by the Assistant Executive Engineer (Ele.), O & M Sub-division, HESCOM, it is stated that his office has not received any letter from BTDA for disconnection of power supply except Plot No. 23-E. The BTDA has not issued any NOC for sanction of permanent power supply to the Appellant/Complainant's installation so far. However, a number of plot owners who are similarly placed, with that of the Appellant/Complainant, have been issued NOC from BTDA. Even buildings constructed violating all the building by-laws with regard to

set back, number of floors etc., have been issued NOC by BTDA. The BTDA has not issued NOC to the Appellant/Complainant's installation due to political reasons. The BTDA has not been following uniform policy decisions in all such cases. They are issuing NOC depending upon the whims and fancy of the BTDA elected body. In the 46th meeting of BTDA as per subject No. 8 it was decided that till the subcommittee finalizes the by-laws, action should be taken to approve all applications as per the rules being followed for Bagalkot City. As per the present rules of BTDA there is no necessity of obtaining NOC from BTDA. It is not correct on the part of HESCOM to insist for NOC from BTDA for giving sanction for permanent power connection. The Appellant/Complainant has been paying exorbitant electricity bill ranging from Rs. 30,000/- to 38,000/- per month and incurring heavy losses. In the CGRF Order bearing No. ಬಿಜಿಕೆ/ಅಇಂ(ಬಿ)/ಉಲೆನಿ/ಸಲೆ/ಹಿಸ-1/2018-19/1200-1204 dated 15-05-2019, it is ordered that permanent power supply should be sanctioned after collecting the required documents as per KERC Regulations, and NOC from BTDA. Aggrieved by the order of CGRF, Bagalkot District, the Appellant/Complainant has filed this appeal/complaint in Form 'B' which is received in this office on 03-07-2019.

- 3) Both the parties were informed vide this office letter No. OMB/H/G-346/2019/D-1309 dated 05-07-2019, regarding availability of provision 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 25-07-2019.

However, they have not availed the benefit of the said provision. The case was listed for hearing on 25-07-2019, 21-08-2019 and 05-09-2019.

- 4) In the chronological events filed by Respondent-1/AEE on 22-07-2019 it is stated that temporary power supply sanction has been given to the Appellant/Complainant on 25-02-2012 through RR No. NVNT-1921. On 28-01-2016 the Appellant/Complainant has applied for power supply sanction for domestic purpose. The Superintending Engineer has approved taking up of the work under self-execution scheme on 09-03-2016. BTDA vide letter dated 28-01-2016 has intimated that Plot No. 23-E in Sector No. 18 has been allotted to the Appellant/Complainant for domestic purpose, if the Plot is to be used for any purpose other than the purpose for which it is allotted No Objection Certificate from the BTDA should be obtained. As the Appellant/Complainant who is the owner of Plot No. 23-E has not been able to produce NOC from BTDA permanent power sanction has been able to be given to the installation of the Appellant/Complainant. If the Appellant/Complainant files an application for permanent power supply for domestic purpose, power connection will be given. If the Appellant/Complainant needs power supply for a purpose other than domestic use, then NOC from BTDA will be required.
- 5) In the hearing held on 25-07-2019 the Appellant/Complainant has filed a copy of his representation addressed to Chief Engineer BTDA, Bagalkot and Rehabilitation Officer (RO) BTDA, Bagalkot dated 23-07-2019 and copy marked to Ombudsman, wherein, he has requested for conversion of his plot/building 23-E from the present domestic purpose to commercial purpose and issue NOC for the purpose of obtaining permanent power supply to the building from HESCOM.

Referring to his earlier representations dated 03-01-2019 and 08-01-2019, the Appellant/Complainant has stated in this letter that even after lapse of 6 months no action has been taken by the BTDA. In this letter he has mentioned several instances wherein BTDA has in its Board meeting regularized construction of nursing homes from domestic purpose to commercial purpose after collecting penalty from the plot/building owner. In the Zonal Regulations approved by the Government, in the Residential Zone there are certain essential activities for which permission may be granted, by the BTDA. There is provision for running a hotel, paying guest and medical shop in the residential zone. One of the family members is a registered Pharmacist. He has made allegations that due to political influence cases of only certain people are being considered by BTDA and his case is pending since a long time. His plot is in the midst of important commercial centres, city corporation, nationalized banks, important co-operative banks, government offices and courts. In order to cater to the needs of the people visiting these places he is running a hotel, paying guest and medical shop. Hence, he has requested to change his plot from domestic to residential as done in several other cases. He has also enclosed copies of such decisions taken by the BTDA.

- 6) On 21-08-2019 the Appellant/Complainant has filed his written arguments. In the hearing held on 05-09-2019 the Respondent-1/AEE has clearly stated that he has no rejoinder to offer to the additional submissions made by the Appellant/Complainant on 21-08-2019. Respondent-1/AEE further mentioned at the time of hearing that in many other cases BTDA has regularized construction of commercial building in residential plot. In the present case he is ready to give

permanent power connection to the building of the Appellant/Complainant under LT-3 Tariff without insisting for NOC from BTDA.

7) Perused the appeal memo filed by the Appellant/Complainant, the submissions made by the Respondent-1/AEE, the written arguments filed by the Appellant/Complainant and the documents submitted by both the contesting parties. It is an admitted fact that the BTDA has allotted to the Appellant/Complainant a residential plot in lieu of the commercial plot acquired from him. It is also an admitted fact that the Appellant/Complainant has been sanctioned temporary power connection on 25-02-2012 with RR No. NVNT-1921 by the Licensee, HESCOM. The Appellant/Complainant has constructed a hotel (Khanavali), paying guest and medical store in the residential plot allotted to him. The contention of the Appellant/Complainant is that in several cases BTDA has converted and regularized buildings from domestic purpose to commercial purpose after collecting penalty from the allottee. In the Zonal regulations approved by the Government, in the residential zone there are certain essential commercial activities like milk booth, vegetable and fruit shops, bakery, medical shops, hair cutting saloon, laundry etc., for which permission may be granted by the BTDA under normal circumstances. There are also certain other activities permissible under special circumstances by the BTDA like hostels for working women and men, paying guest facilities, office of advocates and other professional consultation rooms, fuel storage depots, fuelling stations and LPG storage etc. He further contends that the activities being run in the building constructed by him fall under the above categories and his plot/building is in the midst of important commercial centres, nationalized banks and co-operative banks,

government offices, courts and city corporation, and his building can be converted from residential to commercial by BTDA. He has requested BTDA several times to convert his residential plot into commercial. However, BTDA due to political and various other reasons has not considered his request so far.

- 8) In the letter dated 28-01-2016 written to the Executive Engineer, HESCOM, Bagalkot by the BTDA, Chief Engineer, it has been requested to consider the conditions imposed by the State Government in the Notification of Housing and Urban Development Department dated 16th May 1994 which states that without the approval of the BTDA no building can be constructed violating the purpose of allotment made by the BTDA. The hands of the Licensee i.e., HESCOM are tied due to this Notification and letter. This authority cannot pass an order directing the Respondent-1/AEE to sanction permanent power supply in violation of the Government Notification and allotment rules. In case there is provision for conversion from residential purpose to commercial purpose in view of the zonal regulations prepared under the Karnataka Town and Country Planning act, 1961, this power can be exercised only by BTDA and not by this authority. In case BTDA has discriminated and done injustice to him, the Appellant/Complainant can seek redressal before the competent authorities/court. This authority cannot pass any order in violation of the plot allotment rules of BTDA and letter of Chief Engineer, BTDA dated 28-01-2016.

9) In view of the foregoing paras the following order:

No. OMB/H/G-346/2019/D-1368

Dated 22-10-2019

O R D E R

The appeal filed by the Appellant/Complainant is dismissed.

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

- 1) Sri Santosh Yallappa Jakati,
Duradundeshwar Khanavali,
Old Bus Stand Road,
Bagalkot – 587101.
Bagalkot Taluk and District.
- 2) The Assistant Executive Engineer (Electrical),
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- 3) Chairman, Consumer Grievance Redressal Forum/(CGRF)
Bagalkot District,
Office of Superintending Engineer (Ele),
O & M Circle, Navanagar,
Bagalkot - 587102.
- 4) PS to Hon'ble Chairman, KERC
- 5) PS to Hon'ble Member (M), KERC
- 6) PS to Hon'ble Member (R), KERC
- 7) PA to Secretary, KERC.
- 8) Chairperson of all CGRF's in the State.