

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/G/G-360/2019

Dated 23/12/2019

In the matter of

Smt Sumalatha Munnur,
W/o. Govardhan Munnur,
No. 12-10-50 & 12-10-88,
Sath Kacheri Road,
Siya Talab,
Raichur – 584101.

Represented by:
Shri S. Mehboob,
No. 13-2-2/195, Arjunappa Colony,
Yerammaras Camp,
Raichur – 584135. -

Appellant

Vs

1) The Assistant Executive Engineer (Elec),
O & M City Sub-Division-2, GESCOM,
Raichur.

2) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Raichur District,
Superintending Engineer (Ele),
O & M Circle, GESCOM,
Near Basaveshwara Circle,
Opposite to LIC Office,
Raichur –584101. -

Respondents

1) This Appeal/Complaint is filed before this Authority, by Smt.
Sumalatha Munnur, (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. CGRF ಅಲ(ವಿ)/ಗು/ಉಲೆನಿ/ಲೆಅ/ಹಿಆಸ/2019-20/65-74 dated 12-07-2019 of CGRF, Raichur District, by inter-alia seeking the following reliefs:

To provide early electricity connection and penalty as per Standards of Performance of KERC.

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

Smt Sumalatha Munnur, W/o. Govardhan Munnur, R/o. House No. 12-10-50 & 12-10-88, Sath Kacheri Road, Siya Talab, Raichur has filed application for power sanction of 95 KWs to her Multi Storied Building (M.S. Building) on 10-03-2017 by paying the prescribed fees of Rs. 250/- along with required documents to the office of the AEE (Ele) O & M Sub Division, Raichur. As no action was taken on her application even after nearly one and half years, she filed a complaint before the CGRF Raichur District on 15-10-2018 for arranging power supply early and to award penalty as per Standards of Performance (SOP). The CGRF Raichur District did not dispose of the complaint even after 7 months. Hence an appeal/complaint was filed before the Ombudsman on 31-05-2019. The Ombudsman vide his order No. OMB/G/G-342/2019 dated 21-06-2019 directed the CGRF Raichur District to dispose of the complaint filed by Smt. Sumalatha Munnur within 31-07-2019. As per this order the CGRF Raichur District disposed of the complaint of the Appellant/Complainant on 12-07-2019, after hearing both the parties analyzing the reasons for the

delay in sanction of power to the Appellant/Complainant ordered that after the Appellant/Complainant submits the required documents power sanction should be accorded without any delay after following the prescribed regulations. Challenging this order of the CGRF Raichur District the Appellant/Complainant has filed the appeal/complaint before this authority.

- 3) Both the parties were informed vide this office letter No. OMB/G/G-360/2019/D-1341 dated 05-08-2019, 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 28-08-2019. However, they have not availed the benefit of the said provision. The case was listed for hearing on 28-08-2019 and 16-09-2019.
- 4) The representative of the Appellant/Complainant has filed his appeal memo on 28-08-2019 at the time of hearing. He has stated that as per KERC (Duty of the Licensee to Supply Electricity on request) Regulations 2004, Regulations 3.1 and 3.2 distribution licensee shall on receipt of application give supply of electricity within one month/45 days. As per KERC SOP 2004 Rs. 200/- for each day of default shall be paid to the applicant by the licensee for delay in giving power supply. Licensee has failed to give power supply within the stipulated period. Licensee has taken more than one year to process the application of the Appellant/Complainant. Licensee has asked the Appellant/Complainant to submit sanctioned plan as per 6th amendment of Conditions of Supply of Electricity (COS) which was effected from 01-02-2018. As per the Conditions of Supply of Electricity (COS) prevailing at the time of submission of the application, sanctioned plan

was not required. It is the fault of licensee for not processing the application on time. The Appellant/Complainant was forced to pay reregistration fee of Rs. 350/- + GST of Rs. 83/- violating the Conditions of Supply of Electricity (COS). The order of the CGRF Raichur District dated 12-07-2019 is erroneous on the following grounds: -

- a) It is not correct that applicant filed application again on 29-08-2018. It is representation to give Power Supply early which was submitted to Executive Engineer Electrical, Raichur.
- b) It is not correct that applicant has not submitted the actual building plan as per COS Clause 9.01 Note iv. Applicant has submitted the actual plan at the time of registration of application, as per COS Clause 9.01 Note ii.
- c) It is not correct that occupancy certificate shall be submitted for Power sanction as per COS 9.01 Note ii. Hence occupancy certificate not submitted.
- d) As per COS 9.01 Note ii it is not necessary to submit the approved plan for actual building is new. Actual building plan prepared by Architecture is enough.

In the CGRF order nothing is mentioned regarding penalty for default in providing electricity. The Chief Engineer (Ele) Operation GESCOM Kalburgi has written letter to Superintending Engineer (Ele) Raichur to penalize the concerned persons as per SOP provision vide No. 16762 dated 11-06-2019, but CGRF and members have passed the order ignoring the recommendations of the Chief Engineer. The Appellant/Complainant has referred to the order of Hon'ble Supreme Court dated 07-04-2017 in National Insurance Company Limited V/S

Hindustan Safety Glass Works Limited clubbed with National Insurance Company Limited V/S Kanoria Chemicals and Industries Limited in Civil Appeal No. 3883 of 2007 and 1156 of 2008. The Appellant/Complainant has prayed to direct the licensee to sanction power supply as per Conditions of Supply of Electricity (COS) existing prior to 01-02-2018 and to award penalty as per SOP Rs. 200/- for each day of default i.e., from 10-04-2017 to 06-04-2018 and to further direct the licensee to refund Rs. 300/- + Rs. 83/- collected as reregistration fee violating KERC Conditions of Supply of Electricity (COS).

- 5) The Respondent-1/AEE has made his submission at the time of hearing on 28-08-2019. He has stated that the Appellant/Complainant has filed application on 10-03-2017 for sanction of power for her M.S. Building. He has stated that the Section Officer O & M, City Sub Division-2, prepared an estimate on 20-03-2017. On 20-05-2017 application was filed for getting the work done under self-execution scheme. The Respondent-1/AEE submitted his proposal along with estimation to the Executive Engineer (Ele), O & M City Sub Division, Raichur on 23-03-2018. The then AEE (Ele), O&M Sub Division Sri. Shivanagutti had mentioned that as the building of the applicant was not complete there was delay in submission of proposal to Division Office. The Executive Engineer (Ele), O & M City Sub Division Raichur, submitted the proposal on 06-04-2018 for sanction to the Superintending Engineer (Ele) O & M Circle, Raichur. The application of the Appellant/Complainant could not be sanctioned for the following reasons: -
- a) The building approved as per sanction plan is 4 floors but as per architecture plan 6 floors have been constructed. Therefore,

sanctioned plan for additional 2 floors has to be submitted by the Appellant/Complainant.

- b) As per the sanctioned plan total area of the building is 326.83 Sq. Mtrs., but as per actual plan the total area of the building comes to 963.73 Sq. Mtrs.
- c) The Applicant had not signed in the sanctioned plan.
- d) As per M.S. Building Regulations 6th Amendment, if there is construction of any additional floors or any additional built up area to the existing building/complex a copy of sanctioned plan for such additional floor/or built up area shall be furnished, which has not been done.
- e) As per para 3 (a) all applications for supply/additional supply of electricity registered with the licensee on or after 01-02-2018 and all applications for supply/additional supply of electricity registered prior to 01-02-2018 and for which power sanction is yet to be communicated as on the date of coming into force of these amended Conditions of Supply of Electricity (COS) shall be processed as per the said amended COS.

The Appellant/Complainant re-registered her application for sanction of power after paying re-registration charges of Rs. 350/- and GST of Rs. 83/-. She has not been able to submit complete sanctioned plan. There has been a mismatch between the area of the actual building as against the area of the sanctioned plan. As per Clause 9.01 Note iv complete sanctioned plan has to be submitted for sanction of power and as per Clause 9.01 Note ii, the applicant has to submit occupancy certificate for the building. The power sanction will be accorded to the

Appellant/Complainant after she submits the approved sanction plan and occupancy certificate.

- 6) Perused the appeal memo, submissions made by the Respondent-1/AEE and also further submissions and documents filed by both the contesting parties to this appeal/complaint. It is true that the Appellant/Complainant applied for sanction of power on 10-03-2017 by paying the prescribed fees. It is also true that as per KERC (Duty of the Licensee to Supply Electricity on Request) Regulations 2004, any application for sanction of power has to be approved within 30/45 days. It is a fact that there has been some lapse on part of the Licensee in scrutinizing the application and getting sanction from the competent authority before communicating sanction of power. It is also to be kept in mind that there has been a complete violation of sanctioned plan by the Appellant/Complainant. As against the sanctioned plan of 4 floors the applicant has constructed 6 floors and as against sanctioned building area of 326.83 Sq. Mtrs., the Appellant/Complainant has constructed 963.73 Sq. Mtrs. The Appellant/Complainant is trying to take undue advantage of the delay in processing her application and getting power sanctioned to her M.S. Building which is full of building Laws violations. The Appellant/Complainant has not approached this authority with clean hands.
- 7) The CGRF is right in ordering that after the applicant files all the required documents her application should be considered for sanction of power. The CGRF is also right in not ordering the compensation to the Appellant/Complainant as per the Standards of Performance (SOP) Regulations 2004.

8) In view of the fore going paras I proceed to pass the following order: -

No. OMB/G/G-360/2019/D-1408

Dated 23-12-2019

O R D E R

- 1) The Appeal/Complaint filed by the Appellant/Complainant is dismissed.
- 2) The Respondents to process and take necessary action on the application of the Appellant/Complainant as per rules after all the necessary documents are submitted.

Sd/-

(S.S Pattanashetti)
Electricity Ombudsman.

- 1) Smt Sumalatha Munnur,
W/o. Govardhan Munnur,
No. 12/10-50 & 12-10-88,
Sath Kacheri Road,
Siya Talab,
Raichur – 584101.
- 2) Shri S. Mehboob,
No. 13-2-2/195, Arjunappa Colony,
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- 3) The Assistant Executive Engineer (Elec),
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Raichur.
- 4) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Raichur District,
Superintending Engineer (Ele),
O & M Circle, GESCOM,
Near Basaveshwara Circle,
Opposite to LIC Office,
Raichur –584101.

- 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.
- 9) Chairperson of all CGRF's in the State.