

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/B/G-388/2020

Dated 26/02/2020

In the matter of

Smt. Padmalatha. G,
No. 47/16, Kebbehalla Main Road,
Sunkadakatte,
(Varuna Neeravari Pipe),
Bengaluru-560091.

Represented by:

Sri. G.B. Revanaradhya,
No. 3394, 3rd Cross, 6th Main,
Hampinagar,
Bengaluru-560104.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Electrical),
O & M N-8 Sub division, BESCO,
'D' Group Layout,
Srigandada Kaval,
Bengaluru-560091.

- 2) Chairperson, Consumer Grievance Redressal Forum/(CGRF)
Bengaluru Urban District,
Superintending Engineer (Ele),
West Circle Office, BESCO,
CA Site, No. 05, West of Chord Road,
3rd Stage, Bhima Jyothi, HSBC Layout,
Next to Chord Road Hospital,
Basaveshwarnagar,
Bengaluru – 560079.

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Respondents

1) This Appeal/Complaint is filed before this Authority, by Smt. Padmalatha. G, (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. C.P/CGRF-27/2019-20/02-08-2019/B.W.C/2019-20/5013-17, dated 31-12-2019 of CGRF, Bengaluru Urban District, by inter-alia seeking the following reliefs:

Cancellation of B.B.C of Rs. 43,976/- and to continue to bill the installation under LT-5 Tariff as usual.

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

3) The Appellant/Complainant is the owner of the premises wherein the subject power installation is situated. She has let out the premises to Shri G. D. Manjunath, who is running a plastic pipe unit with a sanctioned load of 45 HP. The installation has been inspected by the Meter Testing Staff of the Licensee on 30-03-2019. It was reported that the premises is being used for godown purpose and hence the installation has to be billed under LT-3 Tariff i.e., Commercial Tariff. As per this report, the Respondent-1/AEE issued a demand notice dated 09-04-2019 for Rs. 43,976/-. A complaint was filed before the CGRF Bengaluru Urban District by the Appellant/Complainant. The CGRF Bengaluru Urban District heard the complaint and passed orders on 31-12-2019 stating that the CGRF has no jurisdiction to hear the matter and to submit the complaint to appropriate authority. The Appellant/Complainant challenging the order of the CGRF Bengaluru

Urban District has filed the present appeal/complaint before this authority.

- 4) Both the parties were informed vide this office letter No. OMB/B/G-388/2020/D-1420 dated 20-01-2020, regarding availability of provision of 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 31-01-2020. However, they have not availed the benefit of the said provision. The case was listed for hearing on 31-01-2020 and 11-02-2020.
- 5) The Respondent-1/AEE has filed his parawise replies dated 30-01-2020. He has stated that installation No. N2P6669 with a sanctioned load of 45 HP has been sanctioned on 11-08-2005 to the Appellant/Complainant. On 30-03-2019 when the staff of the Meter Testing Sub Division inspected the premises of the Appellant/Complainant they observed that it is being used for godown plus cooler fixing and submitted a report accordingly. As per the report of the Meter Testing Sub Division Staff for the misuse of power from April 2018 to March 2019 considering LT-3 Tariff back billing charges of Rs. 43,976/- was prepared and issued on 09-04-2019 asking the consumer to file his objections if any within 15 days and to pay the back billing charges within 30 days if he has no objections. The consumer did not file his objections within the prescribed period. On 07-06-2019 as per the regulations final order was passed. The consumer has filed his complaint before the CGRF Bengaluru Urban District on 02-08-2019. The CGRF Bengaluru Urban District in their order dated 31-12-2019 have ordered that since the matter falls under Section 126 and read with Section 145 of the Electricity Act 2003, the CGRF has no jurisdiction

to hear the matter as per the KERC (CGRF and Ombudsman) Regulations 2004, and dismissed the complaint.

- 6) The representative of the Appellant/Complainant has further filed submissions on 11-02-2020 at the time of hearing of the case. He has stated that the sanctioned load of the installation bearing RR No. N2P6669 is 45 HP. The owner of the premises has let out the shed to Shri G. D. Manjunath who is running a plastic pipe unit in the name of M/s. Varuna Neeravari Pipe (P) Limited. He is using a load of 31 HP only. The consumer Shri G. D. Manjunath is using power for threading, fixing collars and couplings to the plastic pipes. This has been recorded in the inspection report by the Inspecting Officer of the Meter Testing Sub Division of the Licensee. It is also stated in the report that the installation is billed under LT-5 Tariff i.e., Industrial Tariff. This being the fact, it is evident that the power is being used for industrial purpose only. Merely by observing that the plastic pipes were stocked at the main entrance does not prove that the shed is used for godown purpose. The finished plastic pipes were kept at the entrance and waiting for a vehicle to transport them to sales unit at JC Road. The Inspecting Officer has not observed the machinery inside the unit, because the meter is fixed at the inner side of the entrance. The photographs showing the workers working on the machinery are enclosed with this submission which definitely are sufficient to prove that the shed is used for industrial purpose and not for godown purpose. Hence it is requested to cancel the Back Billing Charges (BBC) of Rs. 43,976/- in the interest of equity and justice and to continue to bill the installation under LT-5 Tariff only in future. The Appellant/Complainant has

submitted 10 photographs along with the submissions depicting various machineries and laborers working in the premises in question.

- 7) Perused the appeal memo, filed by the Appellant/Complainant, the parawise replies submitted by the Respondent-1/AEE and also the further submissions made by the representative of the Appellant/Complainant. It is an admitted fact that the premises in question which is a factory shed is owned by Smt. G. Padmalatha with a sanctioned power of 45 HP and it is let out to one Shri. G. D. Manjunath who is running a plastic pipe unit in the name of M/s. Varuna Neravari Pipe (P) Limited. The cause of action arose when the Meter Testing Sub Division Staff of the Licensee inspected the premises on 30-03-2019. In the report given by the Meter Testing Staff it is mentioned that “installation is being used for godown and collar fixing purpose. Bill is issued under LT-5 Tariff. Action shall be taken as per company norms”. In any industrial/manufacturing unit there will be raw materials required for producing the end products and also finished products after the manufacturing is completed. Both the raw materials as well as the finished products have to be kept within the premises of the industrial unit. Obviously, they cannot be kept on the road fearing inspection by the Licensee’s Meter Testing Staff who may presume that the premises is being used as a godown. It has to be accepted that storage of raw materials before consumption as well as finished products before dispatch are part and parcel of the manufacturing process. In the inspection report of the Meter Testing Staff dated 30-03-2019 it is clearly mentioned by the Inspecting Officer that the premises is being used for “godown and collar fixing” purpose. This means to say that even the Inspecting Officer has admitted that the premises is being used

for collar fixing purpose in addition to godown purpose. Admittedly the premises is being used by the tenant Shri. G. D. Manjunath for threading, fixing collars and couplings to the plastic pipes. The contention of the Appellant/Complainant is that by observing that the plastic pipes were stocked at the main entrance does not prove that the shed is used for godown purpose. The finished plastic pipes were kept at the entrance and waiting for a vehicle to transport them to sales unit at JC Road. The 10 photographs submitted by the Appellant/Complainant with his submissions dated 11-02-2020, amply show that there are machineries and laborers working and operating in the industrial shed. The Inspecting Officer also has admitted that collar fixing work is being done in the premises. Mere temporary stocking of the finished goods for the purpose of dispatch to market till the vehicle arrives and takes them away does not change the usage of electricity from industrial to commercial purpose. There has not been any misuse of electricity from industrial to commercial as alleged by Meter Testing Staff of the Licensee and the Respondent-1/AEE. Just because the Meter Testing Staff and the Respondent-1/AEE have said there is misuse of power it does not mean that there is misuse of power. There has been a mis-understanding of the activity going on in the premises in question. It is a wrong presumption on the part of the Meter Testing Staff and the Repondent-1/AEE. It is not a case which comes under Section 126 of Electricity Act 2003 and Clause 42.02 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka (COS). The Meter Testing Staff of the Licensee, Respondent-1/AEE and Respondent-2 the CGRF have wrongly come to the conclusion that there has been a misuse of electricity.

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

No. OMB/B/G-388/2020/D-1437

Dated 26-02-2020

O R D E R

1. The order of CGRF bearing No. C.P/CGRF-27/2019-20/02-08-2019/B.W.C/2019-20/5013-17, dated 31-12-2019 is set aside.
2. The final order of Respondent-1/AEE dated 07-06-2019 is also set aside.
3. The Appellant/Complainant should continue to be billed under LT-5 Tariff only and not under LT-3 Tariff.

Sd/-

(S.S Pattanashetti)
Electricity Ombudsman.

- 1) Smt. Padmalatha. G,
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(Varuna Neeravari Pipe),
Bengaluru-560091.
- 2) Sri. G.B. Revanaradhya,
No. 3394, 3rd Cross, 6th Main,
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3rd Stage, Bhima Jyothi, HSBC Layout,
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.
- 9) Chairperson of all CGRF's in the State.