

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BANGALORE**

Dated : 30th October, 2014

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri H.D. Arun Kumar | Member |
| 3. Sri D.B. Manival Raju | Member |

Complaint No.2/2014

BETWEEN:

Shri Nagabhushan Aradhya,
No.798, 5th Main Road,
Ramabai Nagar,
Mysore – 57-0 008
(Party in person)

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COMPLAINANT

AND

- 1) The Managing Director,
Chamundeshwari Electricity Supply
Corporation Limited,
No.927, L.J. Avenue,
Commercial Complex,
Sarswathipuram,
Mysore – 570 009
- 2) The Superintending Engineer (EI),
Chamundeshwari Electricity Supply
Corporation Limited,
City Work Circle,
Jodi Basaveswara Road,
Kuvempunagara,
Mysore – 570 023
- 3) The Executive Engineer (EI.),
N.P.M. Division, M.P.L. Building,
Sri Harsha Road,
Mysore – 570 001

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4) The Assistant Executive Engineer (El.),
Central Division, M.P.L. Building,
Sri Harsha Road,
Mysore – 570 001

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RESPONDENTS

[Represented by M/s. Justlaw, Advocates]

1) The genesis of this Complaint is a letter dated 14-12-2013 of Sri Nagabhushana Aradhya, Mysore, making allegations against the officers of the Chamundeshwari Electricity Supply Corporation Limited (CESC) regarding violations of Regulations in providing electricity supply to the installations in Site Nos.617 & 618 belonging to Sri Alimulla Khan and his wife Smt. Khairunnisa and requesting to take action to make good the loss of Rs.6 lakhs caused to CESC by such illegal action. The Complainant had enclosed the following documents along with the letter:

- 1) Letter dated 12-12-2013 addressed by the Complainant to the Superintendent of Police, Vigilance, CESC.
- 2) Letter dated 26-7-2012 addressed by Superintending Engineer, City Works Circle, CESC to Smt. Khairunnisa Khanam and Sri Alimulla Khan.
- 3) Letter dated 8-8-2012 addressed by the Chief Engineer, O&M Zone, CESC to the Secretary, KERC.
- 4) Letter dated 13-9-2012 addressed by Executive engineer, O&M, N.R. Mohalla, Mysore to Superintending Engineer, City Works Circle, Mysore.
- 5) Letter dated 19-7-2012 addressed by AEE, N.R. Mohalla Division, to the Superintending Engineer, City Works Circle, Mysore.
- 6) Letter dated 21-9-2012 addressed by AEE, O&M CESC, Central Zone, CESC to Sri Alimulla Khan.

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2) In the documents enclosed to the letter, the Complainant had alleged that the persons named therein had constructed a building in site Nos. 617 & 618 and made an application for supply of Electricity. Sri Alimulla Khan had applied for 5 connections, each of 2 KW capacity, in his name and Smt. Khairunnisa had applied for 5 connections, each of 2 KW capacity. The sites are situated adjacent to each other and belong to different Khatha Holders. Therefore the application filed for supply of electricity to the building would be governed by of condition No. 3.1.5 (Note 4) of the (Recovery of Expenditure for Supply of electricity) Regulations 2004 (hereinafter referred to as Regulations). The concerned officer of the sub division visited the spot and on inspection found that the building would come under "Multi-storeyed Building" and submitted the estimates and inspection report to the Executive Engineer. The Executive Engineer inspected the spot and ascertained that the report submitted by the sub-division officers was correct and thereafter the Superintending Engineer addressed a letter to the applicant on 26-7-2012 communicating power sanction to the installations and informing the applicants that they had to fulfil the requirements of providing a transformer and other electrical equipment (as\ required under Conditions of Supply Regulations) within three months, failing which the approval for power supply would stand cancelled .

3) The Complainant had alleged that, before the completion of three months specified in the aforesaid letter, the Engineer of the sub-division obtained another application from Sri Alimulla Khan. The Executive Engineer addressed a

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letter a dated 13-9-2012 to the Superintending Engineer stating that the Assistant Executive Engineer, Central Sub division, Mysore had visited the premises and was informed by the applicant that the building would be used only for residential purpose and that the applicant had requested for providing single meter. The Assistant Executive Engineer had opined that there was no space for installing the transformer and that the supply could be provided by fixing one meter. The Chief Engineer addressed a letter dated 8-8-2012 to the Commission stating that the owner of the building had not let sufficient space for installing a transformer on his own and had sought clarity of the Commission in the matter where there are space constraints to provide transformer.

4) The Complainant had alleged that the applicant had not given any undertaking as mentioned in the letter and that the building could not have been construed as a single dwelling house but had to be treated as a multi storied building. The complainant had further alleged that the building is 17 meter in height and before servicing, the NOC of Electrical Inspectorate had to be obtained. The Complainant had alleged that the officers of CESC have violated the Regulations in providing Electricity Supply to the installation, thereby causing of loss of Rs.6 Lakhs to the CESC (Respondents). He had requested to take suitable action to make good the loss and take disciplinary action against the concerned.

5) Considering the allegations made in the letter of the Complainant, the Commission called for a report from the Managing Director of CESC in the

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matter, vide letter dated 20/23-12-2013. The General Manager of CESC submitted a report dated 24-1-2014 enclosing the reply of the Superintending Engineer and Executive Engineer in the matter.

6) The gist of the report is as follows:

The building at No. 617 and 618/1 is a joint building consisting of Cellar Floor, Ground Floor, First Floor, Second Floor, Third Floor and Fourth Floor with independent entrances and belongs to the couple named Sri Alimulla Khan and Smt. Khairunnisa Khanam and was serviced by CESC with one Electricity Meter, after collecting Rs.20,800/- . Sri Alimulla Khan and Smt. Khairunnisa Khanam initially had applied for 10 Electricity Meters on 18.9.2012 for the above building and CESC had communicated power sanction for the same treating the premises as Multi- storeyed building. There is a sanctioned plan dated 18.2.2005 for ground floor and first floor in respect of site no. 617, belonging to Smt. Khairunnisa. In respect of site no. 618, belonging to Sri Alimulla Khan, permission was obtained from the City Corporation on 18.5.2007 for construction of ground floor and first floor, but the construction is not as per the sanctioned plan. For the purpose of electricity supply, the plan prepared by an architect was submitted. The electricity supply to the premises is granted based on the sanctioned plan dated 18.2.2005. Further, electricity supply has also been provided to a mobile tower as per the provisions of Regulation 9.04 of the CoS. During the visit to the premises, the Officers found that Sri Alimulla Khan's family was residing in the ground floor, his brother's son in first floor, his sister's son's family in the second

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floor, another brother's son in the third floor and the premises in the fourth floor was used as guest room.

7) After considering the allegations in the letter and the report of the officers of CESC, the Commission, in its 265th meeting held on 14-3-2014 decided to treat the letter as a complaint under section 142 of the Electricity Act and directed the office to issue notice to the parties. Accordingly the letter was registered as Complaint No. 2 of 2014 and notice was issued to the complainant and 4 officers of CESC (Respondents).

8) Upon notice, the Respondents entered appearance and filed Statement of objections on 19-6-2014.

9) In the Statement of Objections, the Respondents have stated as follows:

(a) The building belonging to Sri Alimulla Khan and his wife Smt. Khairunnisa constructed in site Nos. 617, 617/1 and 618 has a single roof and a common entrance and is therefore a single house, with a sanctioned plan dated 18-2-2005 as per Annexure R-1. The building comprises a cellar and 5 floors with a built up area 742.72 sq. meters. Sri Alimulla Khan had applied for 5 connections each of 2 KW capacity in his name and Smt. Khairunnisa had applied for 5 connections, each of 2 KW capacity, while seeking electricity supply to the building on 18.9.2012. The applicant had given an undertaking that the building would be used only for residential

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purpose. On 21.9.2012, the Applicant was directed to deposit fees and security deposit amount and on compliance of the same, power supply was given on 8.11.12 through a single meter. The applicants had earlier applied for 10 meters and power was sanctioned by the SE on 26.7.12 and they were informed to execute the work of providing transformer and other equipment on self-execution basis at an estimated cost of Rs.6,77,063/- within 3 months vide letter dated 26.7.2012 (Annexure- 1 to the letter dated 12.12.2013 addressed by the complainant to the SP, Vigilance, CESC). However, the applicant informed vide letter dated 17-7-2012 that there was no space for installing the transformer and that only the members of his family were residing in the premises and requested to provide a single meter and to provide power supply from the existing infrastructure of CESC. The applicant had given an undertaking (Annexure R 2) to this effect. Applying the provisions of Regulation 3.1.5 Note 1(c) of the Regulations, the Respondents collected charges of Rs.20,800/- and provided electricity supply to the building.

- (b) The Respondents have stated that obtaining NOC from the Electrical Inspectorate is not within their purview, however, the consumer has obtained the approval as at Annexure R-3.
- (c) The Respondents have denied the allegations made by the Complainant and stated that they have not violated the Regulations.

10) We have heard the learned Counsel for the Respondents. The Complainant had orally submitted that he would not be able to attend the hearings. He had requested to consider the allegations made in the letter and its enclosures.

11) After perusing the records and hearing the learned counsel for Respondents, the following point arises for consideration in the case:

- (1) Whether the Respondents have acted in violation of the applicable Regulations in providing Electricity Supply to the Building, as alleged and if so, what order?

12) For this, it is necessary to quote the relevant provisions of the KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 (hereinafter referred to as the Regulations), which read as follows:

“3.1.5 Where the requisitioned load is 25 kW or more or built up area in the premises of the Applicant exceeds 500 sq.metres, the Applicant shall provide the required space in his premises and also provide at his own cost electric line, distribution transformer and associated equipment. The transformer so provided by the Applicant shall be dedicated to the premises of such applicant. The details of space to be provided by the Applicant are as follows:-

(a) An electrical room with RCC roof having clear floor area of 5 metres X 4 metres with a vertical clearance of 2.75 meters with locking facility, exhaust fans and adequate size of cable duct, shall be provided at the ground floor within the Applicant's premises nearer to the main entrance for installing floor mounted distribution transformer and associated switchgear; or

(b) A clear space of 3 metres X 5 metres open to the sky shall be provided within the Applicant's premises preferably at the main entrance for installing structure mounted distribution transformer and switch gear .

Note: (1) Amended version dated: 12.1.2006

In the case of Applicant whose building plan is sanctioned by the Local Authority prior to **25.8.2005, i.e., the date of publication of second amendment No.Y/01/4 dated: 25.8.2005 in the Gazette of Karnataka** and if the Applicant is unable to provide the space for erection of transformer, switchgear and other allied equipments, the Licensee shall arrange power supply to the Applicant from the existing transformer or by installing a new transformer duly collecting charges towards electric line and plant as indicated below:

a) Charges where the requisitioned load is above 25 kW and upto and inclusive of 50 kW: **Rs.20,800/- plus Rs.6500/- per kW for loads above 25 kW.**

b) Charges where the requisitioned load is above 50 kW and upto and inclusive of 100 kW: Rs.1,83,300/- plus Rs.19,500/- per kW for loads above 50 kW in Bangalore

Metropolitan Area comprising of Bangalore Mahanagara Palike, Dasarahalli City Municipal Council, Yelahanka City Municipal Council, Byatarayanapura City Municipal Council, Kengeri Town Municipal Council, Rajarajeshwari City Municipal Council, Krishnarajapura City Municipal Council, Mahdevapura City Municipal Council, Bommanahlli City Municipal Council and BDA Areas & Rs.13,000/- per kW in other areas.

In addition to the above Rs.1000/- per kW for loads above 3 kW shall be collected in Bangalore Metropolitan Area comprising Yelahanka City Municipal Council, Byatarayanapura City Municipal Council, Kengeri Town Municipal Council, Rajarajeshwari City Municipal Council, Krishnarajapura City Municipal Council, Mahdevapura City Municipal Council, Bommanahlli City Municipal Council and BDA Areas towards HT/LT UG cable/ABC system.

- c) In the case of Applicants whose requisitioned load is **less than 25 kW but built up area is more than 500 square meters**, in such cases, **one time payment** of Rs.20,800/- towards cost of electric line / plant shall be collected from the Applicant. The Licensee shall not collect any further amount from the Applicant even if the Applicant requisitions additional loads subsequently up to a total load (existing + additional) of less than 25 kW.

In Bangalore Metropolitan Area comprising of Bangalore Metropolitan Area comprising of Bangalore Mahanagara Palike, Dasarahalli City Municipal Council, Yelahanka City Municipal Council, Byatarayanapura City Municipal Council, Kengeri Town Municipal Council, Rajarajeshwari City Municipal Council, Krishnarajapura City Municipal

Council, Mahdevapura City Municipal Council, Bommanahlli City Municipal Council and BDA Areas towards HT/LT UG cable/**ABC** system.

Note (6) Amended version dated: 12.1.2006

In case of following installations, clause no.3.1.5 is not applicable if the requisitioned load is less than 25 kW irrespective of built up area:-

Buildings of Govt. Offices (Govt. owned), Godowns, Kalamandiras, Samudaya Bhavanas, Theatres of Film Societies, Art Galleries, Auditoriums and charitable / religious institutions registered under Section 12-A of Income Tax Act, Temples and Vocational centres & single dwelling house. However if the requisitioned load is 25 kW and above, clause no.3.1.5 shall be applicable.

Note (7) Amended version dated: 12.1.2006

*However in respect of new building whose building is sanctioned after **25.8.2005 in the Gazette of Karnataka**, with requisitioned load of more than 25 kW or built up area is more than 500 Sq.Mtr., where the Applicant should have provided the required space in his premises and should have provided at his own cost electric line, distribution transformer and associated equipments as per this Clause but not provided by the Applicant, the Licensee shall not arrange power supply for such building."*

13) In this case, the applicants had applied on 18.9.2012, seeking sanction of power to the building, to an extent of 10 kilo watts (kW) for five installations (2 kW X 5 installations) in a building, totaling 20 kilo watts for two buildings. The Respondents communicated, vide letter dated 26.7.2012, the power sanction to

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10 nos. of residential installations and informed the applicants to provide space for transformer and other equipment. Before the expiry of three months' time provided for installing the said equipment, the applicants made a request to treat the building as single dwelling house and provide connection with the existing infrastructure of the Respondents and provide a single meter to the entire building. A perusal of the undertaking given by the applicants shows that the building comprises of two houses constructed on two sites with two different Khatha numbers and they have different entrances. However, it is stated that the inhabitants of the building are relatives and are using a common path to move about within the building.

14) We have perused the Plan dated 18.2.2005 sanctioned by the Municipal Corporation, Mysore. As per the sanctioned Plan, Smt. Khairunnisa had obtained sanction for construction of ground and first floor on Site Nos.617 and 617/1, and her husband, Shri Alimulla Khan, had obtained sanction for construction of ground and first floors on Site No.618 (Plan not produced). But the facts show that the building was not constructed according to the sanctioned Plan, as the total built-up area is 742.72 Sq. Metres, with five floors and cellar. Therefore, Note(1) of Regulation 3.1.5 of the Regulations, relied upon by the Respondents, cannot be made applicable.

15) We are unable to accept the contentions of the Respondents that the building is a single dwelling house, because the building has no common entrance and no common kitchen. On the other hand, as evident from the

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reports submitted by the Respondents, each floor is a separate dwelling unit by itself, as it has a separate entry point, kitchen, bath room, hall, etc. Therefore, it is a multi-storeyed building. Even if the relatives of the owners are staying in the building, it does not make the building a single dwelling house. Accordingly, Clause 3.1.5(a) and (b) of the KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004, is applicable to the building for providing electricity supply. As the Applicant has not provided space for installation of 'transformer' and allied 'equipment', the Respondents should have applied Note-7 of the said Regulation and denied electricity supply to the building. Therefore, we hold that the Respondents have violated Clause 3.1.5 of the KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004, in providing supply of electricity to the building constructed on Site Nos.617 and 618, with a built-up area of 742.72 Sq. Metres.

ORDER

We, therefore, direct the first Respondent to conduct an enquiry in the matter and take appropriate disciplinary action against the Officer(s) / official(s) concerned for the statutory violation. The first Respondent is also directed to consider providing the required number of meters for power supply to the premises in question, strictly in accordance with Regulations. Compliance of the orders shall be reported to the Commission within four weeks.

Sd/-

(M.R. SREENIVASA MURTHY)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER