

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-344/2019
Dated 30-10-2019

In the matter of

M/s Karanja Industries Private Limited,
Akka Mahadevi Colony,
Bidar-585401.

Represented by:
Sri M.G Prabhakar,
No.79, 14th Cross, 2nd Phase, J.P Nagar,
Bengaluru-560078.

Appellant

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Vs

- 1) The Assistant Executive Engineer (Electrical),
O & M Sub-Division, GESCOM,
Humnabad, Bidar District.
(Sri Mahesh S Patil Advocate)
- 2) The Executive Engineer (Electrical),
O & M Division, GESCOM,
Humnabad, Bidar District.
- 3) The Chairman, Consumer Grievance Redressal Forum,
Bidar District,
O & M Circle, GESCOM,
Bidar – 585401.

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Respondents

1. This Appeal/Complaint is filed before this Authority by M/s Karanja Industries Private Limited (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 passed by CGRF, Bidar District bearing No. CGRF/BDR/06/2014/19-20/01 dated 18-05-2019, by inter-alia seeking the following reliefs:

- 1) To declare that the order of CGRF dated 18-05-2019 is illegal and set aside the order passed in complaint No. 06/2014;
 - 2) To direct the licensee to refund the excess amount of Rs 3,53,319/- together with interest of 1% per month for each month of default up to and inclusive of the date of refund as per KERC (Security Deposit Regulations) 2007;
 - 3) To direct the licensee to credit interest on security deposit for the entire amount consisting of Rs 29,62,013/- already adjusted and the amount being now claimed for the relevant year for the number of months on pro-rata as per KERC (Security Deposit Regulations) 2007;
 - 4) To award compensation as per Standards of Performance (SOP) Regulations read with Clause (b) of Sub Clause 9.1 of KERC (CGRF and Ombudsman) (Amendment) Regulations 2007.
 - 5) To award Rs. 30,000/-, as exemplary cost;
 - 6) To pass such other order as the Hon'ble Ombudsman may deem fit in the fact and circumstances of the complaint.
2. Brief facts, which are relevant to the case as claimed by the Appellant/Complainant, are as follows:
- a) It is stated that the Appellant/Complainant is a Company incorporated under the Companies Act, 1956 carrying the business of manufacturing of Duplex Boards on a continuous basis.
 - b) It is further stated that the Appellant/Complainant had availed HT power supply to their installation bearing R.R MP. HKHT-4 with a

contract demand of 750 KVA. He was settling the power bills for the said installation from time to time.

c) It is further stated that the Appellant/Complainant is having Security Deposit of Rs 31,76,902/- and Meter Security Deposit of Rs 1,38,430/- in their credit with the Licensee. Vide letter dated 01-06-2012, alongwith an indemnity bond on a plain paper the Appellant/Complainant informed the decision of surrender of power and requested to refund the deposit amount with interest. In pursuance to this letter, the O & M Staff of sub-division visited the premises for disconnection within 15 days. It is further stated that the Appellant/Complainant on 15-06-2012 informed the Superintending Engineer that since they had assumed 60 days' notice period which would be sufficient for exhausting raw material stock, immediate disconnection was not contemplated, the exact date on which the disconnection was to be done, would be informed. Indemnity Bond as required by the Respondent-1/AEE on Rs. 200/- stamp paper was furnished by the Appellant/Complainant on 28-09-2012, with a request for disconnection w.e.f. 30-09-2012. The disconnection was effected on 04-10-2012 and the same was confirmed by AEE vide his letter dated 08-10-2012. Thereafter the Appellant/Complainant has made several reminders for refund of the Security Deposit with the licensee starting from 12-10-2012.

d) It is further stated that the Appellant/Complainant having failed to get the refund has approached the CGRF by filing a complaint on 27-06-2014. The CGRF, Bidar District vide order dated 18-05-2019 has disposed the matter with the conclusion that the complainant is not entitled for any relief. Aggrieved by the non-redressal of his grievance

by the CGRF-Bidar District, the Appellant/Complainant has prayed before this Authority in the Appeal/Complaint filed on 28-06-2019 that the order of CGRF suffers from serious legal infirmities and hence liable to be set aside and to pass such other order as deemed fit in the interest of justice and equity.

3. Both the parties were informed vide this office letter No. OMB/G/G-344/2019/D-1305 dated 01-07-2019, 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 18-07-2019 at 11.30 A.M. However, they have not availed the benefit of the said provision. The case was listed for hearing on 18-07-2019, & 05-08-2019.
4. The Respondents-1 & 2 have jointly filed objections vide their letter dated 30-07-2019 by inter-alia stating as follows:
 - a) The Appellant/Complainant has requested for surrender of installation and termination of agreement along with refund of Security Deposit with interest at bank rate for RR No. HKHT-4 on 01-06-2012. An indemnity bond in the prescribed format was also submitted by the Appellant/Complainant. Within 15 days of the above communication the employees of GESCOM went for disconnection. On 15-06-2012 the Appellant/Complainant has sought some more time for surrender of said installation till exhaustion of stock of raw material and exact date of surrender of installation would be communicated later.
 - b) It is further submitted that as per the request of Appellant/Complainant vide letter dated 28-09-2012 the said installation was permanently disconnected on 04-10-2012 after meter calibration by HT rating AEE

with final reading of 2016.13 KVA and 2025.66 KWH, the energy bill of installation as on 04-10-2012 was Rs 96,467/- plus 3 months minimum charges amounting to Rs 3,87,443/- as per Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

- c) The contention of the Respondent with regard to the prayer of the Appellant/Complainant are reproduced here below:

“The Complainant has claimed that there is delay in refund of Security Deposit, Additional Security Deposit and Meter Security Deposit by the Licensee/GESCOM. The dates which are relevant for considering above point are as follows:

01-06-2012: *Termination of agreement/surrender of installation.*

11-06-2012: *GESCOM letter for submitting Indemnity Bond of Rs. 200/-.*

13-06-2012: *GESCOM letter for according approval for surrender of installation HKHT-04 subject to fulfilment of conditions.*

15-06-2015: *Without fulfilling above conditions, Complainant issued another letter for postponing surrender of installation/termination of agreement.*

28-09-2012: *Submitted by the Complainant for disconnection of HKHT-4 by the end of 30 Sept '12.*

08-10-2012: *GESCOM permanently disconnected installation RR No. HKHT-4.*

08-01-2013: *The Superintending Engineer (Ele) by its OM permanently closed the Ledger Account by terminating agreement. And considering above dates for the purpose of deciding date on which the respondent was required to refund the Security deposit, the letter dated 28-09-2012 has to be considered as notice of the Complainant for terminating agreement/surrender of installation and in terms of Regulation 32.06 considering three months advance notice and further, Considering regulation-9 of the KERC (Security Deposit) Regulations, 2007, wherein Security deposit shall be refunded within two months from the date of termination of agreement. The regulation 9 of the said Regulations is herein extracted as follows.*

“9. Refund of Security deposit:- the licensee on termination of the agreement by either party refund ISD, ASD and meter security deposit

(if any), after adjustment of dues, if any within two months from the date of termination failing which interest at 1% per month shall be payable on the ISD, ASD and Meter Security Deposit for the actual days of delay.” And as per the facts available on record, it is clear that, the complainant’s letter dated 28-09-2012 which is subsequent to postponement for disconnection, which was submitted for disconnection of his installation. As per regulation 32.06 above said regulations wherein three months advance notice to be given by the Consumer for termination of agreement and as per regulation-9 above said regulations two months from the date of termination of agreement for refund of Security Deposit.

In the above case admittedly on 28-9-2012 submitted for termination of agreement and disconnection of installation and three months expires on dated 28-12-2012 and further the Superintending Engineer (Ele) by its Official Memorandum dated 08-01-2013 terminated agreement by permanently closing ledger account of the complainant and immediately on dated 10-01-2013 the said GESCOM authority issued official memorandum wherein ordered to adjust amount of Rs. 29,62,013/- against the running bill of Complainant’s another installation bearing RR. No. HKHT-5 and as per the said OM it was adjusted in the bills of another installation of complainant on dated 29-01-2013. If the above factual aspects are considered there are no delays in refund of Security deposit. Hence considering above facts and documents, the finding on Point No. 3 has to be held against the Complainant, holding that there is no delay in refund of Initial Security Deposit, Additional Security Deposit and Meter Security Deposit. Hence complainant is not entitled for interest at the rate of 2% per month.

As per the regulation 30.05(c) which reads as follows: “30.5(c) Interest on Security Deposit shall be paid as per the K.E.R.C (Interest on Security Deposit) Regulation, 2004 (Annex-5).” And regulation

3.1 of the KERC (Interest on Security Deposit) Regulations, 2005 which reads as follows “3.1 The Licensee shall pay interest on security deposit of the Consumer at the Bank Rate prevailing as on 1st April of the financial year for which interest is due.

As per the above regulations the Licensee/Respondent is required to pay interest on the Security Deposit at the Bank rate prevailing as on 1st April of the financial year for which interest is due. Considering the records produced by the Complainant as well as dent/Licensee no record is produced to point out till what date the interest on Security

Deposit as per Regulation 3.1 of the KERC (Interest on Security Deposit) Regulations 2005 neither complainant has come out with clear dates with supporting documents till what date it has received interest, and at the same time respondent has submitted that, it has paid interest up to-date till the date of adjustment of Security deposit against the running bill of the complainant's another installation bearing RR No. HKHT5 vide respondent/Licensee letter dated 10-01-2013.”

5. Perused the appeal memo, parawise replies filed by the Respondents, rejoinder to the parawise replies, documents submitted by both the parties and arguments and counter arguments of the contesting parties. The Appellant/Complainant filed his application on 01-06-2012 for surrender of installation, termination of agreement and request for refund of deposit along with interest. After the Respondents initiated action for surrendering of installation and termination of agreement by visiting the premises of the Appellant/Complainant, the Licensee GESCOM accorded approval for surrender of installation HKHT-4 on 13-06-2012 subject to fulfilment of certain conditions. When the matter stood thus, the Appellant/Complainant gave another representation to the Respondent-1/AEE stating as follows:

“In continuation of our letter under reference this is to state that we had sent above letter assuming that 60 days notice is required and if it is not so, we have to submit that our unit is being run till exhausting of stock of Raw material for which we shall be communicating you the exact date from which our above installation will be surrendered. Further we shall be filing Indemnity Bond on required stamp paper separately as asked for.”

It was only on 28-09-2012 Appellant/Complainant gave a representation to the Respondent-1/AEE stating as follows:

“In this connection, we request you kindly arrange for disconnection of HKHT-4 by the end of this month i.e., by 30th Sept’ 12 so as to avoid minimum charges on the Contract Demand which may not be levied from Oct’ 12 onwards.”

Thereafter on 04-10-2012 the Respondent-1/AEE disconnected the power of the installation and on 08-01-2013 the Superintending Engineer (Ele) issued OM permanently closing the ledger account by terminating agreement. On the representation of the Appellant/Complainant when the Licensee initiated to take action, they were stopped by the Appellant/Complainant through their letter dated 15-06-2012. It was only after receiving the letter of the Appellant/Complainant dated 28-09-2012, the final action regarding disconnection of the installation and termination of agreement started, wherein, it was mentioned that arrangement of disconnection of installation of HKHT-4 may be made by the end of the month i.e., 30-09-2012. Based on this letter the Respondent-1/AEE disconnected the installation on 04-10-2012 and agreement was terminated on 08-01-2013 by the Superintending Engineer (Ele), GESCOM.

Clause 32.06 of Conditions of Supply of Electricity (COS) reads as follows:

“32.06 During the Agreement period (initial or extended) the Licensee or Consumer is at liberty to terminate the Agreement by giving at least three months’ advance notice. However, the Consumer shall clear the outstanding arrears before terminating the Agreement.”

In the present case though the initial letter of surrender of installation and termination of agreement was given on 01-06-2012 by the Appellant/Complainant, because it was modified by his letter dated 15-06-2012, the actual date of reckoning is 28-09-2012 and not 01-06-2012. On 01-06-2012 at the time of submission of his application

the Appellant/Complainant had not cleared the outstanding arrears without which the agreement could not have been terminated. So, the Respondent/Licensee as per Regulation 32.06 is entitled for 3 months minimum charges by considering the letter for disconnection of installation dated 28-09-2012 for commencement date for collecting minimum charges i.e., for months of Oct 12, Nov 12 and Dec 12. The Superintending Engineer (Ele) by OM dated 08-01-2013 terminated agreement by permanently closing the ledger account of Appellant/Complainant and immediately on 10-01-2013 the Licensee issued OM ordering for adjustment of Rs. 29,62,013/- against running bill of Appellant/Complainant's another installation bearing RR No. HKHT-5, and as per the said OM it was adjusted in the bills of another installation of Appellant/Complainant on 29-01-2013. As can be seen from these facts there are no delays in refund of Initial Security Deposit, Additional Security Deposit and Meter Security Deposit. Hence the Appellant/Complainant is not entitled for interest at the rate of 2% per month. The Respondent has submitted that, he has paid interest up to date till the date of adjustment of Security Deposit against the running bill of the Appellant/Complainant's another installation bearing No. HKHT-5 vide Respondent/Licensee letter dated 10-01-2013.

6. In view of the foregoing paras, the following order:

O R D E R

The Appeal/Complaint filed by the Appellant/Complainant is dismissed.

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

- 1) M/s Karanja Industries Private Limited,
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Bidar-585401.
- 2) Sri M.G Prabhakar,
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- 5) The Chairman, Consumer Grievance Redressal Forum,
Bidar District,
O & M Circle, GESCOM,
Bidar – 585401.
- 6) PS to Hon'ble Chairman, KERC
- 7) PS to Hon'ble Member (M), KERC
- 8) PS to Hon'ble Member (R), KERC
- 9) PS to Secretary, KERC.
- 10) Chairperson of all CGRFs in the State.