

No.N/40/05

**BEFORE THE ARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 15th January 2009

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|----|-------------------------|-----|----------|
| 1. | Sri K.P.Pandey | ... | Chairman |
| 2. | Sri Vishvanath Hiremath | ... | Member |
| 3. | Sri K. Srinivasa Rao | ... | Member |

Case No. OP 19/2005

Between

Sri Chitrashekar
S/o Sri Shellappa
R/at Chikka Thottu Kere
Tumkur Tq. & District.

...Petitioner

And

1. The Managing Director
BESCOM, K.R. Circle
Bangalore-560 001
2. The Superintending Engineer
KPTCL, Tumkur Circle
Tumkur-572 102
3. The Asst. Executive Engineer
LT Rating, M.T. Sub-Division, KPTCL
Tumkur-572 102
4. The Asst. Executive Engineer
Rural Sub Division, KPTCL
Tumkur-572 102
5. The Chief Engineer
Bangalore Rural Circle Division
14/03, 4th Floor, CFC Building, Nrupathunga Road
Bangalore – 560 001

...Respondents

In this petition the petitioner has challenged the action of the second respondent in raising the demand of back billing charges on the ground that meter slow recording of 69.7 % load and has prayed for setting aside the impugned order dated 3.1.2002 produced as Annexure-D

The petition was kept pending awaiting the orders of the Hon'ble High Court of Karnataka in WP No.3565 of 2006.

The Hon'ble High Court of Karnataka in WP No.3565 of 2006 has held that "The individual grievance of the consumer cannot be entertained or adjudicated by the second respondent (the Commission) without confining its activities under Section 86 in excess of the power vested in it. The second respondent (KERC) has erroneously entertained the petition filed by the first respondent. Therefore, only on this short ground, the order passed by the second respondent (KERC) as per Annexure-P has to be quashed. In the result, the writ petition is allowed. The order Annexure-P dated 2.2.2006 passed in OP 12/2005 is hereby quashed. The order passed by the first Appellate Authority shall hold good".

The Hon'ble Supreme Court in the case of Maharashtra Electricity Regulatory Commission Vs. Reliance Energy Ltd. and others has also held as above (reported in AIR 2008 SC 976).

In the present petition also, the consumer has filed the petition relating to his individual grievance regarding back billing charges in respect of Sri Chitrashekar against the Managing Director, BESCO and others.

Both the parties have been heard. Both parties fairly submitted that the matter is fully covered by the judgment of Hon'ble High Court of Karnataka referred to above and may please be disposed off.

Respectfully following the judgment of the Supreme Court and High Court of Karnataka this petition is liable to be dismissed as not maintainable. Accordingly the petition is hereby dismissed as not maintainable reserving the liberty to the petitioner to approach the appropriate forum if so desired. Both the parties shall bear their respective costs.

Sd/-
(K.P. PANDEY)
CHAIRMAN

Sd/-
(VISHVANATH HIREMATH)
MEMBER

Sd/-
(K. SRINIVASA RAO)
MEMBER