



Before the Electricity Ombudsman

9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore

Present: B.R.Jayaramaraje Urs, IAS (Retd.)
Electricity Ombudsman

Case No.OMB/B/G-195/2014/464
Dated 31.12.2014

Shri M.Shashi,
#72/2, Haraganahalli,
Kanakapura Road,
BANGALORE-560078
(Represented by Sri M.A.Delvi,
Authorised Representative)

.. Appellant

Vs

1. The Asst. Executive Engineer(EI)
O & M S-6 Sub Division,
BESCOM,
J.P.Nagar,
BANGALORE-560078
(Represented by Shri Vinayaka.K,
Law Officer, BESCOM)

2. The Chairperson
Consumer Grievance Redressal Forum
Office of the Superintending Engineer,
BESCOM, West Circle,
05, 3rd Stage,
Bhimajothi HBCS Layout,
Basaveshwarnagar,
BANGALORE-560079

.. Respondents

1. This is an appeal under Clause 22.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the Final Assessment Order passed by the Assistant Executive Engineer(EI) S-6 Sub Division BESCO, Bangalore dated 30.06.2014 (hereinafter referred to as the 1st Respondent) in compliance with the directives issued by Consumer Grievance Redressal Forum, Bangalore Urban District vide No. 223/2013-2014 dated 29.03.2014 (hereinafter referred to as the 2nd Respondent) pertaining to the back billing charges raised by the 1st Respondent on the grounds of Appellant using excess load over the sanctioned load. The Appellant, aggrieved by the assessment order passed by the 1st Respondent, submitted her case as under:

2. The Appellant is engaged in plastic injection moulding activity. The installation bearing R.R No 6 SP 1270 stands in the name of the Appellant. The installation was serviced on 12.06.1996 with a sanctioned load of 64 HP. The installation has been provided with ETV meter. The meter provided to the installation along with other parameters reflects the load or MD of the installation at any point of time. From the date of service, at no point of time, the meter has shown any excess load on the system. Such being the case, MT Rating Division on 05.05.2009 reported an excess load of 17.25 HP on the system. Based on this, the 1st Respondent raised a demand for Rs.9,072 /-. As this amount was included in the regular monthly bill, the Appellant paid the bills in good faith. The Appellant denies any additional or excess load on the system.

3. Further, the installation was continuously subjected to calibration and even as late as in October, 2009 and also on subsequent dates and the 1st Respondent has not found excess load over the sanctioned load. However, based on Audit Report, the 1st Respondent has made short claims for Rs.1,35,204/-. The 1st Respondent has not elaborated the exact nature of short claim nor intimated the nature of short claims to the Appellant. However, aggrieved by the short claims made by the 1st Respondent, the Appellant approached 2nd Respondent. The 2nd Respondent, after hearing the complaint, remanded the case to the 1st Respondent for fresh hearing and pass necessary assessment order following the procedure laid down under the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

In compliance with the 2nd Respondent's order, the 1st Respondent passed a final assessment order dated 30.06.2014. But while passing the assessment order, the 1st Respondent has not followed the procedure laid down under Note (a) & (b) of Clause 42.01 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which restricts the levy of penalty to that particular month during which the excess load over the sanctioned load is noticed in the case where the mechanical meter is replaced with ETV meter. Further, it is the stand of the Appellant that the 1st Respondent has, at no point of time, noticed the Appellant using excess load over the sanctioned load and, when such being the case, it is inexplicable as to how the audit wing could come to the conclusion that the Appellant has used excess load over the sanctioned load. In addition, the 1st Respondent has not intimated the observations made by the audit wing with regard to the short claims to the Appellant and no opportunity is given to the Appellant to file objections, if any, to the audit observation and thus the claims become arbitrary and void and, therefore, the Appellant is not liable to pay such arbitrary short claims.

4. The first Respondent's comments were called vide letter No OMB/B/G-195/2014/416 dated 26.09.2014.

5. The 1st Respondent in his replies admitted having fixed ETV meter to the Appellant's installation on 12.06.1996 but refuted the averments made by the Appellant that at no point of time he had used excess load over the sanctioned load and pointed out that the MT Rating Division had noticed excess load of 17.25 HP during their inspection dated 05.05.2009 and, based on this report, short claims had been made for a period of 6 months for Rs.9,072/- and that this amount had been paid by the Appellant. However, the Appellant neither removed the excess load nor regularised such excess load within the stipulated period and this had been noticed during audit verification and based on the audit report short claims for Rs.1,35,204/- had been raised for the period from 5/2009 to 9/2011 and, hence, the short claims are justified and, therefore, the Appellant is liable to pay such short claims.

6. Both the Appellant and the 1st Respondent, during the hearing, reiterated the submissions made in the appeal memo and statement of objections respectively.

7. Both parties were informed vide letter No.OMB/B/G-195/2014/448 dated 03.12.2014 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However, both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

8. Having regard to the contending positions of the parties, the issue that arises for our consideration is:

a) Whether the Appellant can approach Electricity Ombudsman directly against the assessment order passed by the 1st Respondent by-passing the Forum and whether such appeal is maintainable under the law?

9. The Appellant has filed this appeal before this Authority against the assessment order passed by the 1st Respondent in compliance with the directions issued by the 2nd Respondent vide its order No CGRF 223/2013-2014 dated 29.03.2014. The 2nd Respondent had remanded the case to the 1st Respondent for fresh hearing and order following the procedure. In pursuance to this order, the 1st Respondent passed an assessment orders dated 30.06.2014. The Appellant is found to have been aggrieved by this assessment order passed by the 1st Respondent.

10. As per Clause 21.02 of KERC (CGRF & Ombudsman) regulations, 2004 ***"Any complainant, who is aggrieved by the non-redressal of his grievances by Forum may himself or through his representative make a representation to the Ombudsman exercising jurisdiction over the Licensee within 30 days from the date of receipt of the order of the Forum."*** In the instant case, the Appellant is not aggrieved by the non-redressal of his grievance by the

Forum but he appears to have been aggrieved by the non redressal of his grievance by the 1st Respondent. Clause 6.01 of KERC (CGRF & Ombudsman) Regulations, 2004 states that ***"In the event of a complaint not being redressed satisfactorily as provided in the complaints Handling and Redressal Standards Relating to Distribution and Supply (Standards of Performance) of power issued by the Commission shall submit his grievance to the Forum not later than one month from the date of lodging of the grievance with the Licensee"***. In other words, the Appellant being the electricity consumer of BESCO, aggrieved by the assessment order passed by the 1st Respondent is supposed to file his complaint before the 2nd Respondent and not before the Electricity Ombudsman.

11. The Appellant, in the present case is found to have filed the appeal before the Electricity Ombudsman directly against the assessment order passed by the 1st Respondent which is not maintainable under Clause 21.02 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka as cited above. Hence, the appeal deserves to be dismissed as not maintainable. However, the Appellant is at liberty to file his complaint before the 2nd Respondent against the assessment order passed by the 1st Respondent and the 2nd Respondent will admit the complaint as and when filed and pass such orders as required under the law. In view of the above, following order is passed:

ORDER

12. For the foregoing reasons, the appeal is dismissed as not maintainable. However, the Appellant is granted liberty to file Form A before the 2nd Respondent immediately after receipt of this Order and the 2nd Respondent will admit the complaint of the Appellant as and when filed and pass suitable orders as per law within a period of 60 days.



(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Shri M.Shashi, #72/2, Haraganahalli, Kanakapura Road, Bangalore-560078 (represented by its Authorised Representative, Sri. M.A.Delvi, Bangalore).
2. Chairperson, Consumer Grievance Redressal Forum, Bangalore Urban District, Basaveshwarnagar, Bangalore.
3. The Assistant Executive Engineer (Ele), O & M S-6 Sub Division, BESCO, J.P.Nagar, Bangalore -560078.
4. Shri Vinayaka, Law Officer, BESCO Headquarters, K.R.Circle, Bangalore-560001.
5. Managing Directors of ESCOMs.
6. PS to Hon. Chairman, KERC
7. PS to Hon.Member (A), KERC
8. PS to Hon.Member (M), KERC
9. PS to Secretary, KERC