



# Before the Electricity Ombudsman

9/2, 6<sup>th</sup> Floor, Mahalakshmi Chambers, M.G.Road,

Bangalore

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

Electricity Ombudsman

Case No.OMB/B/G-196/2014/463

Dated 29.12.2014

Smt.Rani M.S.,  
#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, 3<sup>rd</sup> 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 1<sup>st</sup> Respondent) in compliance with the directives issued by Consumer Grievance Redressal Forum, Bangalore Urban District vide No. 224/2013-2014 dated 29.03.2014 (hereinafter referred to as the 2<sup>nd</sup> Respondent) pertaining to the back billing charges raised by the 1<sup>st</sup> Respondent on the grounds of Appellant using excess load over the sanctioned load. The Appellant, aggrieved by the assessment order passed by the 1<sup>st</sup> Respondent, submitted her case as under:

2. The Appellant is engaged in plastic injection moulding activity. The installation bearing R.R No 6 SP 1216 stands in the name of the Appellant. The installation was serviced on 12.06.1996 with a sanctioned load of 65 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 28.04.2009 reported an excess load of 57.25 HP on the system. Based on this, the 1<sup>st</sup> Respondent raised a demand for Rs.29,232/-. 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 1<sup>st</sup> Respondent has not found excess load over the sanctioned load. However, based on Audit Report, the 1<sup>st</sup> Respondent has made short claims for Rs.1,24,554/-. The 1<sup>st</sup> 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 1<sup>st</sup> Respondent, the Appellant approached 2<sup>nd</sup> Respondent. The 2<sup>nd</sup> Respondent, after hearing the complaint, remanded the case to the 1<sup>st</sup> 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 2<sup>nd</sup> Respondent's order, the 1<sup>st</sup> Respondent passed a final assessment order dated 30.06.2014. But while passing the assessment order, the 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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-193/2014/417 dated 26.09.2014.

5. The 1<sup>st</sup> 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 57.25 HP during their inspection dated 28.04.2009 and, based on this report, short claims had been made for a period of 6 months for Rs.29,232/- 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.1,71,554/- 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 1<sup>st</sup> 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-196/2014/447 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 orders 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 1<sup>st</sup> Respondent in compliance with the directions issued by the 2<sup>nd</sup> Respondent vide its order No CGRF 224/2013-2014 dated 29.03.2014. The 2<sup>nd</sup> Respondent had remanded the case to the 1<sup>st</sup> Respondent for fresh hearing and order following the procedure. In pursuance to this order, the 1<sup>st</sup> Respondent passed an assessment orders dated 30.06.2014. The Appellant is found to have been aggrieved by this assessment order passed by the 1<sup>st</sup> 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 1<sup>st</sup> 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 and aggrieved by the assessment order passed by the 1<sup>st</sup> Respondent is supposed to file his complaint before the 2<sup>nd</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> Respondent against the assessment order passed by the 1<sup>st</sup> Respondent and the 2<sup>nd</sup> 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 2<sup>nd</sup> Respondent immediately after receipt of this Order and the 2<sup>nd</sup> 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. Smt.Rani M.S., #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