



**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/C/G-133/2012/150**  
**Dated 28.01.2013**

Shri Muddaiah,  
 No.3445, Trooplane,  
 R.C.Church Road,  
**RAMANAGARAM.**

**(Represented by Sri K.Hanumantharayappa,**  
**Advocate - Authorised Representative)**

**.. Appellant**

**Vs**

1. The Asst. Executive Engineer(EI)  
 O & M Urban Sub Division, BESCOM,  
**RAMANAGARAM.**

2. The Chairperson,  
 Consumer Grievance Redressal Forum,  
 B.E.S.C.O.M. Corporate Office,  
 K.R.Circle,  
**BANGALORE-560001.**

3. Shri Bommaiah,  
 No.3445, Trooplane,  
 R.C.Church Road,  
**RAMANAGARAM.**

**.. Respondents**

1. This is an appeal under Clause 21.2 of the provisions of KERC (Consumer Grievances Redressal Forum & Ombudsman) Regulations, 2004, against the order passed by the Consumer Grievances Redressal Forum, BESCO, Bangalore (herein after referred to as the 2<sup>nd</sup> Respondent) vide case No CGRF/124/2012/860-66 dated 30.04.2012. In the impugned order, the 2<sup>nd</sup> Respondent has directed the Assistant Executive Engineer (EI), O & M Urban Sub Division, BESCO, Ramanagaram (hereinafter referred to as the 1<sup>st</sup> Respondent) to restore the name of 3<sup>rd</sup> Respondent, namely, Shri Bommaiah in respect of installation bearing R.R.No L.G-14800 serviced under the special scheme. Aggrieved by the impugned order, the Appellant has submitted his case as under:

2. The Appellant is residing in house bearing Khata No. 2938 (Old No.) 3445 (New No), Troop Lane, R.C Church Road, Ramanagaram. The electrical installation was serviced in the year 1961-62 during the life time of Appellant's father Shri Jogaiah. This property is the self-acquired property of the Appellant and even Shri Jogaiah, the father of the Appellant, during his life time, was not residing in the disputed house. Shri Bommaiah, who is the 3<sup>rd</sup> Respondent in the present appeal, is the brother of the Appellant and the Appellant got a house constructed for his brother Shri Bommaiah near Ramanagaram. When BESCO introduced the Regularisation of Unauthorised Connection Scheme in 2002, the 3<sup>rd</sup> Respondent, though not residing in the disputed house and in connivance with the staff of the 1<sup>st</sup> Respondent allegedly got the installation regularised in his name. The Appellant gave all the records in proof of his being the owner of the house and possession and, based on these records, the 1<sup>st</sup> Respondent transferred the installation in the name of the Appellant. Aggrieved by the decision of the 1<sup>st</sup> Respondent, the 3<sup>rd</sup> Respondent approached the 2<sup>nd</sup> Respondent and the 2<sup>nd</sup> Respondent in the impugned order directed the 1<sup>st</sup> Respondent to restore the name of the 3<sup>rd</sup> Respondent in respect of installation No. L.G 14800 under the Special Scheme. In pursuance of this order, power supply and the name of the 3<sup>rd</sup> Respondent was restored in respect of R.R No.14800. Aggrieved by the 2<sup>nd</sup> Respondent's order, the Appellant has filed this appeal.

3. The 1<sup>st</sup> Respondent's comments were called vide No OMB/C/G-133/2012/1002 dated 18.06.2012 and the 1<sup>st</sup> Respondent has furnished his comments vide letter No. ಸಕಾನಿಇಂ(ಎ)/ಸಇ(ಎ)/192 dated 25.06.2012.

4. In his comments, the 1<sup>st</sup> Respondent submitted that installation No.L.G.14800 had been regularised under the Regularisation of Unauthorised Connection Scheme on 08.04.2002 and assigned R.R. No L.G-14800. The Appellant approached the 1<sup>st</sup> Respondent for transfer of installation bearing R.R.No.L.G-14800 in his name by furnishing documents like (a) Khata Extract (b) Revenue Receipts (c) Endorsement issued by the TMC, Ramanagaram, (d) copy of the Agreement entered into by BESCOM with the Appellant, (e) Indemnity Bond and (f) Work Completion Certificate etc. After verifying the documents, the 1<sup>st</sup> Respondent transferred the installation in the name of the Appellant under Clause 36.01(a) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka on 05.05.2010 and necessary OM had been issued.

5. The 1<sup>st</sup> Respondent further submitted that the 3<sup>rd</sup> Respondent, through his letter addressed to the 1<sup>st</sup> Respondent, Ramanagaram objected to transfer of installation in the name of Shri Muddaiah and also requested the 1<sup>st</sup> Respondent to issue bills as had been done previously. However, the 1<sup>st</sup> Respondent advised Shri Bommaiah on 09.09.2010 to furnish records in proof of his being the owner of the house. Since Shri Bommaiah failed to furnish proof of ownership of the house, the 1<sup>st</sup> Respondent transferred the installation in the name of the Appellant.

6. The 1<sup>st</sup> Respondent added that since Shri Bommaiah failed to pay the energy bills in respect of installation bearing No. L.G 14800 for the month of September 2011, the 1<sup>st</sup> Respondent disconnected power supply to the installation and later when Shri Bommaiah paid the energy bills in the month of October 2011, the 1<sup>st</sup> Respondent re-connected power supply. When the 1<sup>st</sup> Respondent had gone to the installation for providing re-connection, Shri Muddaiah objected for re-connection.

However, Shri Muddaiah had been persuaded and, finally, power supply had been restored to the installation. Not happy with the transfer of installation in the name of Shri Muddaiah in respect of installation L.G-14800, Shri Bommaiah filed a complaint before the 2<sup>nd</sup> Respondent. The 2<sup>nd</sup> Respondent, after hearing both parties, passed order directing the 1<sup>st</sup> Respondent (a) to restore the name of Shri Bommaiah in respect of L.G-14800 serviced under the Special Scheme and (b) to reserve the action transferring the name in respect of installation bearing RR No L.G-1312 which had been earlier standing in the name of late Shri Jogaiah till the pronouncement of the judgement on the partition suit filed by the 3<sup>rd</sup> Respondent. In pursuance of the 2<sup>nd</sup> Respondent's order, power supply had been restored to the installation bearing No L.G-14800 in the month of October 2011 and the earlier OM issued vide No. 167 dated 05.05.2010 had been withdrawn and the name of Shri Bommaiah had been continued as before vide OM No 106A/dated 11.05.2012 in respect of L.G-1312.

7. The matter was taken up for hearing on 19.12.2012. On behalf of the Appellant, Advocates Shri Hanumantharayappa and Shri Maruti appeared and put forth their arguments and, on behalf of the 1<sup>st</sup> Respondent, Shri Vinayaka.K, Law Officer and Smt.Bhavani Thammaiah, Legal Advisor, BESCO appeared and submitted their arguments. The 3<sup>rd</sup> Respondent was issued notice for appearance, but the notice has been returned unserved with remarks **"Addressee not claimed."** Hence, the 3<sup>rd</sup> Respondent is held ex-parte. The arguments got concluded on 22.01.2013.

8. Reiterating his submissions made in the appeal memo, the Advocate for the Appellant further argued that the disputed property, which is a residential building, is a self-acquired property of the Appellant and stands in the name of the Appellant. Shri Jogaiah had 5 sons and, after the death of Shri Jogaiah, the sons started living separately and the Appellant purchased the disputed property. The 3<sup>rd</sup> Respondent filed original Suit No 43/2003 before the Civil Court (Junior Division), Ramanagaram claiming ownership and possession of the property and the said suit had been

dismissed and, against this judgement, the 3<sup>rd</sup> Respondent filed an appeal before the Civil Court (Senior Division), Ramanagaram vide appeal No 68/2008 and, there also, his appeal had been dismissed and the Appellate Court confirmed the Lower Court's order. Shri Bommaiah is not residing in the disputed house and, hence, the 1<sup>st</sup> Respondent had rejected his request for supply of power. However, 2<sup>nd</sup> Respondent had directed the 1<sup>st</sup> Respondent to restore 3<sup>rd</sup> Respondent's name in respect of installation LG-14800 and also to restore power supply.

9. Arguing on the impugned order, the Advocate for the Appellant submitted that the 2<sup>nd</sup> Respondent's observation that Shri Bommaiah had been drawing unauthorised power and, hence, the 1<sup>st</sup> Respondent had regularised such unauthorised use of power is not correct and, in fact, the alleged regularisation had not come to the knowledge of the Appellant and when the Appellant had come to know of this Regularisation, he filed objections before the 1<sup>st</sup> Respondent. The 1<sup>st</sup> Respondent issued an endorsement saying that the objections of the Appellant could not be considered because of the pendency of Civil Suits in the Courts. Later, after the Civil Court had dismissed the appeal of the 3<sup>rd</sup> Respondent, the Appellant made a representation to the 1<sup>st</sup> Respondent to disconnect power supply to the 3<sup>rd</sup> Respondent. The 1<sup>st</sup> Respondent, on the representation made by the Appellant, disconnected power supply to the 3<sup>rd</sup> Respondent. This had been challenged before the 2<sup>nd</sup> Respondent and the 2<sup>nd</sup> Respondent had passed the impugned order in favour of the 3<sup>rd</sup> Respondent holding the Appellant ex-parte. As per the Court Orders, the Appellant is in possession of the disputed house and not the 3<sup>rd</sup> Respondent, but the 2<sup>nd</sup> Respondent, in spite of Courts' judgements, had directed the 1<sup>st</sup> Respondent to restore the power supply to the 3<sup>rd</sup> Respondent.

10. Sri Vinayaka.K, Law Officer, BESCO appearing for the 1<sup>st</sup> Respondent reiterated the submission made by the 1<sup>st</sup> Respondent in his replies.

11. Both parties were informed vide letter No.OMB/C/G-133/2012/134 dated 28.11.2012 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.

12. Having regard to the contending positions of the parties, the issues that emerge for our consideration are:

***a) Whether the 2<sup>nd</sup> Respondent is right in directing the 1<sup>st</sup> Respondent to restore power supply and restore the name of 3<sup>rd</sup> Respondent in respect of installation bearing RR No LG-14800 without verifying whether he is residing in the disputed house or not?***

***b) Whether the 3<sup>rd</sup> Respondent has provided sufficient evidence in proof of his possession of the disputed house entitling restoration of power and also restoration of his name in respect of installation bearing No. LG-14800?***

13. In order to answer the above questions, we have to refer to the Regularisation of Unauthorised Connection Scheme. As per the statement made by the 1<sup>st</sup> Respondent, this scheme was in operation for a period of one month between 1<sup>st</sup> of April 2002 to 30<sup>th</sup> of April 2002. Under the Scheme, any electricity consumer who drew unauthorised power from the Distribution Company could apply for regularisation of such unauthorised drawl of power and the Service Provider could regularise such unauthorised connections without reference to the ownership of the house and based only on the occupancy criteria. From the impugned order, it can be seen that the Appellant and the 3<sup>rd</sup> Respondent are the sons of Shri Jogaiah. Advocate for the Appellant argued that neither his father nor his brother lived in the disputed house and the Appellant got a house constructed near Ramanagaram for the 3<sup>rd</sup> Respondent. When the 1<sup>st</sup> Respondent introduced Regularisation of Unauthorised Connection Scheme in 2002, though the 3<sup>rd</sup> Respondent was not living in the house, but in collusion with the officials of BESCOM allegedly got the installation No.L.G.14800 regularised in his name.

14. With this background, when the Appellant represented to the 1<sup>st</sup> Respondent that the 3<sup>rd</sup> Respondent was not living in the house, the course open to the 1<sup>st</sup> Respondent was to verify the veracity of such statements by conducting physical check of the disputed house and, instead, the 1<sup>st</sup> Respondent appears to have taken a decision to transfer the installation in the name of the Appellant which is totally incorrect. The installation which has been regularised under the Regularisation of Unauthorised Connection Scheme cannot be transferred in the name of the Appellant. At the most, if it is found during the spot inspection that the 3<sup>rd</sup> Respondent is not residing in the house and has fraudulently obtained benefits from BESCOM, the 1<sup>st</sup> Respondent can cancel the benefit and, afterwards, can dismantle the installation, but at any cost, such an installation which is regularised under the Regularisation of Unauthorised Connection Scheme cannot be transferred in the name of the Appellant as he is ineligible to be considered under the said scheme.

15. From the arguments of the parties, it is seen that neither the 1<sup>st</sup> Respondent nor the 2<sup>nd</sup> Respondent are found to have followed the procedure stated above. In view of this, the impugned order of the 2<sup>nd</sup> Respondent deserves to be set aside and the case referred to the 1<sup>st</sup> Respondent to pass suitable order keeping the above facts in mind.

## **ORDER**

16. For the foregoing reasons, the impugned order of the 2<sup>nd</sup> Respondent is set aside and the 1<sup>st</sup> Respondent is hereby directed to comply with the following:

- a) Conduct spot inspection of the disputed house in the presence of both parties;

- b) If it is found during inspection that the 3<sup>rd</sup> Respondent is not residing in the disputed house, the 1<sup>st</sup> Respondent is at liberty to dismantle the installation by following the procedure;
- c) The 1<sup>st</sup> Respondent is directed not to transfer the installation under dispute in favour of the Appellant as this is regularised under a Special Scheme;
- d) The 1<sup>st</sup> Respondent is directed to refer to Civil Courts' judgements before taking final decision.



(B.R.Jayaramaraje Urs)  
Electricity Ombudsman

1. Shri Muddaiah, No.3445, Trooplane, R.C.Church Road, Ramanagara (represented by his Legal Counsel, Sri K.Hanumantharayappa, Advocate, Bangalore).
2. Consumer Grievance Redressal Forum, BESCOM Corporate Office, K.R.Circle, Bangalore
- 3.The Assistant Executive Engineer (Ele), O & M Urban Sub Division, BESCOM, Ramanagaram.
4. Shri Vinayaka.K., Law Officer, BESCOM Corporate Office, K.R.Circle, Bangalore-560001.
5. Managing Directors of ESCOMs.
6. PS to Hon.Chairman, KERC
7. PS to Hon.Member (H), KERC
8. PS to Hon.Member (S), KERC
9. PS to Secretary, KERC
10. OCA