

Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore
Present: B.R.Jayaramaraje Urs, IAS
Electricity Ombudsman
Case No.OMB/H/G-106/2010/10332
Dated 13.06.2011

Between

Sri Payanna Nimbanna Talawara,
Vittal Nivas,
Asar Road,
BIJAPUR

.. **Complainant**

Vs

1. Assistant Executive Engineer (Ele),
O & M Sub Division-II,
HESCOM
BIJAPUR

2. Consumer Grievance Redressal Forum, (CGRF)
HESCOM,
Keshavapura, Shivaganga Layout,
Bijapur Road,
HUBLI-25

.. **Respondents**

The representation filed by Shri Payanna Nimbanna Talawara in the office of K.E.R.C. was forwarded to Electricity Ombudsman for further necessary action. This representation has been sent to the office of Ombudsman on 31.01.2011 and was registered at No. OMB/H/G-106/2011 in the office of Ombudsman.

The Representation is directed against the orders of Consumer Grievances Redressal Forum, Hubli (in short Forum, - 2nd Respondent) vide No. UÁ@ Á/CYS-1 dated 10.01.2011. The order directs HESCOM to (a) effect 14.28% reduction on the units of power utilised and recorded between 06.09.1985 and 11.03.1986 in respect of installation bearing R.R

No13958, (b) to collect minimum charges for the period of direct supply (without meter) based on the average consumption of the preceding 6 months and (c) not to collect interest from 20.12.2006.

Notices were issued to the parties to appear and put forth their respective arguments on 10.03.2011 and again on 21 05.2011. Finally, on 21.05.2011, both parties put in their appearance and put forth their arguments.

The Appellant submitted that he is a registered consumer of Electricity of HESCOM bearing Installation No.13958 since 1982. The installation was billed under direct connection from 05.04.1982 to 06.09.1985 (No meter). During this period, Rs 51.55/- per month was billed. For the first time, a meter was fixed on 06.09.1985 and a bill for Rs.365.70 was issued on 20.12.1985. He objected to this bill and applied for meter testing on 22.01.1986 and paid Rs 25/- towards meter testing charges. HESCOM got the meter tested and obtained report on 17.06.1986. HESCOM issued a bill for Rs.4035/- for the month of December 1985. He found an increase of Rs.3,960/- in the billing. Again, HESCOM issued a bill for Rs.9,063/- in the month of August 1986. Against the issue of exorbitant bill, he approached Munsiff Magistrate's Court, Bijapur. Since, by this time, he had approached the Munsiff Magistrate's Court, HESCOM submitted meter testing report directly to the court. The report revealed that meter had a fast reading of 14.28%. Munsiff Magistrate Court, Bijapur directed him to pay Rs.1000/- to HESCOM and further monthly bills regularly. The Court also issued direction to HESCOM to supply power to the Plaintiff without interruption. The Munsiff Magistrate Court, after hearing the matter, passed orders directing the Plaintiff to pay Rs.8,835/- instead of Rs.9,063/- on the basis of meter test report. Further, he filed an appeal before the Principal Civil Judge, Bijapur and this matter came up before Fast track Court, Bijapur, which after hearing the parties, confirmed the lower Court's order. Aggrieved by this order, he filed a W.P. before the Hon'ble High court and the Hon'ble High Court considered his pleas and advised him to approach HESCOM. According to the direction of the Hon'ble High Court, he filed an appeal before the Superintending Engineer, GESCOM. The Superintending Engineer, after conducting enquiry, forwarded the file to Asst Executive Engineer, Bijapur. After this, HESCOM submitted a report to the Court that it had redressed the grievance of the Writ Petitioner as per the Writ petitioner's letter dated 07.08.2008, and based on this report, the Hon'ble High court closed the case. As a matter of fact, HESCOM had not redressed his grievance and, hence, he approached Ombudsman and Ombudsman referred the papers to

C.G.R.F, Hubli. CGRF, Hubli, after considering his pleas, directed HESCOM (a) to reckon 14.28% fast reading of the meter and calculate the units and amount to be paid from 06.09.1985 to 11.03.1986, (b) for the period of direct supply, the Appellant should pay as per 1988 Regulation (29.02) and (c) HESCOM should waive interest from 20.12.2006.

Not satisfied with the C.G.R.F orders, he approached Ombudsman for redressal of his grievance.

Before Ombudsman, he sought (a) direction to HESCOM not to collect interest from November 1985 to August 1986, (b) further conveyed his readiness to pay Regular bills from December 1985 to September 1986 at Rs 314/- per month without interest and (c) for the remaining 9 months, Rs.2,634/- (less Rs.1,000/- already remitted in the Court).

Asst Executive Engineer, HESCOM City Sub Division-2, Bijapur, defending the action taken, averred that after installing the meter, a bill for Rs.365.70 was issued on 20.12.1985 as per the recorded consumption. When the Appellant raised objection regarding the functioning of meter, it was referred for testing. Based on the test report, a bill for Rs.9,062.70 was issued. Meter testing report revealed that the meter had a fast reading by 14.28%. When this was challenged in Munsiff Magistrate's Court, Bijapur, the court passed orders directing the Appellant to pay Rs.228/- less considering fast reading of meter by 14.28%. Against this order, the Appellant filed an appeal before the Principal Civil Judge (Senior Division) Court, Bijapur on 22.03.1995. The Court transferred the case to Fast Track Court, Bijapur and Fast Track Court, Bijapur disposed the case by upholding the orders of Munsiff Magistrate's court. As per the Court's order, a bill was prepared for Rs.48,062/- and issued to the Appellant which included both the principal amount and interest. However, the Appellant was advised to pay this amount within 30 days. The Appellant challenged this bill in the Hon'ble High Court and the Hon'ble High court issued orders not to disconnect supplies for the reasons of non-payment of Rs.48,062/- and directed the Writ Petitioner to pay Rs.8,835/-. Finally, the court disposed the matter directing the Writ Petitioner to deposit Rs.15,000/- and submit objections before the Asst Executive Engineer vide his order dated 18.02.2005. The Asst Executive Engineer further stated that he received objection from the Appellant on 20.09.2006 and, in order to comply with the Court Orders, he sent proposals to Superintending Engineer, GESCOM through proper channel for decision. Superintending Engineer, GESCOM, citing the High Court orders, referred back the file to the Asst Executive Engineer on 07.08.2008 for taking decision at his level. Asst Executive

Engineer, Bijapur, prepared a bill for Rs.32,245/- and issued to the Appellant on 29.01.2009 for payment. The Appellant, after receiving the bill, demanded calculation statement on 30.02.2009. In response to this demand, Asst Executive Engineer, Bijapur, confirming the correctness of the bill, advised the Appellant to pay Rs.32,598/-. Not happy with this letter, this time, the Appellant approached the High Court, Circuit Bench, Gulbarga seeking stay to the orders of the Asst Executive Engineer dated 12.05.2009. The Hon'ble High Court, Circuit Bench, after hearing the matter, passed orders directing the Appellant to challenge the decision of the Superintending Engineer before KERC. The Appellant approached KERC and, for want of jurisdiction, KERC directed the Appellant to approach C.G.R.F, Hubli for adjudication. CGRF, Hubli, on the representation of the Appellant, passed orders on 10.01.2011 directing HESCOM (a) to reckon 14.28% fast reading of the meter from 06.09.1985 to 11.03.1986 and calculate the units and amount to be paid, (b) not to collect interest after 20.02.2006 and (c) to levy charges on the basis of averages for the period of direct supply (without meter).

The Asst Executive Engineer, making further submission, pointed out that Asst. Executive Engineer, Bijapur, in conformity with the CGRF's decision, issued a revised bill which included Rs.7,304.76 (Rs.6,447.95 being the fixed charges, energy charges, tax and Rs.856.81 being the interest from November 1985 to August 1986). He categorically ruled out waiver of interest on Rs.6,447.95 from 06.09.1985 to 11.03.1986. Concluding his arguments, Asst Executive Engineer, Bijapur prayed for upholding the orders of CGRF, Hubli.

Both parties were informed vide letter No.OMB/H/G-106/2011/10163 dated 12.05.2011 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.

From the above contentions, the issue that emerges for our consideration is:

Whether the impugned order of CGRF, Hubli is in accordance with law or not?

From the records, it can be seen that installation bearing No 13958 was first serviced in the year 1982. The installation was getting direct supply of power from 04.05.1982 to 06.09.1985 and HESCOM issued a monthly bill of Rs 51.55 and this is undisputed fact. For

the first time, meter was fixed to this installation on 06.09.1985 and a bill for Rs.365.70 was issued on 20.12.1985. This was done based on the recorded consumption of power. The Appellant applied for meter testing and test report disclosed that meter had a fast reading by 14.28%. Meter was released on 11.03.1986 and tested on 17.06.1986. New meter was fixed on 23.06.1986. HESCOM issued a bill for Rs.9,062.70 for further period from September 1985 to August 1986. The Appellant challenged the bill issued for Rs.9,062.70 before Munsiff Magistrate Court, Bijapur. The Court, after hearing the parties, passed orders directing the Appellant to pay Rs.8,835/-. The Court, while giving judgement, considered the fact that meter had a fast reading by 14.28%. This was accepted by HESCOM. However, the Appellant questioned this decision of the Munsiff Magistrate's Court before the Principal Civil Judge (Senior Division) Bijapur and the case got transferred to Fast Track Court and Fast Track court confirmed the orders of the Munsiff Magistrate's Court. Subsequently, HESCOM issued a bill for Rs.48,062/-. This bill also was challenged by the Appellant in the High Court and the Hon'ble High Court issued direction to HESCOM not to disconnect supplies and issued direction to the Appellant to pay Rs.8,835/-. Disposing the Writ Petition, the Hon'ble High Court advised the Appellant to putforth his grievances, if any, before Superintending Engineer HESCOM. HESCOM, after considering all aspects, called upon the Appellant to pay Rs.32,245/-. Even this bill was unacceptable to the Appellant and, hence, the Appellant continued to agitate before the Hon'ble High Court (Circuit Bench), Gulbarga and finally it came up before CGRF, Hubli for decision.

CGRF, Hubli has considered all the grievances of the Appellant in the impugned order, particularly the fast reading of the meter from 06.09.1985 to 11.03.1986 and directed HESCOM to effect 14.28% reduction each month on the recorded consumption in terms of units. This decision, in fact, amounts to re-interpretation of the Munsiff Court's order. The Munsiff Magistrate Court, based on the findings of the meter testing, held that between 06.09.1985 to 11.03.1986, the meter, on account of fast reading, showed 228 excess units and tariff as applicable for the relevant period, the Appellant had to pay Rs 228/- less. However, the impugned order says that the excess units on account of fast reading for the relevant months come to 460 units and HESCOM should give allowance for 460 units instead of 268 units. Further, the CGRF has directed that HESCOM should effect 14.28% reduction on the recorded consumption each month instead of taking aggregate consumption and then effect 14.28% reduction. This is highly reasonable and, hence, there should not be any further grievance for the Appellant to agitate.

The Appellant's second prayer regarding waiver of interest of Rs.38,045.36 being the interest, Fixed Charges and Energy Charges from September 1986 to December 2006 on outstanding dues of Rs.6,447.95 for the period of November 1985 to August 1986 (according to the statement furnished by the AEE, the Appellant has already paid Rs.29,398/- and balance payable is Rs.8,647.36) cannot be accepted because such demands are confirmed as valid by Munsiff Magistrate Court, Bijapur and upheld by Fast Track Court, Bijapur.

In the circumstances discussed above, there are no good grounds to meddle with the impugned orders and hence proceed to pass the following order.

ORDER

The impugned order of CGRF, Hubli vide No. UÁÏÁ/CYS-1 dated 10.01.2011 is hereby upheld and, consequently, **the Appeal fails.**

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Shri Payanna Nimbanna Talawara, Vittal Nivas, Asar Road, Bijapur.
2. Assistant Executive Engineer, O & M Sub Division-II, HESCOM, Bijapur.
3. Consumer Grievance Redressal Forum, HESCOM, Keshavapura, Shivaganga Layout, Bijapur Road, Hubli-25
4. Managing Director, HESCOM Corporate Office, Navanagar, P.B.Road, Hubli
5. PS to Hon.Chairman, KERC
6. PS to Hon.Member(H), KERC
7. PS to Hon.Member(S), KERC
8. PS to Secretary, KERC
9. OCA