



**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/H/G-123/2011/90

Dated 31.07.2012

BETWEEN

Sri Ramesh N..Habib,
C/o T.M.Baddi,
Near S.B.I.,
Keshavapura,

HUBLI

**(Represented by Sri Tushar M.Baddi,
Authorised Representative)**

.. Appellant

Vs

1. Assistant Executive Engineer,
O&M City Sub-Division-3,
HESCOM,
HUBLI

2. Consumer Grievances Redressal Forum (C.G.R.F)
HESCOM
Keshavapura, Shivaganga Layout,
Bijapur Road,
HUBLI-25

.. Respondents

1. This is an appeal under the provisions of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum (hereinafter referred to as the 2nd Respondent) vide No. ಗ್ರಾಪೇ/ಸಿ/ಪೈ.ಎಸ್/05 ದಿನಾಂಕ 10.11.2011 in respect of the Appellant's grievance relating to delay in sanction of power and refusal of the 2nd Respondent to issue directions to the Respondent Licensee (hereinafter referred to as the 1st Respondent) to compensate the Appellant under the provisions of KERC (Licensees' Standards of Performance) Regulations, 2004 for failure to achieve the standards of performance. Aggrieved by the decision of the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant, M/s Wireless T.T Info Services Limited, applied for electricity for Cellular Tower Installation on 16.11.2009 along with relevant documents and registered the application by duly paying the Registration Fee vide Receipt No 915069. The Sub-Division did not initiate action to get feasibility report from the Section Office even after expiry of 2 months and, hence, on behalf of the Appellant, one Shri Laxman S.Khode approached the Executive Engineer (Ele) O&M Division, HESCOM, Hubli on 18.01.2010 seeking intervention in the matter. There was no response from the Licensee till the Appellant approached the Licensee on 16.09.2011 through an Electrical Contractor. After the Electrical Contractor's visit, the Licensee Company became proactive and addressed a letter to the Appellant on 01.03.2011 stating that the delay in sanctioning power was due to the Long Dis of an installation housed in the premises of the Appellant and, hence, the Appellant should pay the arrears shown against the installation stood in the name of M/s.Shanteshwar Saw Mill amounting to Rs.15,993/-. The Appellant replied to the Licensee that the Installation standing in the name of M/s.Shanteshwar did not belong to him. However, he was prepared to pay the arrears shown against M/s. Shanteshwar Saw Mills. Even the Appellant furnished the list of Timber Merchants doing business in the Timber Yard Hubli and in the list, the name of M/s. Shanteshwar did not appear. Further, in the same letter, the Licensee sought Property Assessment Extract and N.O.C from H.D.M.C, though all such records had

been furnished earlier. If the consumer was in arrears to the Licensee, then the Licensee had to collect such arrears within 2 years from the date when such sum became first due and, in the present case, the arrears related to 2006 and, hence, the Licensee could not have demanded such amount after a lapse of 2 years and, hence, these are no good grounds to delay sanction of power. Finally, on 18.05.2011, vide letter No 692-99, the Licensee, conveyed to the Appellant that R.R No. 2260 stood in the name of the Appellant and the Appellant was in arrears to an extent of Rs.26,892/- and power would be sanctioned once the arrears were cleared. Under Clause 32.07 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the Licensee has to give 3 months time to the consumer for payment of dues and, in the meantime, the Licensee could have sanctioned power. This process took 17 months and the Appellant is not responsible for the delay and the Licensee has failed to achieve the standards of performance laid down under KERC (Licensees' Standards of Performance) Regulations, 2004 and, hence, prayed this Authority to direct the Licensee to pay compensation for causing 17 months delay in sanctioning power.

3. The 1st Respondent's comments were called vide letter No OMB/H/G-123/2011/11375 dated 08.12.2011 and the 1st respondent furnished his comments vide letter ಸಕಾನಿಇಂ(ಬಿ)/ಶಉವಿ-3/ಸ.ಲಿ/ಹಿಸ-1/ಹು/F-28/CGRF/4931-33 dated 19.01.2012.

In his comments, the 1st Respondent submitted that the Appellant at the time of registering the application had not enclosed property assessment extract and N.O.C from HDMC. Further, the Section Officer, in his estimates, had observed that, in the subject premises, there had been an installation either bearing R.R No M.P.2060 or R.R No.M.P-2209 which had been under long dis and, from the verification, it had been revealed that it stood in the name of M/s. Shanteshwara Saw Mills and that the Mill had been in arrears to HESCOM to an extent of Rs.15,553/- and the party had been advised to pay the arrears for sanction of power.

4. The 1st Respondent added that the Appellant had been informed about this arrears when he came to the office and also advised him to furnish documents if the installation stood in his name and, if the installation did not belong to him, he

could furnish records accordingly and there had been no response from the Appellant to these queries. Even the Appellant had been advised to furnish an indemnity bond on 18.05.2010 and, since there had been no response from the Appellant, he was again asked to furnish Tax Paid receipt and Property Assessment Extract on 01.03.2011 vide letter No 4456.

5. Admitting that the Appellant had come forward to pay the arrears, the 1st Respondent submitted that a note had been sent to the Accounts Section to issue a demand notice to the Appellant on 18.05.2010 and, afterwards, the Appellant did not turn-up. In the mean time, the 1st Respondent got all the R.R Dockets verified in his office to ascertain whether the installation existed in the premises and, if so, who the owner was. After the verification, it became clear that the installation which existed in the premises stood in the names of one Sri.Narayan Habib and brothers who happened to be the brothers of sri Ramesh N.Habib, the Appellant. Based on this finding, the Appellant had been advised to pay an amount of Rs.26,892/- being the outstanding arrears against R.R.No. 2260. After clearing the arrears, a proposal had been sent to the Executive Engineer (EL) to sanction power and the Executive Engineer(EL) accordingly sanctioned power on 29.06.2011 with an advice that the Appellant should complete the work under self-execution scheme within a prescribed time frame. Though the Appellant paid the amount towards sanction of power, he failed to execute the work and not availed power supply. Since some doubts persisted regarding the ownership of the installation, the 1st Respondent had been forced to take up verification of large number of dockets to ascertain the ownership of the installation. When the 1st Respondent noticed that there had been dues against the installation, he advised the Appellant to clear the dues. Prompt action had been taken to recommend the case for sanction of power once the ownership had been ascertained and arrears cleared by the Appellant. Hence, The 1st Respondent prayed this Authority to dismiss the appeal as there had been no deliberate delay in sanction of power.

6. The case was taken up for hearing on 27.06.2012 and, after several hearings, the arguments were finally concluded from both sides on 23.07.2012.

7. The Authorised Representative of the Appellant, Shri T.M Baddi, advanced arguments on behalf of the Appellant. On behalf of the 1st Respondent, Shri U.M.Ugar, Assistant Executive Engineer(Ele) City Sub-Division-3, HESCOM, Hubli putforth his arguments.

8. Both parties were informed vide letter No.OMB/H/G-123/2011/901 dated 04.06.2012 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.

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

10. Whether the Licensee has failed to achieve the standards of performance laid down under K.E.R.C (Licensees' standards of Performance) Regulations, 2004 in the present case warranting payment of compensation to the Appellant?

11. It is the Appellant's case that there had been an inordinate delay in sanction of power and as per the KERC (Standards of Performance) Regulations, 2004; the Licensee is liable to pay Rs.200/- compensation per day to the consumer if power is not sanctioned within 30 days. From the arguments, it is seen that the Appellant has registered his application for sanction of power on 16.11.2009 and power was sanctioned on 29.06.2011, after a lapse of nearly 17 months.

12. It is the defence of the 1st Respondent that there were some outstanding arrears against the installation and when there were arrears against the installation, power could not be sanctioned, until the arrears were cleared by the concerned person. It is also the case of the 1st Respondent that though the Appellant registered his application for sanction of power on 16.11.2009, because arrears were shown against the installation, the licensee had to verify as to who the owner was. Further, relevant records were not showing clearly who the owner of the subject installation

was and, hence, the Licensee declined to accept the offer made by the Appellant to clear the arrears without reference to the ownership, lest such amount should be credited to the wrong account. The 1st Respondent has further clarified that the Appellant had failed to confirm that he was the owner of the said installation and, on account of this, he had to take up verification of docket to ascertain regarding the ownership and this has caused some delay and it was not deliberate as made out by the Appellant.

13. As per Clause 4.09 (iv) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, Licensee has to collect the outstanding arrears in respect of the said premises from the concerned person before connection is given. In the present case, it is evident that there were arrears against the installation and the Licensee could not have sanctioned power when there were arrears against the installation. From the records, it seen that 1st Respondent has made attempts to find out who the owner was and in this direction, he has corresponded with the Timber Yard Association, Hubli and the 1st Respondent has even met the office bearers of the Association to ascertain whether any installation existed in the premises and when the Licensee did not find any clues regarding the ownership, it resorted to docket verification of the consumers and, actually after the verification of docket, the Licensee became clear that the Appellant was the owner of the installation and arrears shown against the installation related to the Appellant. After collecting the amount, the Licensee appears to have sanctioned power. The Appellant's two contention (a) that he offered to clear the arrears without reference to the ownership and the Licensee could have accepted this offer and (b) there is a provision that "arrears in any particular installation which is in disconnection for non-payment shall be collected as arrears of any other installation cannot be accepted in the light of the clarification issued by the 1st Respondent. The 1st Respondent has made it clear that he declined to accept the amount as he was not sure of the ownership and did not want the amount to be credited to the wrong account. There is some truth in Licensee's arguments and we cannot expect the Licensee to sanction power when arrears were there against the installation. It was also the duty of the Appellant to confirm that the arrears related to R.R 2260

pertained to his installation and paid the arrears in time. Since the Appellant failed to confirm regarding ownership of the installation, responsibility fell on the Licensee to ascertain regarding the ownership, which he did by approaching the Timber Yard Association and also by verifying the dockets of the consumers. In the light of this, this Authority does not see any deliberate delay on the part of the 1st Respondent in sanctioning power warranting payment of compensation to the Appellant and does not hold that the Licensee has failed to achieve the standards of performance as per KERC (Standards of Performance) Regulations, 2004. Hence, this Authority proceeds to pass the following order:

ORDER

14. For the foregoing reasons, **the appeal is dismissed.**



(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Shri Ramesh N..Habib, C/o T.M.Baddi, Near S.B.I., Keshavapura, Hubli.
2. Assistant Executive Engineer, O & M City Sub-Division-3, HESCOM, Hubli
3. Consumer Grievance Redressal Forum, HESCOM, Keshavapura, Shivaganga Layout, Bijapur Road, Hubli-25
4. Managing Directors of all ESCOMs.
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