



**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-159/2013/267

Dated 27.08.2013

Shri Satish Shetty,
(Installation No.TL-6293)
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(EI),
O&M City Sub-Division-1,
HESCOM,
Shivaganga Layout, Kusugal Road,
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 Clause 21.02 of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer

Grievance Redressal Forum, HESCOM, Hubli (herein after referred to as the 2nd Respondent) vide No ಹುಬ್ಬಳ್ಳಿ/ಗ್ರಾಕುಂಕೊನಿವೇ/ಕಪ್ರಸಂ.139/CYS-5/13-14 ದಿನಾಂಕ 25.05.2013 in respect of Appellant's grievance relating to delay in refund of Advance Estimated Power Consumption Charges by the Assistant Executive Engineer (EI), O&M City Sub-Division-1, HESCOM (here in after referred to as the 1st Respondent) and also refusal of payment of compensation under KERC (Licensees' Standards of Performance) Regulations, 2004. Aggrieved by the order passed by the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant had taken temporary power connection on 06.03.2007 for construction purposes. Installation was assigned RR No TL 6293. The installation had a sanctioned load of 4 kW. After the construction was over, the Appellant applied for refund of Advance Estimated Power Consumption Charges of Rs.8820/- paid vide Receipt No. 913414 dated 05.03.2007 and also Meter Security Deposit of Rs.3900/- vide receipt No. 913415 dated 05.03.2007. The Appellant submitted refund bill on 17.08.2010, sent a reminder to the 1st Respondent on 10.03.2011 and second reminder on 19.03.2011. Since there was no response from the 1st Respondent, the Appellant addressed a letter to the Executive Engineer(EI) dated 17.08.2011 seeking direction to the Assistant Executive Engineer (EI) regarding refund of advances. When even this failed to evoke any response, the Appellant approached the 2nd Respondent for relief. The 2nd Respondent has passed the impugned order rejecting the contentions of the Appellant. Hence, prayed this Authority to set aside the impugned order and allow the appeal.

3. The 1st Respondent's comments were called vide letter No OMB/H/G-159/2013/224 dated 25.06.2013. In his comments, vide letter No. ಹು/ಉ.ವಿ.ನಂI/ಸಕಾನಿ/ಸಲೆಅ/ಹಿಸ-I/13-14/2049-53 dated 03.07.2013, the 1st Respondent submitted that the Appellant had submitted refund bill on 17.08.2010 and, from the verification of the records, it had been revealed that the Appellant had been in arrears to the tune of Rs.8,549/- and proposals had been sent to the Executive

Engineer (EI) for approval of refund of the amount on 18.11.2011 and an amount of Rs.4,170/- had been refunded to the Appellant through a cheque on 15.02.2012. The delay had been caused due to the staff engaging in revenue collection and also tackling day-to-day power problems and there was no intentional delay and, hence, prayed this Authority to dismiss the appeal and confirm the order passed by the 2nd Respondent.

4. The case was taken up on for hearing on 23.08.2013. On behalf of the Appellant, his Authorised Representative, Sri Tushar Baddi appeared and argued the case. On behalf of the 1st Respondent, Sri Babu Gona, Sr. Assistant and I/c Assistant Accounts Officer was present and put forth his arguments. Arguments from both sides got over on 23.08.2013.

5. The Appellant, while reiterating the submissions made in his appeal memo, added that the Appellant made several attempts to get the refund and, finally, he got the refund on 15.02.2012 after a lapse of 18 months. Even while refunding, the 1st Respondent did not furnish the calculation statement and just refunded Rs.4170/- and, several attempts to get the details, did not yield any results. The 1st respondent in his letter addressed to the Appellant had informed that the delay had been caused due to the staff engaging in revenue collection and also due to tackling day-to-day power problems. This showed that the Appellant had been aware of the delay and also admitted there had been a delay in refund of the amount.

6. The Authorised Representative added that the 1st Respondent is liable to pay interest from the date of making such excess claims and also compensation at Rs.50/- per day for each day of delay for failing to achieve the levels of performance under KERC (Licensees' Standards of Performance) Regulations, 2004. The Appellant filed refund application on 17.08.2010 and due date to refund the amount was 17.10.2010 and the 1st respondent refunded the amount on 15.02.2012 after a lapse of 16 months and there was a delay of 16 months. Further, the Appellant had filed

Form No.A claiming amount under KERC (Licensees' Standards of Performance) Regulations-2004 on 31.08.2011. The Appellant claimed the amount from the date of filing refund application i.e. 17.08.2010. Totally there had been a delay of 16 months and the Licensee was liable to pay an amount of Rs.24000/-. Hence, prayed this Authority to issue directions to the 1st Respondent to pay interest from the date such excess claims were made and also compensation for failing to achieve the standards of performance as provided in the Regulations.

7. The Sr. Assistant and I/c Assistant Accounts officer, CSD-I Hubli, Shri Babu Gona appearing for the 1st Respondent submitted that the installation bearing No RR TL 6293 stood in the name of the Appellant and had been serviced on 06.02.2007 with a sanctioned load of 4 kW. This installation had been dismantled on 09.03.2009. At the time of dismantling the installation, the Appellant had been in arrears to the tune of Rs.8549/- and the Licensee had adjusted this amount against the refund bills and a balance of Rs.4170/- had been refunded on 09.02.2012 vide cheque No 050771. This cheque had been issued vide letter No. 12404 dated 15.02.2012. The representative of the 1st Respondent, during the hearing, admitted to a delay of 16 months in refund of the amount and consented to pay interest at 1% for Rs.4070/- which comes to Rs.667/-.

8. Both parties were informed vide letter No.OMB/H/G-159/2013/256 dated 05.08.2013 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, issues that come up for our consideration are:

b) Whether there is any delay on the part of the Licensee in refunding Advance Estimated Power Consumption Charges to the Appellant and, if so, whether the Licensee is right in rejecting the claims of the Appellant for payment of interest?

a) Whether the 1st Respondent has failed to achieve the standards of performance in the instant case and, if so, whether the 1st Respondent is right in rejecting the claims of the Appellant for payment of amount under KERC (Licensees' Standards of Performance) Regulations, 2004?

10. The 1st Respondent admitted delay in refunding Rs.4070/- to the Appellant and, hence, consented to pay interest of Rs.667/- from the date of making excess claims.

11. Regarding issue No 2, the 1st Respondent attributed delay to the staff engaged in revenue collection and also tackling day-to-day power problems. These reasons are not worthy of consideration and, hence, rejected. In the present case, the Appellant had filed Form No.A claiming amount for delay in refund of Advance Estimated Power Consumption Charges on 31.08.2011 and the Licensee appears to have not taken cognisance of these claims and not passed any order either accepting or rejecting such claims and found to have refunded the amount on 15.02.2012. As per clause 7.02 of KERC (Licensees' Standards of Performance) Regulations, 2004, "the Licensee shall take a decision on the amount of claim of the Consumer and, if found liable, shall pay the amount to the Consumer within 90 days from the date of receipt of application." The Licensee appears to have shown utter disregard to the Regulations and not even registered the claims as per Clause 6.1 and 6.2 of the KERC (Licensees' Standards of Performance) Regulations, 2004 nor passed any order in the matter within 90 days as per Clause 7.02 of KERC (Licensees' Standards of Performance) Regulations, 2004. This amounts to abdicating the responsibility on the part of the 1st Respondent and passing the buck to Consumer Grievance Redressal Forum & Ombudsman to take decision in the matter of payment of interest and compensation.

12. In the instant case, the 1st Respondent admitted to delay in refunding the excess claims made, but refused to pass any orders on the claims made by the Appellant regarding payment of interest and compensation. This is nothing but shirking responsibility and also denying justice to the Consumer even when the Licensee is on the wrong side of the law. It is evident from Form No.A that the Appellant has made proper claims. The 1st Respondent has admitted delay in refund of Advance Estimated Power Consumption Charges and this admission proved beyond reasonable doubt that the 1st Respondent has failed to achieve the standards of performance as per Schedule-1 and Serial No-14 of KERC (Licensees' Standards of Performance) Regulations, 2004 and, hence, liable to pay an amount of Rs 50/- for each day of delay in refunding the amount for a period of 16 months which comes to Rs.24,000/-. Hence, the following order:

ORDER

13. For the foregoing reasons, the 1st Respondent is here by directed to pay interest to the Appellant @ 1% for Rs.4,070/- which comes to Rs.667/-.

14. The 1st Respondent is here by directed to pay an amount of Rs.24,000/- to the Appellant for failing to achieve the standards of performance by 16 months as per KERC (Licensee's Standards of Performance) Regulations-2004.

15. In the result, ***the appeal succeeds.***

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Shri Satish Shetty (Case No.6293), C/o T.M.Baddi, Near S.B.I., Keshavapura, Hubli.

2. Assistant Executive Engineer, O & M City Sub-Division-1, HESCOM, Shivaganga Layout, Kusugal Road, 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