

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/M/G-90/2010/423

Dated 14.03.2012

BETWEEN:

Smt.J.Laxmi Devi,

"Bolambi Mane",

Post: Ujire,

Taluk: Belthangady,

Dist: Dakshina Kannada

(by Authorised Representative

Sri Balasubramanya Bhat.G)

Complainant

Vs

1. Assistant Executive Engineer (Ele),

O & M Sub Division,

MESCOM

Belthangady

Dakshina Kannada District

2. Consumer Grievance Redressal Forum, (CGRF)

MESCOM Corporate Office,

Padadigm Plaza, A.B.Shetty Circle

Mangalore

.. Respondents

1. This is an appeal under the provisions of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 against the orders passed by the Consumer Grievance Redressal Forum, Mangalore (herein referred to as the 2nd Respondent) vide No. ಪಂವಿಸಕಂ/ಗ್ರಾ.ಕುಂ.ಕೋ.ನಿ.ವೇ/21/09-10 ದಿನಾಂಕ 27.04.2010 in respect of the Appellant's grievance relating to payment of compensation for stopping power supply from 17.10.2009 to 04.03.2010 as the service wire to his installation was cut

from 17.10.2009. The Appellant claimed compensation at Rs.50/- per day as per KERC (Licensees' Standards of Performance) Regulations-2004 for the period of non-supply of power before the 2nd Respondent and the 2nd Respondent has rejected his prayer and declined to issue any direction to Asst. Executive Engineer, MESCOM, Belthangady Sub-Division (hereinafter referred as the 1st Respondent) for payment of compensation. Being aggrieved by the 2nd Respondent's Order, (the impugned order), the Appellant has submitted his case as under:

2. The Appellant is an electrical consumer of MESCOM and electrical installation bearing No B.L 6866 stands in the name of the Appellant and this installation catered power to the Appellant's Farmhouse. On 17.10.2009, service wire connecting to the installation suffered cuts due to tree felling. Service wire suffered cuts at three points. On 19.10.2009, the Authorised Representative of the Appellant complained to the Section Officer, Ujjire (MESCOM) over telephone that service wires to the installation had suffered cuts and, hence, service wires should be laid afresh and resume power supply as early as possible. The Section Officer did not attend to the complaint till March, 2010. Further, the Asst Executive Engineer, Belthangady, in his statement before the 2nd Respondent averred that the Appellant made a complaint over telephone on 19.10.2009 at 4 P.M and the Section Officer, Ujjire immediately sent a Lineman to the spot to look into the complaint and the Lineman, after visiting the Farmhouse, found that the service wire had suffered cuts at several points and felt that service could not be resumed unless new service wires were laid. Further, to prevent any casualties from the cut live service wires, the Lineman disconnected power supply to the Farmhouse. For laying new service wires, an estimate had been prepared. Since the service wires had not been available in the Divisional Stores, the Section Officer had made alternative arrangements to procure 4 Sq M.M service wires and laid service wires and restored power supply on 04.03.2010. But when information was sought by the Appellant under the Right to Information Act, the Asst. Executive Engineer had furnished replies stating that Belthangady Sub-Division has 6 branches and that, between 01.04.2007 to 15.04.2010, no indent had been received from any Section Officer for supply of

service wire. These replies provide ample evidence that the statement made by the Asst. Executive Engineer is incorrect.

3. Further, the 2nd Respondent in its order has observed that the Appellant had filed an oral complaint with the Section Officer on 19.10.2009 and after he had failed to get his grievance redressed within the time frame, he could have filed an appeal before the Asst. Executive Engineer. Instead, he filed a complaint with the Asst. Executive Engineer after a lapse of four months on 26.2.2010. Further, the Appellant could have filed a complaint with the 2nd Respondent within one month from the date of non-redressal of his grievance, even that he had not done. As per KERC (Licensees' Standards of Performance) Regulations, 2004, it is the responsibility of the Licensee to provide service within the time frame prescribed, failing which the Licensee will be liable to pay compensation to the Consumer. In the present case, though the Appellant had appointed Representative to appear before the 2nd Respondent, the 2nd Respondent, without calling for records, has held that the representative is not an Electricity Consumer which is highly objectionable. Hence, prayed this authority to quash the orders of the 2nd Respondent and to award compensation to the Appellant as the Licensee has failed to achieve the minimum standards of performance.

4. The 1st Respondent's comments were called vide letter No OMB/M/G-90/10/8353 dated 02.06.2010 and the 1st Respondent has furnished his comments vide letter No. ಸ.ಕಾ.ಇಂ(ಎ)/ಸಇಂ(ತಾಂ)/ಬಿ/936/2010-11 ದಿನಾಂಕ 09.06.2010.

5. In his comments, the 1st Respondent submitted that two installations bearing No BL 6866 & BAEH 1495 stood in the name of Smt J. Laxmidevi. These installations are located at No.6-84, Macharu, Ujjire, Belthangady Taluk, Dakshina Kannada District. Shri Balasubramanya Bhat who claimed that he had been the Authorised Representative of the Appellant, had failed to furnish authorisation letter issued by the Appellant.

6. The 1st Respondent added that the Authorised Representative of the Appellant on 19.10.2009 around 4 P.M telephoned to the Section Officer, Ujjire and informed that service wire to installation No B.L 6866 had suffered cuts and, hence, new service wires had to be laid. On receipt of this complaint, the Section Officer despatched a staff to attend to the complaint. Since the service wires had suffered cuts at several points, the Appellant had been informed that power supply would be restored after laying new service wires and further power supply had been stopped to the Farmhouse to avoid untoward incidents. Simultaneously, the Section Officer prepared an estimate in order to procure service wires and even the office of the Asst. Executive Engineer, Belthangady had taken immediate action on the written complaint filed by the Appellant. Since the 4 Sq mm service wires had not been available in the stores, the Section Officer had made alternative arrangements and procured service wires and restored power supply on 04.03.2010 and this had been made known to the Authorised Representative of the Appellant vide letter No. ಸಕಾ.ಇಂ(ಎ)/ಸಇಂ(ತಾಂ)/ಬಿ/6549-51.2009-10 ದಿನಾಂಕ 06.03.2010.

7. Further the 1st Respondent added that Belthangady Sub-Division has six branches and the reply furnished to the Appellant that between 01.04.2007 to 15.04.2010, no Section Officer had sent any indent for supply of service wire was correct. There had been no stock of service wire in any of the stores in Puttur Division and the Section Officers had been aware of this and, hence, they had not sent any indent for supply of service wires.

8. Concluding his comments, the 1st Respondent submitted that he had received a report from his staff that the installation in question had not been servicing a residential house, but a cowshed. Since there was no dereliction of duties on the part of 1st Respondent, he prayed this Authority not to award any compensation to the Appellant and to confirm the orders passed by the 2nd Respondent.

9. The case was taken up for hearing on 17.02.2012 and the parties concluded their respective arguments on the same day. On behalf of the Appellant, her

Authorised Representative appeared and put forth his arguments. On behalf of the 1st Representative, Asst Executive Engineer (Ele) Belthangady Sub-Division appeared and advanced his arguments.

10. Both the Appellant and the 1st Respondent reiterated the submissions made in the appeal memo and comments respectively.

11. Both parties were informed vide letter No.OMB/M/G-90/2010/155 dated 25.01.2012 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 position of the parties, the issue that emerges for our consideration is:

Whether the 1st Respondent has failed to meet the standards of performance specified in Schedule I of KERC (Licensees' Standards of Performance) Regulations, 2004 in the present case?

13. In the present case, service wire to the installation bearing No. BL 6866 suffered cuts on 17.10.2009 and the Authorised Representative of the Appellant made an oral complaint with the Section Officer Ujire on 19.10.2009 stating that service wires to installation No B.L 6866 had suffered cuts due to tree felling and, hence, it should be attended immediately. The Section Officer informed the Authorised Representative of the Appellant that he would let him know further action after having consultations with the Asst. Executive Engineer. Later on, the Section Officer sent a Lineman and the Lineman visited the spot and cut the service line which passed over the electrical pole in order to prevent grounding. Because of cutting of service wires, power supply was stopped to the Farmhouse of the Appellant. It is interesting to note that the Lineman who visited the spot informed

the Authorised Representative of the Appellant that there was no provision to provide service wires from MESCOM and, hence, the Consumer himself should provide service wires.

14. According to the Appellant, the complaint was filed with the Section Officer on 13.11.09 and that the complaint was not entered in the complaint register and, as proof of this, the Appellant has produced relevant extracts from the complaint register. Extracts have confirmed that the Section Officer has failed to enter the complaint of the Appellant in the complaint register.

15. Again, the Appellant filed a complaint with the Asst. Executive Engineer on 26.2.2010 and the Asst. Executive Engineer has confirmed receipt of this complaint in his replies submitted to this Authority dated 09.06.2010. When the Asst. Executive Engineer failed to respond to his repeated complaints, the Appellant, as a last resort, shot a letter directly to the Managing Director, MESCOM. On behalf of the Corporate Office, the Manager, Public Grievance Division, MESCOM, Mangalore took prompt action and forwarded the complaint to the Asst. Executive Engineer for immediate necessary action. The 1st Respondent has confirmed receipt of this letter in his letter addressed to the Authorised Representative of the Appellant vide No. P.A.EA(«)/EA(vAA)/6549-51.2009-10 dated 06.03.2010. It looks like that the Asst. Executive Engineer has attended to the complaint only after receipt of letter from the Manager, Public Grievance Division, MESCOM, Mangalore.

16. The Asst. Executive Engineer (Ele) in his letter addressed to the Appellant dated 06.03.2010 has regretted the inconvenience caused and conveyed that because of non-availability of 4 Sq M.M service wires, he could not attend to the repairs. Further, he confirmed that the Section Officer had sent indent for service wire. But when the Appellant sought confirmation from the Asst. Executive Engineer whether the Section Officer had really sent any indent, the Asst. Executive Engineer had replied vide his letter dated 22.04.2010 that the Section Officer had not sent

any indent for supply of service wires and, for that matter, no indent had been received for the period between 01.04.2007 to 15.04.2010 from any Section Officer.

17. From the arguments of the 1st Respondent, it can be observed that his only defence for delay is non-availability of service wires in stores and, hence, resumption of power supply took longer time. It is on record that the Appellant has sent several letters to the Section Officer and the Asst. Executive Engineer. There is no evidence that the Section Officer has sent any indent during the relevant period for supply of service wires. It is the duty of the Section Officer to send indent to the Asst. Executive Engineer when there is a dire need of service wires. There is nothing on record to show that the Section Officer has made any efforts to resolve this issue. The Asst. Executive Engineer seems to have not woken up to the problem till the matter reached MESCOM Head Office. The Asst. Executive Engineer appears to have acted with alacrity only after receipt of letter from the Corporate Office. The Asst. Executive Engineer has received letter from the Manager, Public Grievance, MESCOM, Mangalore on 02.03.2010 and attended to the complaint on 04.03.2010. The Asst. Executive Engineer, who had not attended to this complaint for four and a half months on the ground of non-availability of service wires, suddenly finds service wires and suddenly attends to the complaint. This is a mystery. The Asst. Executive Engineer, if he had been prompt, could have arranged for service wires within no time. If service wires were not available in the stores, Asst. Executive Engineer could have advised the Section Officer to draw Rs.1,000/- from the imprest and could have purchased service wires and replaced the damaged service wires early and could have ensured resumption of power supply to the Consumer. He has not shown any alacrity in urgent matters even though the Consumer suffered for lack of power for several months. This has demonstrated total callousness on the part of the Asst. Executive Engineer and the Section Officer towards settling the consumer grievance. Incidentally, the Appellant is a Senior Citizen and depending on her son to fight the case. As detailed at Serial No.2 of the KERC (Licensees' Standards of Performance) Regulations, 2004, the Licensee is duty bound to resume power supply within 24 hours in case of Line Break Downs. In the instant case, the

Asst. Executive Engineer and the Section Officer could have drawn money from the imprest and purchased service wires within 24 hours and could have redressed the grievance of the Appellant. They have not done so and shown total disregard for KERC (Licensees' Standards of Performance) Regulations, 2004 and failed to achieve the standards of performance. Hence, the 1st Respondent is liable to pay to the Appellant compensation at Rs.50/- per day for the period of non-supply of power from 17.10.2009 to 04.03.2010 (137 days), an amount totalling to Rs.6,850/-.

ORDER

18. For the foregoing reasons, the appeal is allowed in terms of the following:

19. The 1st Respondent to pay an amount of Rs.6,850/- in favour of the Appellant for failing to achieve the standard of performance laid down in KERC (Licensees' Standard of Performance) Regulations, 2004.

20. The 1st Respondent to adjust Rs.6,850/- against the future bills of the Appellant. **In the result, the appeal succeeds.**

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Sri Balasubramanya Bhat G., "Bolambi Mane", Ujjire Post, Belthangady Tq., D.K.District.
2. Assistant Executive Engineer, O & M Sub-Division, BESCO, Belthangady, D.K.District.
3. Consumer Grievance Redressal Forum, MESCOM Corporate, Paradigm Plaza, A.B.Shetty Circle, Mangalore.
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

