

**Before the Electricity Ombudsman**  
**9/2, 6<sup>th</sup> Floor, Mahalakshmi Chambers, M.G.Road,**  
**Bangalore**  
**Present: B.R.Jayaramaraje Urs, IAS**  
**Electricity Ombudsman**  
**Case No.OMB/M/G-103/2011/10496**  
**Dated 06.07.2011**

**Between**

Shri K.S Muralidhar,  
M/s Ratna Arcade,  
Kuvempu Road,  
Shimoga  
(Represented by Legal Counsel, Shri K.J Kamat)

.. **Complainant**

**Vs**

1. Asst Executive Engineer(Ele)  
O & M City Sub Division-1,  
MESCOM  
**Shimoga**

2) Consumers Grievance Redressal Forum,  
MESCOM Corporate Office,  
Paradigm Plaza, A.B.Shetty Circle,  
**Mangalore.**

.. **Respondents**

This is an appeal under the provisions of K.E.R.C (Consumer Grievance Redressal Forum) Regulations, 2004 against the orders passed by the 2<sup>nd</sup> Respondent Vide No. **OMB/M/G-103/2011/10496** dated 29.12.2010.

The appeal arises out of the orders passed by the Consumer Grievance Redressal Forum (in short Forum - 2<sup>nd</sup> Respondent) Mangalore dated 29.12.2010 in respect of the

Appellant's grievance relating to back billing for Rs.1,25,417/- for his installation bearing R.R No H.T.38 on the ground of slow reading of meter. The Forum, partly allowed the representation and directed the Asst Executive Engineer to restrict the back billing for a period of 6 months instead of 8 months. Being aggrieved with the Forum's order (the impugned order), the Appellant has submitted his case as under:

The Appellant has availed electricity for his commercial complex located on Kuvempu Road, Shimoga. This complex has 3 floors, measuring 18000 sq.ft area. At the request of the Appellant, MESCOM sanctioned 40 K.V.A. power for the complex and Appellate deposited Rs.76,000/- on 13.03.2000. Subsequently, he rented out one floor for commercial purposes and he sought additional power of 50 K.V.A. from MESCOM. MESCOM sanctioned additional power vide their letter No.EEE/AEE (O) AE-3/4017-18 dated 13<sup>th</sup> Jan 2005 and the Appellant deposited Rs.95,250/- with MESCOM.

On 4<sup>th</sup> October 2005, Asst Executive Engineer (E-1), H.T Rating Sub-Division, MESCOM Shimoga wrote a letter vide No. AEE(E)/HTR/S-D/04-05/964-71 to the Asst Executive Engineer, MESCOM, CSD-1, (O & M), Shimoga stating that he had inspected the cubicle and installation of H.T-38, C.D=90 KV of Ratna Arcade for periodical calibration and observed "B" phase PT not recording properly and showing only 24.1 Volts instead of 110 volts and "R" phase PT recording properly showing 108.08 Volts and further noticed Voltage fluctuating from 23.7 to 42 Volts in "B" phase terminal. Asst Executive Engineer, H.T Rating Sub-Division further remarked that "B" phase PT Secondary terminal bolt suffered cuts and was hanging inside the cubicle and, on account of this, showed less Voltage. Since "Y" phase supply was connected to other terminal of the PT, meter had recorded less units than what was consumed by the Appellant. During inspection, he explained about the malfunctioning of the PT to the consumer who was present and also to the staff of O & M Sub-Division on 14.09.2005 and, hence, recommended for back billing from 18.02.2005 to 14.09.2005.

In continuation to the said letter, MESCOM advised the Appellant to pay Rs.1,25,417/- on account of slow reading of the meter by 30.90% (for the preceding 6 months from the date of inspection). However, the appellant disputed the bill and preferred an appeal by depositing 1/3 of the disputed amount. CGRF, Mangalore partly

allowed the representation of the Appellant and directed MESCOM to restrict the back billing to 6 months instead of 8 months. Accordingly, MESCOM issued a revised bill for Rs.1,14,373/-.

The Appellant did not accept the report that there was a deficiency in meter functioning and held that, if that were to be true, there should have been 30.90% more consumption of power after the alleged rectification. However, there is no increase in the consumption of power after the rectification, and, hence, appealed to the Electricity Ombudsman to set aside the impugned orders and to direct the MESCOM to refund back billing amount of Rs.91,694/-.

The 1<sup>st</sup> Respondent filed his parawise reply on 17<sup>th</sup> February 2011 to the points raised by the Appellant. The 1<sup>st</sup> Respondent in his parawise reply stated that MESCOM had back billed for 8 months from 18.2.2005 to 14.9.2005 on the basis of H.T Rating Sub-division's inspection report which conveyed that meter had a slow reading by 30.90% and shown 24,456 less units. Further, MESCOM revised the demand restricting the back billing to 6 months on the basis of the CGRF 's orders.

The matter was heard on 31.3.2011, 31.5.2011, and 6.6.2011. Sri Ramanath Nayak and Sri K.J Kamat represented the Appellant. Sri Janardhan Holla, Asst. Executive Engineer, City Sub-Division-1, Shimoga was present on behalf of the Respondents.

Shri K.J .Kamat reiterated Appellant's submission made in the appeal memo and further submitted that MESCOM, after receipt of H.T Rating Division's report, should have given opportunity to the Appellant to furnish his version and even the H.T Rating Division during inspection did not give opportunity to the Appellant to explain his version. He added that there was no mahazar drawn at the time of meter testing. Hence, on all these counts, the impugned order deserves to be set aside and, hence, prayed for quashing of the impugned order.

The 1<sup>st</sup> Respondent argued that, on routine inspection, H.T Rating Sub-Division, on 14.09.2005, found "B" phase PT (Potential Transformer) developing loose connection and showing only 24.1 Volts instead of 110 Volts. From the report, it can be seen that Assistant

Executive Engineer, HT Rating Sub-Division, has conducted the inspection in the presence of the Appellant with his consent and shown the findings and rectified the P.T. The report disclosed that AEE, H.T.Rating Sub-Division had obtained the signature of the Appellant in the Sealing Register. Based on this report, O & M City Sub-Division-1 issued a supplementary bill for Rs.1,25,417/- and a letter calling for objection, if any, on 22.11.2005. The Appellant filed his objections denying all the findings on 30<sup>th</sup> November 2005 and later approached CGRF for relief. Hence, the 1<sup>st</sup> Respondent urged to confirm the impugned orders passed by the CGRF.

Both parties were informed vide letter No.OMB/M/G-103/2011/10164 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.

In the above backdrop, the main issue for our consideration is:

Whether the impugned order upholding back billing by MESCOM for Rs.1,25,417/- is in order?

The case originates after the H.T Rating Sub-Division, MESCOM, Shimoga conducted a routine inspection of installation No H.T-38 belonging to the Appellant on 14<sup>th</sup> September 2005. Inspection revealed that Potential Transformer had not recorded Volts properly and the Transformer, instead of recording 108.8 Volts, recorded only 24.1 volts. Further, the report revealed that "B" phase P.T. Secondary terminal bolt suffered cuts and was hanging inside the cubicle and, hence, showed less volts. Since "Y" phase supply was connected to the other terminal of the Potential Transformer, meter recorded less consumption than what was actually consumed by the Appellant. Report concludes that on account of deficiency in the functioning of the Potential Transformer, meter had shown 30.90% slow reading and, hence, back billing to be done for the preceding 8 months from the date of inspection.

Based on H.T Rating Sub Division's Report, O & M Sub-Division back billed for Rs.1,25,417/- in respect of RR No. HT-38. Later, when the Appellant challenged this back billing before the Forum, it restricted the back billing to 6 months and, as a result, back billing amount came down to Rs.1,14,373/-

Further, Appellant's contention that H.T Rating Division has not given opportunity to explain his version during inspection and also on the Inspection Report does not hold water. Perusal of H.T Rating Division's report discloses the mal-functioning of the Potential Transformer and A.E.E. explaining this to the staff of O & M Sub Division and also to the Consumer who were present at the time of inspection on 14.09.2005 before rectifying the Potential meter. This Report is at Page 9 in the file.

Secondly, the contention of the Appellant that O & M Sub-Division has not given opportunity to explain his side of the case on the Inspection Report is also found to be baseless. Asst. Executive Engineer, O & M Sub-Division, in his letter vide No AEE:CSD 1/4154-56 dated 22<sup>nd</sup> November 2005 addressed to the Appellant, has conveyed the findings of inspection, liability of the Appellant and advice to file objection, if any, on back billing, etc.

The Appellant's third contention that there was no deficiency in the functioning of the Potential Transformer and if deficiency were to be true then the metre should have shown 30.90% more consumption after the rectification, cannot be accepted because rectified PT facilitates proper recording of consumption and recorded consumption is found to be accurate because earlier deficiencies in the functioning of the PT had been rectified by the H.T Rating Sub-Division. Report discloses that rectification was done in the presence of the Appellant. Hence, Appellant cannot take shelter that there was no deficiency in the functioning of the Potential Transformer because rectification was shown to him.

It is seen from the records that initially O & M City Sub-Division-1, Shimoga had back billed for 8 months and, however, the Forum, on representation, seems to have taken cognisance of the mistake done by MESCOM and restricted the back billing to 6 months.

In the backdrop of the above, this Authority does not see any good grounds to interfere with the impugned order and, hence, proceed to pass the following orders:

## Order

The impugned order No.  $\alpha \text{IA} \ll \text{PIA/UA} \text{PIA.PE.} \alpha \text{I} \text{V}/5/10-11 \text{ } \text{E} \text{A} \text{A} \text{PI} \text{A} \text{ } 29.12.2010$  is upheld and **consequently the appeal fails.**

(B.R.Jayaramaraje Urs)  
Electricity Ombudsman

1. Sri K.S.Muralidhar, M/s.Ratna Arcade, Kuvempu Road, Shimoga.
2. Assistant Executive Engineer, CSD-1, MESCOM, Shimoga.
3. Consumer Grievance Redressal Forum, MESCOM Corporate Office, 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

