

**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-98/2011/10430**  
**Dated 29.06.2011**

**Between**

Sri P.G Gurjar,  
Koppa Estate, Koppa Post,  
Koppa Taluk-577126  
**Chikkamagalur District**

**Complainant**

**Vs**

1. Assistant Executive Engineer  
Koppa Sub-Division  
Koppa,  
**Chikkamagalur District**

2. Consumers Grievances Redressal Forum  
M.E.S.C.O.M. 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 and Ombudsman) Regulations 2004. This appeal is directed against the orders passed by the 2<sup>nd</sup> Respondent vide No. 11A/UA/PA.P/E.3/01/10-11 dated 21.06.2010.

This appeal arises out of the orders passed by the Consumer Grievance Redressal Forum (in short Forum - 2<sup>nd</sup> Respondent), MESCOM, Mangalore dated 21.06.2010 in respect of the Appellant's grievance relating to waiver of electricity dues

and interest thereon for the year 2001-2002 and 2002-2003 shown as arrears in the bill. The Forum declined to issue direction to MESCOM (Mangalore Electricity Supply Company - herein after referred to as the 1<sup>st</sup> Respondent) to waive the electricity charges for the year 2001-02 and 2002-03.

Appellant, in his appeal which is filed in Form – B, has sought " to set aside the CGRF order No. 2106/2010 dated 21.06.2010 and direct MESCOM, Mangalore to withdraw demand amounting to Rs.11,33,571/- and interest demand amounting to Rs.1,78,230/- thereon made by MESCOM towards his R.R No 448 and 9 other I.P sets and also direct MESCOM to implement KERC direction dated 26<sup>th</sup> April 2006 positively and impose penalty on MESCOM officials for violation of KERC direction.

Sri P.G Gurjar is an electrical consumer bearing R.R No 448 and installation is set up in the jurisdiction of Asst Executive Engineer, Koppa Sub-Division, Chikkamagalur District. Aggrieved by the orders of CGRF, MESCOM, Mangalore, he filed this appeal. His appeal was registered at No.OMB/M/G-102/2011 dated 20.07.2010 on the file of the Ombudsman. A letter was issued to Asst Executive Engineer O & M Sub-Division, Koppa, Chikkamagalur District on 18.01.2011 calling for his comments on the points raised by the complainant.

In response to this letter, he clarified that Government had not earlier agreed for waiver of electricity charges to an extent of Rs.11,33,571/- in respect of Sri P.G Gurjar and, hence, fresh proposals had been sent to Government. As per Government Order No.EN-34-PSR-2008 dated 03-08-2010 and as per the letter of Financial Advisor MESCOM vide No 7731-37 dated 30.08.2010, Rs.11,33,571/- had been credited to the account of Sri P.G .Gurjar in August 2010 and further interest liability had been worked out and sent to Internal Audit Wing, Divisional Office, MESCOM, Chikkamagalur for clearance and, after getting clearance from the Divisional Office, amount would be credited to the account of the Appellant.

Notices were issued to both parties to appear and put forth their respective arguments on 17.02.2011 and arguments were heard and case was reserved for orders. Since regular Ombudsman was appointed before pronouncement of orders, fresh notices were issued to both parties to put forth their arguments. Several hearings were conducted and arguments finally got concluded on 10.06.2011.

Appellant was represented by his representative, namely, Sri K.Subramanya. Representative argued that Government of Karnataka issued orders waiving electricity dues of the farmers on account of severe drought for the period 2001-02 and 2002-03. The appellant from 01.04.2001 to 31.03.2003 had paid Rs.11,33,571/- by way of electricity charges. As per the Government Order, electricity charges paid for the said period had to be refunded to the concerned consumer or to be adjusted against the future bills. However, this benefit was not extended to the Appellant initially and after prolonged correspondence with MESCOM, amount was adjusted against subsequent demand. He held that MESCOM was responsible for delay in settlement of this issue and, hence, MESCOM should pay interest for the delayed period as per clause 29.08 of Condition of Supply of Electricity of the Distribution Licensee in the State of Karnataka @ the rate of 2% per month for the amount retained by MESCOM from 01.04.01 to 31.03.2003.

1) Firstly, the Representative of the Appellant cited Government order No DE 36 PSR 2003 dated 3<sup>rd</sup> September 2003 wherein Government had waived KPTCL's outstanding dues (both Principal and Interest) as on 31.03.2001 in respect of the irrigation pump set owners.

2) Secondly, he cited another Government Order vide No EN 44 PSR 2004 dated 21<sup>st</sup> February, 2004 which accorded full waiver of dues of irrigation pump sets up to 31.03.2003 and it covered those I.P set owners who have paid the outstanding dues as on 31.03.2003 on or after 01.04.2003 and in the case of such consumers who have paid the dues after 01.04.2003, such amounts have to be adjusted against the demands of 2003-04.

3) Appellant cited third Government order vide No.EN 34 PSR 2008 dated 19.08.2010 which accorded waiver of dues in respect of irrigation pump set users who have paid the bills from 01.04.2001 to 31.03.2003 and such amounts to be adjusted against future demands.

4) Appellant cited Meeting proceedings of KERC dated 16.09.2005 and 04.04.2006 wherein Advisory Committee had advised MESCOM to adjust the amount

paid by the pump set owners upto 31.03.2003 for the year 2003-04 against demand of 2003-04.

Respondent No.1, Asst Executive Engineer, Koppa Sub Division submitted that the Appellant from 01.04.2001 to 31.03.2003 had paid Rs.11,33,571/- as electricity charges and, as per Government Orders vide No. EN 34 PSR 2008 dated 19.08.2010, MESCOM had adjusted the waived amount against post 2003-04 demands and as for as non-implementation of earlier Government Orders, he clarified that he is a junior Officer and he only carried out the orders of MESCOM Corporate Office and he received clear orders to adjust the waived amount in respect of consumers who have paid the electricity charges during the relevant period in 2010 and had taken steps to adjust the amounts immediately

During the hearing, both the parties were informed 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 discussion, the issue that emerges for our consideration is:

- 1) Whether there was any undue delay on the part of MESCOM in implementing Government Waiver orders?
- 2) Whether Appellant is entitled for interest for the alleged delay period?

To answer the question, we have to go back to Government orders. Government has issued three orders on various dates.

- a) First Order relating to waiver of electricity charges came on 3<sup>rd</sup> September 2003 which accords full waiver of K.P.T.C.L outstanding dues as on 31.3.2001 which includes interest. This order clearly says that all outstanding dues of K.P.T.C.L as on 31.03.2001 in respect of the irrigation pump set consumers is waived. This order waives outstanding dues as on 31.03.2001 and has not said anything about the pump set owners who had cleared the dues as on 31.03.2001.

b) Second Order relating to waiver of electricity charges came on 21<sup>st</sup> February 2004 which accords full waiver of dues as on 31.03.2003 and applies to the dues from 01.04.2002 to 31.03.2003 whether paid or not. If consumers in response to the demands made between 01.04.2002 to 31.03.2003 and paid on 31.03.2003 or after 01.04.2003 such amounts have to be adjusted in the bills of the year 2003-04.

First order speaks of full waiver of dues as on 31.3.2001 and does not cover prompt payers. The second order speaks of adjustment of amount in the bills of 2003-04 who have paid. It is not clear whether adjustment had to be done in case of payments for the year 2001-02. Plain reading makes it clear that adjustment applies to the payments made from 01.04.2002 to 31.03.2003 and after.

It is further clear from the Government Order EN 34 PSR 2008 dated 19.08.2010 (body of the Order) that Government, on the basis of the U.O Note of Finance Department F.D 1503 Exp-1/07 dated 31.10.2007 and F.D 1885 Exp-1/07 dated 09.01.2008, had written to all the ESCOMs vide letter No EN 86 PSR 2007 dated 19.02.2008 that waiver scheme cannot be extended to those who have paid charges up to 31.03.2003. However, the same order says that Government, on the basis of the direction issued by KERC to MESCOM and also representation received from Users Associations, considered extending waiver benefit to those who have made payment relating to demands from 01.04.2001 to 31.03.2003.

In the light of the above, we can come to the decision that the earlier orders of the Government had not contemplated extending waiver benefits to those who have paid the electricity charges up to 31.03.2003. Only in its order vide No EN PSR 2008 dated 19.08.2010, Government had agreed to accord full waiver of dues even in case of those who have paid the amount from 01.04.2001 to 31.03.2003.

The above discussion clarifies that MESCOM has carried out the Government orders scrupulously and implemented schemes and there is no role of MESCOM in the alleged delay in the implementation of Government orders. Further, Asst Executive Engineer, Koppa Sub-Division, in his written replies, has made it clear that MESCOM had taken steps to waive the amount in case of the Appellant. It is also clear from Form "B" filed by the Appellant that he has sought waiver of Rs.11,33,571/- and there is no

claim of interest on the amount from 01.04.2001 till the final orders in this regard. It is clear that after filing of the appeal during the interim period MESCOM has redressed the grievance of the Appellant. Hence, interest claims of the Appellant is considered as an afterthought and this was raised during the hearing and there is no basis to consider such requests. MESCOM appears to have not committed any fault.

In the circumstances discussed above, the following orders are issued.

## ORDER

The impugned orders of CGRF, MESCOM, Mangalore vide No.  $\alpha \text{AA} \ll \text{PIA/UÁ} \text{PIA.PE.} \alpha \text{Á} \text{V}/01/10-11 \text{ } \text{EÁAPI} \text{ } 21.06.2010$  is upheld. As a result, the appeal is disallowed.

(B.R.Jayaramaraje Urs)  
Electricity Ombudsman

1. Sri P.G.Gurjar, Koppa Estate, Koppa Post, Koppa Talluk-577126, Chickmagalur District.
2. Assistant Executive Engineer, O & M Sub Division, MESCOM, Koppa-577128, Chickmagalur District.
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