

Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore
Present: B.R.Jayaramaraje Urs, IAS
Electricity Ombudsman
Case No.OMB/C/G-108/2011/10982
Dated 23.09.2011

Between

M/s.Precitech Engineers Private Limited,
 58A, 16 Cross, Ramanuja Road,
 MYSORE-570004
 (Represented by its Authorised Representative
Shri H.R.Rao)

.. Appellant

Vs

1. The Assistant Executive Engineer,
 O & M Sub Division, CESC,
 Hootagalli,
 Mysore.
2. Consumer Grievance Redressal Forum,
 No.1633, Sri Annapoorneshwari Complex,
 1st Cross, Anikethan Road (North)
 P.T.Block, Kuvempunagar,
MYSORE-570023

.. Respondents

This is an appeal under the provisions of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the orders passed by the 2nd Respondent, Consumer Grievance Redressal Forum, Mysore (hereinafter referred to as 'Forum') vide No. 10982/2011 dated 17.1.2011 (the impugned order). The Appellant had sought direction from the Forum to Chamundeshwari Electric Supply Corporation

(hereinafter referred to as the 1st Respondent) for refund of Rs.6,500/- paid towards Electricity Tax way back in 1989 and also discharging of interest-liability of Rs.22,24,428/- on Rs.6,500/.

The Forum, in its first order, had declined to accept the claims of the Appellant against the 1st Respondent. Aggrieved by this decision, the Appellant filed an appeal before the Electricity Ombudsman. After hearing the parties, the Electricity Ombudsman remanded the case to the Forum for fresh hearing and pass orders. On remand from the Electricity Ombudsman, the Forum passed second order relating to the case. Again in the second order, the Forum declined to issue any direction to the 1st Respondent regarding refund of amount including interest.

The present appeal is filed on 9th February 2011. Notices were issued to both parties to appear before this Authority on 29th June 2011. Authorised Representative of the Appellant appeared and advanced his arguments. Case was posted to 15th July 2011 for further hearing. Mr H.R.Rao appeared for the Appellant and continued his arguments. The Respondent's Advocate replied to the points made by the Appellant. On the request of the advocate for the respondent case was adjourned to 29th July 2011.

On 29th July 2011, the Advocate for the 1st Respondent put forth her arguments. She argued on the admissibility of the appeal. She contended that the appeal was not maintainable as it suffered from the limitation. Further, the appeal matter relates to 1989-1994 and during the relevant period Karnataka Electricity Board Electricity Regulations, 1988 was in vogue and under Clause 46 of this Regulation, the Appellant could have filed appeal before the specified authorities and the Appellant has not approached the Appellate Authority and, hence, the appeal before this authority is not maintainable.

The Authorised Representative of the Appellant argued that the provisions cited by the Respondent's Advocate did not apply to the Appellant as the provisions were applicable to the claims made by the Board against the consumer. The present appeal relates to claims made against K.E.B by the consumer and, as such, there was no substance in the arguments of the 1st Respondent. Under Karnataka Electricity Board Electricity Supply Regulations 1988, there was no mechanism available to the Appellant to address his grievance and, hence, the Appellant had filed appeal before the Electricity Ombudsman.

An Interim order is necessitated in this case on account of the objection filed by the Advocate for the 1st Respondent regarding admissibility of the case. The Advocate for the 1st Respondent cited Clause 46 of Karnataka Electricity Board Electricity Supply Regulation to buttress her stand. The Clause reads as thus "any consumer aggrieved by claims made by the Board on grounds of prejudicial use of power or on account of faulty metering equipment or due to supplemental claims, may file an appeal to the Prescribed Appellate Authority within one month from the date of bill of claims, under intimation to the office of issue by making payments as indicated below:

- a) Dishonest abstraction/ consumption/ use 50% of the claims or more.
- b) Other cases 25% of the claims or more.

Firstly, from the above, it becomes clear that the matter in question does not come under the purview of the above cited Clause.

Secondly, the Forum has not given cogent reasons nor explained on what grounds the representation of the Appellant has been rejected. Further the Forum has not quoted any legal provisions for rejection of representation.

Thirdly, this case has travelled too far. Twice the case has been handled by the Forum and further when the case came up before the Electricity Ombudsman in the past, the Electricity Ombudsman has not dealt with this issue at all. On the other hand, after detailed hearing, the Electricity Ombudsman observed that the order under challenge had not been signed by all the Members of the Forum though all the three Members had participated in the proceedings.

Fourthly, the Advocate for the 1st Respondent has taken a contention that the claims of the Appellant are time-barred and argued that under Clause 46 of Karnataka Electricity Board Electricity Supply Regulations, 1988, there was a provision under which the Appellant could have filed an appeal before the prescribed Authorities is found not applicable to the present case.

Fifthly, the contention of the 1st Respondent that the claims of the Appellant are time-barred can be examined when the case is heard on merits.

In view of the above, the contention of the advocate for the 1st Respondent that the case cannot be heard on the grounds of non-admissibility cannot be accepted at this stage. However, the advocate for the 1st Respondent has got liberty to argue on this count when the case is heard on merits. Subject to this, this authority proceeds to pass the following orders.

ORDERS

For the foregoing reasons, the contentions of the Advocate for the 1st Respondent regarding non-admissibility of the appeal is **here by rejected**.

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. M/s.Precitech Engineers Private Limited, 58A, 16th Cross, Ramanuja Road, Mysore-570004 (represented by Shri H.R.Road, "Sushobith", 1094, E & F Block, 6th Main, R.K.Nagar, Mysore-570022).
2. Assistant Executive Engineer, O & M Sub Division, CESC, Hootagalli, Mysore.
3. Consumer Grievance Redressal Forum, No.1633, Annapoorneshwari Complex, 1st Cross, Anikethan Road (North) P.T.Block, Kuvempunagar, Mysore-570023
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

