

D-597

BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road, Bangalore-560 001

Present: **B.R.Jayaramaraje Urs, IAS (Rtd)**
Electricity Ombudsman

Case No OMB/H/G-229/2015

Dated 21st October 2015

Shri Avinash V.Dharwadkar,
C/o Tushar M.Baddi, Near SBI,
Keshwapur, Hubli

.... Appellant

(By Sri Tushar M.Baddi, Authorised Representative)

V/S

1) The Assistant Executive Engineer (EI)
O&M Sub-Division, Shiggaon, Haveri District

(Party in Person)

2) The Chairperson,
CGRF, Haveri District,
Office of the Superintending Engineer(E)
O&M circle, HESCOM,
Neelana Gowdar Complex,
P.B Road, Haveri

... Respondents

1. This is an appeal under clause 22.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the orders passed by CGRF, Haveri District, Haveri vide order No CGRF/Prasam-06/2015-16 CYS-262 dated 11.08.2015 with regard to appellant's complaint against the 1st respondent in regard to non-consideration of his application for payment of compensation on account of failure on the part of HESCOM to achieve the Standards of Performance under Schedule I of KERC (Licensees' Standards of Performance) Regulations, 2004.

2. The 1st Respondent's comments were called vide letter No. OMB/H/G-229/2015/0-571 dated 08.09.2015. The 1st Respondent has furnished his comments vide letter dated 15.09.2015.

3. Both parties were informed vide this office letter No OMB/H/G-229/2015/D-571 dated 08.09.2015 regarding availability of sub-regulation 20(1) of KERC (CGRF & Ombudsman) Regulations, 2004 which both parties have not availed. Hence, this authority proceeds to pass orders on merits of the case.

4. In the instant case, the appellant applied for change of name and also for reduction of load from 18 HP to 5 HP on 26.04.2011 along with necessary fees i.e (a) Supervision charges of Rs. 100/- and (b) Rs. 100/- for change of name in respect of his installation bearing R.R No. ARTIP 26381 with the AEE (EI) O & M sub-division, Shiggaon . Since he did not receive any intimation from the AEE(EI), he sent a reminder to AEE(EI) on 12.06.2011. Finally, the AEE (EI) changed the name and reduced the

load on 13.02.2012 after a lapse of 10 months. Therefore, the appellant claimed compensation from HESCOM for failing to meet the Standards of Performance under schedule I of KERC (Licensees' standards of Performance) Regulations 2004. As per the said Regulations, the Licensee has to change the name within 7 days and reduction of load within 30 days.

5. Further, the appellant has filed Form No. A with the AEE(EI) claiming compensation of Rs. 15,000/- @ Rs. 50/- per day for 300 days delay changing the name and Rs. 54,000/- @ Rs. 200/- per day for 270 days delay for reduction of load. Totally he has claimed an amount of Rs. 69,000/-. The appellant filed Form No. A before the AEE(EI) on 27.03.2015 and since there was no reply from the AEE(EI), he filed a complaint with CGRF on 06.05.2015 seeking intervention in the matter. CGRF, after hearing the parties, passed the impugned orders rejecting the pleas of the appellant for payment of compensation.

6. The 1st Respondent admits appellant having applied for change of name and also for reduction of load from 18 HP to 5 HP on 26.04.2011 but denies the appellant had paid the required fee and further claimed that the appellant had paid the required amount only on 10.02.2012 and immediately he passed orders changing the name of the appellant and also reducing the load from 18 to 5 HP on 13.02.2012 and hence there is no delay on his part and therefore HESCOM is not liable to pay any amount/ compensation to the appellant.

7. The Authorised Representative of the appellant argued that the appellant had paid the necessary supervision charges of Rs. 100/- and Rs. 100/- towards change of name at the time of filing application by way of Demand Draft and the argument of the AEE(EI) that the appellant had not paid the required fee was incorrect and HESCOM has certainly delayed change of name and reduction of load despite appellant having paid the required fee along with the application. HESCOM took 10 months to change the name and 270 days for reduction of load and therefore HESCOM is liable to pay compensation under schedule I of KERC (Licensees' Standards of Performance) Regulations 2004.

8. The case was heard on 13.10.2015. Both parties submitted their respective arguments.

9. From the rival contentions, the issue that emerges for our consideration is “whether CGRF is right in admitting the complaint of the appellant when the complaint on the same issue was pending with AEE(EI) for decision and before the expiry of mandatory 90 days provided to the Licensee AEE (EI) to pass orders under the Regulations 7.2 of KERC (Licensees' Standards of Performance) Regulations-2004” ?

10. From the records, it is seen that the Appellant had filed Form No. A seeking standard amount from HESCOM for failing to meet the standards prescribed under the KERC (Licensees' Standards of

performance) Regulations-2004 on 27.03.2015 and as per Regulation 7.2 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."* In the instant case, when the appellant had filed Form No.A before the AEE(EI) on 27.03.2015, he (appellant) ought to have waited for 90 days for AEE (EI) to pass orders. CFRF order evidences that the appellant filed a complaint before CGRF on 06.05.2015 much before the expiry of 90 days mandatory period provided to the Licensee to pass orders under Regulation 7.2 of KERC (Licensees' Standards of Performance) Regulations, 2004. CGRF instead of directing the appellant to wait till the expiry of 90 days mandatory period and letting AEE (EI) to pass order is seen to have accepted the complaint of the appellant and passed the impugned order. Under Regulation 7.2 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."* Under Regulation 7.3 of KERC (Licensees' Standards of Performance) Regulations 2004, the consumer can approach CGRF *"in the event of the consumer not being paid the amount within the prescribed time the affected consumer may make an application with the CGRF and thereafter to the Ombudsman, established by the Licensee in terms of Section 42 of the Act"*. From this, it emerges that, the appellant has no locus standi to approach CGRF before the expiry of mandatory 90 days period provided to the

Licensee to pass order under Regulation 7.2 of KERC (Licensees' Standards of Performance) Regulations, 2004.


11. CGRF without looking into the issues raised by the appellant in his complaint, is seen to have focused its attention on issues like whether the AEE (EI) had caused delay in regard to change of name and reduction of load which were wholly unconnected to the case on hand.

12. For the foregoing reasons, the orders of CGRF becomes liable to be set aside as it has prematurely admitted the complaint of the appellant and passed the impugned order. Hence the following order:

ORDER

In the circumstances above, the impugned orders of the CGRF is set aside. The Licensee AEE (EL) is directed to pass orders on Form No.A filed by the appellant within 48 days from the date of issue of this orders taking into account 42 days time already taken by the Licensee in the matter to pass orders (the appellant had filed complaint on 27.03.2015 and later approached CGRF on 06.05.2015).

The appellant is at liberty to approach CGRF if he is aggrieved by the order passed by the AEE (EI).


(B.R Jayaramaraje Urs)
Electricity Ombudsman

To :

1. Sri Tushar M Baddi, Authorized Representative, Near SBI, Keswapur, Hubli
2. The Assistant Executive Engineer (EI), O&M Sub-Division, Shiggaon, Haveri District
3. The Chairperson, CGRF, Haveri District, Office of the Superintending Engineer(E), O&M circle, HESCOM, Neelana Gowdar Complex, P.B Road, Haveri.
4. Managing Directors of ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon'ble Member (A), KERC
7. PS to Hon'ble Member (M), KERC
8. Secretary, KERC
