



D-533

BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi Chambers, M.G Road, Bangalore-560001

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

Case No. OMB/H/G-214/2015

Dated 10th July 2015

Sri G.V. Nayak,
C/O Tushar M Baddi,
Near SBI, Keswapur Hubli ... Appellant
(By Sri Tushar Baddi, Authorized Representative)

V/s

1. The Assistant Executive Engineer(EI),
O &M City Sub-Division-3, HESCOM
Industrial Estate, Gokul Road, Hubli
(Party in person)

2. The Chairperson, CGRF
HESCOM, Office of the Superintending
Engineer, O&M Circle, Tabib Land,
Hubli-580020 ... Respondents

1. This is an appeal under clause 22.02 of KERC(CGRF & Ombudsman) regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, HESCOM, Dharwar District (herein after referred to as the

2nd Respondent vide order No AEE(EI)/DYCA/HISA/CGRF/File-156/15837-40 dated 31/3/2015 in regard to the complaint filed by the appellant with regard to issue of short claims against him on grounds of using excess load over sanctioned load. CGRF declined to grant any relief. Aggrieved by the order passed by the 2nd Respondent, the appellant has submitted his case as under:

2. This case relates to installation bearing R.R No RTRL.MP-103. The installation was serviced in the name Smt. Reena Hombal on 24.12.1993 with a sanctioned load of 26 HP. Installation is fitted with L&T make ETV meter. The installation was provided with 50/5 Ratio CT and 37 amperes miniature circuit breakers.

3. On 19.12.2011, MT Rating Sub-Division visited the premises of the appellant and found some extra machineries kept idle in the premises. After inspection, MT Rating Sub-division forwarded a report to the O&M Sub-Division to the effect that the appellant had used excess load over sanctioned load i.e used 87.37 HP against the sanctioned load of 26 HP. Though, the machineries were not connected to the electricity systems, MT Rating Division reported that the appellant's installation had a connected load of 87.37 HP which exceeds the sanctioned load by 61.37 HP as the appellant had been sanctioned only 26 HP. Based on this report, AEE(EI) O&M demanded Rs,1,54,980. Since the installation is fitted with ETV meter, extra load, if any, will automatically get reflected in the ETV meter. ETV meter has recorded 16.17 kws as rated load for the relevant period which falls within the sanctioned load. MT rating Division, without taking into consideration the load displayed in the ETV meter, presumed that the installation had a connected load of 87.37 HP just by taking into account the

capacity of the machineries kept in the premises even though they were not connected to electric system.

4. Further, the 1st respondent has not issued any notice to the appellant before passing provisional assessment order. The 1st Respondent, during the hearing before the CGRF has made a statement that he had called the appellant for talk which is incorrect and he had not been called for any talk and even challenged the 1st respondent to produce proof calling him for any meeting. Besides, CGRF in its order has commented that the AEE(EI) has not followed the procedure before issuing demand to the appellant. Hence, prayed this authority to set aside the order passed by the CGRF and issue directions to the 1st respondent to withdraw short claims made against him.

5. The 1st respondent's comments were called vide this office letter No OMB/G.214/2015/D-504/dated 07.05.2015.

6. The 1st respondent, in his comments, submitted that one Smt. Reena Hombal, the original consumer, had been sanctioned 26 HP power on 24.12.1993 and installation had been assigned RR No. RTRLMP-103. The original consumer had leased out the premises to the appellant. On 19.12.2011, MT Rating sub-division after conducting inspection of the premises reported appellant having kept extra machineries in his premises which are having a connected load of 61.37 HP and installation had a total load of 87.37 HP and thus there had been excess load of 61.37 HP over the sanctioned load. Therefore the appellant had to be back billed for use of excess load over the sanctioned load. In pursuance to this letter, his office issued a letter and a provisional assessment order advising Smt. R.R Hombal to pay a sum of Rs. 1,54,980/- being the back billing charges on account of

using excess load over the sanctioned load. Similar letter had been sent to the appellant vide letter dated 28.02.2012.

7. The 1st Respondent added that his office after considering the objections filed by the appellant, sought additional information regarding other firms standing in the name of the appellant i.e. (1) M/s. Press Metals and (2) M/s. Ganga Agri equipments and the appellant had so far not furnished any information regarding these firms. As there had been no response from the appellant, back billing had been issued for Rs.1,54,980/- calling upon the appellant to pay the sum within 15 days.

8. Both parties were informed vide letter No OMB/H/G-214/2015/513 dated 03.06.2015 regarding availability of sub regulation 1 of Regulation 20 of KERC(Consumer Grievance Redressal Forum and Ombudsman) Regulation,2004 which both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

9. The case was taken up for hearing on 16.06.2015. The Authorised Representative of the appellant, Shri Tushar Baddi appeared and argued the case. 1st Respondent Shri Ramesh Rathod, AEE(EI) CST-3, HESCOM, Hubli, appeared and advanced his arguments. Hearing was concluded on 23.06.2015.

10. During the hearing, both appellant and 1st respondent reiterated their submissions made in the appeal memo and statement of objections respectively.

11. Having regard to the contending positions of the parties, issues that arise for our consideration are:

(a) Whether HESCOM has proved beyond doubt that the machineries kept in the premises of the appellant were connected to the electric supply system?

(b) If machineries were not connected to the electric system and only kept idle in the premises, can it be taken as deemed installation and whether Licensee can assess connected load on this premise?

(c) Whether HESCOM is right in calculating the connected load based only on the capacity of the machineries if they were not connected to the electric system?

12. In the instant case, it appears that MT Rating Division during their visit to appellant's premises found the appellant using excess load over the sanctioned load. According to MT Rating Division, the appellant is found having used 61.37 HP excess load. Based on this, MT Rating Division appear to have recommended for levying a penalty of Rs1,54,980/-. The appellant argued that the machineries found during MT rating Division's visit were not connected to the electric supply system but only kept idle in the premises.

13. In order to answer the first question, we will have to understand what is connected load. Conditions of Supply of Electricity of Distribution

Licenseses in the State of Karnataka defines connected load as `` means the sum total of the installed (connected) capacities in kilowatts of all energy consuming devices on the consumer's premises, which can be used simultaneously ...". In other words, when machineries are connected to the electric systems and operated, then it can be taken as connected load. However, MT rating Division's report is not clear whether the machineries found in the premises were installed or connected to the electric system and being used or whether MT rating Division have just presumed that the idle machinery kept in the premises were connected to the electric system and operationalized.

14. Further, when the installation is linked with ETV Meter, MT rating Division should have checked ETV meter to find out the excess load. MT rating Division report does not say anything about checking of ETV meter and its reading. ETV meter, in the instant case appears to have not recorded any excess load. CGRF in its order has commented that the AEE(EI) O&M without visiting the premises and without taking into account the ETV being attached to the installation based only on MT Rating Division's report has come to the conclusion that there was an excess load.

15. In the present case, HESCOM has not proved beyond doubt that the appellant has installed the machineries or connected the machineries to the electric supply system. Perusal of MT Rating Division's report reveals that it has estimated excess load based on the capacity of the machineries without verifying whether those machineries were installed or connected to the electric supply system. If machineries were installed, then the MT rating division could have done the rating of those machineries instead of assessing

the connected load on the basis of capacity of such machineries kept in the premises.

16. Secondly, if there had been excess load, such excess load would have reflected in the ETV Meter. MT Rating Division in their report has recorded 16.17 HP as rated load. If this were taken, then there would be no excess load.

17. From the above discussion, we can come to the conclusion that the appellant has not used excess load over the sanctioned load. Also that HESCOM has not provided sufficient proof for the appellant having used excess load. In the absence of proof, it has to be held that the penalty levied on the grounds of alleged excess load over sanctioned load is not in accordance with law and hence deserves to be set aside. Therefore, the following order:

ORDER

For the foregoing reasons, (a) the impugned order of the CGRF is set aside.
(b) The penalty levied on the appellant on the grounds of use of excess load over the sanctioned load is set aside.

In the result, the appeal succeeds.


(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 City Sub-Division-3, HESCOM Industrial Estate, Gokul Road, Hubli.
3. The Superintending Engineer & Chairperson, CGRF, HESCOM, O&M Circle, Tabib Land, Hubli-580020
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
