

D-539

BEFORE THE ELECTRICITY OMBUDSMAN

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

**Present: B.R.Jayaramarajeurs,IAS(Retd)
Electricity Ombudsman**

Case No OMB/H/G-212/2015

Dated 24th July 2015

Shri R.D.Jaratargar,
C/o Tushar M.Baddi
Near SBI, Keshwapur,
Hubballi

... Appellant

(By Sri Tushar M.Baddi, Authorized Representative)

V/S

1) The Assistant executive Engineer(EI)
City sub-Division-1 HESCOM, Hubballi

(Party in person)

2) The Chairperson, CGRF,
Dharwar District, HQ Hubballi,
Office of the Superintending Engineer(EI),
O&M Circle, HESCOM,
Tabibland, Hubballi

... Respondents

1. This is an appeal under clause 22.02 of KERC(CGRF & Ombudsman) Regulations, 2004 against the orders passed by the CGRF, Dharwar District, Hubballi (hereinafter referred to as the 2nd Respondent) vide its order No AE(EI) DCA/HISA-1/CGRF/File-151/15829-32 in regard to the appellant's complaint with regard to delay in refunding the Initial security Deposit and Meter Security Deposit and 1st respondent's refusal to pay compensation for failing to achieve Standards of Performance specified at Sl.No.14 under Schedule I of KERC(Licensee's Standards of Performance) Regulations, 2004. CGRF declined to grant any relief to the appellant. Aggrieved by the orders passed by the CGRF, the appellant submits his case as under:

- (i) This case relates to installation bearing R.R No M.P 9680 serviced under LT -5 Tariff schedule with a sanctioned load of 5 HP. The appellant paid Rs.3940/- as Initial Security Deposit and Rs.4900/- as Meter Security Deposit and obtained service connection.
- (ii) The appellant requested for dismantling of the installation on 31.05.2011. Following this, the Section Officer prepared the estimates on 04.06.2011 and sent it to the AEE(EI) O & M sub-division on the same day. As there was a delay in dismantling the installation, the appellant filed a refund application along with Indemnity Bond and Original Receipts on 07.06.2011. There was no response from the AEE(EI) O &

M sub-division regarding refund of Initial Security Deposit, Meter Security Deposit and dismantling of the installation. The appellant sent a reminder on 03.09.2012 seeking refund. There was no response. Since, there was no response, the appellant filed a complaint before the CGRF seeking direction to the AEE(EI), O & M sub-division to refund the Initial Security Deposit and Meter security deposit along with compensation for delay in refunding deposits as per KERC (Licensees' Standard of Performance) Regulations, 2004. CGRF orally advised the AEE(EI), O & M sub-division to collect fresh refund application from the appellant and refund the deposits. Thus, the CGRF acted like a Licensee in the present case.

(iii) The AEE(EI), O & M sub-division issued dismantling orders on 26.02.2012 against the dismantling application filed by the appellant dated 31.05.2011. There was a delay of 9 months. Hence, prayed this authority to award compensation/amount from the date of filing refund application i.e 07.06.2011 till 18.06.2013 which comes to Rs.36,000/- as per KERC (Licensees' standards of Performance) Regulations, 2004.

(iv) The appellant had filed Form No 'A' with the AEE(EI), O & M sub-division claiming compensation from 07.06.2011 to 18.06.2013 for delay in refunding deposits and a copy of

which is produced before this authority as evidence. Hence, prayed this authority to award compensation/amount as per regulations.

2. The Respondent's comments were called vide this Office letter No OMB/H/G-212/2015/D-502 dated 07.05.2015.

3. The AEE(EI), O & M sub-division in his response, confirmed receiving refund application from the appellant and further added that his office could not process the refund application of the appellant in time as the Go-Live process to RAPDRP had been going on in the Sub-Division. On account of this, his office faced difficulties in collecting data from the system which resulted in delay in refunding the deposits to the appellant.

4. The 1st Respondent added that the electrical Sub-Division had been facing shortage of staff and added to this, his Office had misplaced the refund application. This took some time to collect fresh refund application from the appellant and to refund the Initial Security Deposit and Meter Security Deposit and there had been no deliberate delay on the part of the Sub-Division and hence prayed this Authority not to consider the prayer of the appellant for grant of compensation/amount.

5. Both parties were informed vide this Office letter No OMB/H/G-212/2015/D-525 dated 25.06.2015 regarding availability of sub-

Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004, which both parties have not availed. Hence, I am proceeding to pass an order in this matter.

6. The case was taken up for hearing on 14.07.2015 and arguments from both sides came to be concluded on the same day.

7. On behalf of the appellant, Authorised Representative Shri T.M Baddi appeared and put forth his arguments. The 1st Respondent's Deputy Shri P.N Anil Kumar, Assistant Accounts Officer, CSD-1, HESCOM, Hubballi appeared and advanced his arguments.

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

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

- i) Whether there is any delay on the part of the 1st Respondent in refunding Initial Security Deposit and Meter Security Deposit?
- ii) Whether the 1st respondent has failed to achieve the standards of performance as per KERC(Licensees' standards of performance) Regulations, 2004 warranting payment of compensation/amount?

- iii) If there is a delay, whether the 1st respondent is right in refusing to pay the amount to the appellant as per KERC (Licensees' Standard of Performance) Regulations?

9. The 1st Respondent during the hearing admitted the delay in refunding Initial Security Deposit and Meter Security Deposit to the appellant. He attributed this delay to the shortage of staff in his office and also on account of ongoing Go-Live process to RAPDRP in his Sub-division.

10. In the present case, the appellant had requested for dismantling of the installation on 31.05.2011. Following this, the Section Officer prepared the estimates on 04.06.2011 and submitted it to AEE(EI), O & M sub-division, on the same day. It is also seen the appellant having furnished Indemnity Bond as annexure-10. Because there was a delay in dismantling the installation, the appellant is seen to have filed a refund application along with the Indemnity Bond and Original receipts on 07.06.2011. As there was no response from the 1st respondent, the appellant appears to have sent a reminder to the 1st respondent dated 03.09.2012. When the appellant failed to get response from the 1st Respondent, he is seen to have filed a complaint before the CGRF. CGRF instead of passing orders as per law, is found to have advised the 1st respondent to collect fresh refund application from the appellant and to refund the deposits. The CGRF has passed the impugned order on 31.3.2015.

11. The AEE(EI), O & M sub-division, is seen to have issued dismantling orders on 26.02.2012 against the dismantling application filed by the appellant dated 31.05.2011.

12. The 1st Respondent has admitted to delay in refunding the Initial Security Deposit and Meter Security Deposit to the appellant and he attributed this delay to the shortage of staff and Sub-Division's occupation in Go-Live process to RAPDRP. The reasons given for delay do not merit consideration. There was no extra-ordinary circumstances for delay and hence pleas of AEE (EI), O & M sub-division are rejected. The appellant is seen to have filed Form No `A' claiming compensation as per KERC (Licensees' Standards of Performance) Regulations, 2004 with the AEE(EI) on 23.11.2012 which is duly acknowledged. As per clause 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."* Unfortunately, the AEE(EI) is found to have not taken any decision in the matter. This shows total callousness on the part of the AEE(EI)), O & M sub-division. Similarly, CGRF which has been established to redress the grievances of the consumer appear to have totally abdicated its responsibility and acted as though it is a nominee of the Licensee and refuse to award any compensation to the appellant even though the AEE(EI),), O & M sub-division admitted delay in refund of deposits. The CGRF has not conducted itself as a

justice dispensing authority but as Licensee's representative which is highly objectionable.


13. From the foregoing discussion, it emerged that the AEE(EI), O & M sub-division has prima facie failed to achieve Standards of performance specified at Sl.No.14 under Schedule-I of KERC(Licensees' Standards of Performance) Regulations, 2004 and not refunded the deposits within sixty days after receipt of the request, and hence, HESCOM is liable to pay an amount of Rs.50/- for each day of delay in refunding the deposits i.e. Initial Security Deposit and Meter Security Deposit. After deducting the period of 60 days granted for refunding the deposits from the date of refund application made on 07.06.2011, the Licensee is liable to pay Rs.50/- for each day's delay which comes to Rs.34,000/- (Rs.50 x 680 days). Hence the following order:

ORDER

1)For the reasons explained above, the impugned orders of the 2nd Respondent is set aside.

2)The 1st respondent is hereby directed to pay an amount of Rs. 34,000/- to the appellant within sixty days for failing to achieve standards of Performance specified at Sl.No.14 under Schedule-I of KERC (Licensees' Standards of Performance) Regulations, 2004.

In the result the appeal succeeds.


(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Shri R.D.Jaratargar, C/o Tushar M.Baddi, Near SBI, Keshwapur, Hubballi.
2. The Assistant executive Engineer(EI), City sub-Division-1 HESCOM, Hubballi
3. The Chairperson, CGRF, Dharwar District, HQ Hubballi, Office of the S.E(EI),O&M Circle, HESCOM, Tabibland, Hubballi.
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
