



Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore

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

Electricity Ombudsman

Case No.OMB/B/G-163/2013/315

Dated 29.11.2013

Smt.B.Sujaya S.Shetty,
 Proprietor: Canara Restura,
 No.150/1, 1st Main Road,
 (Opp to Old CTO)
 Sheshadripuram,
 BANGALORE-560020
**(Represented by Sri G.R.Shastry,Advocate-
 Authorised Representative)**

.. Appellant

Vs

1. The Asst. Executive Engineer(EI)
 O & M C-2 Sub Division,
 BESCOM,
 Malleshwaram,
BANGALORE-560003

2. The Chairperson,
 Consumer Grievance Redressal Forum,
 BESCOM,
BANGALORE

.. Respondents

1. This appeal under Clause 21.02 of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 is directed against the order passed by the Consumer Grievance Redressal Forum, Bescom, Bangalore (hereinafter referred to as the 2nd Respondent) vide case No CGRF/204/2012/2545-50 dated 29.06.2013 in regard to short claims raised by the Assistant Executive Engineer(EI), C-2 Sub-Division, Malleswaram, Bangalore-560003 (hereinafter referred to as the 1st Respondent) for Rs.30,255/- on account of slow recording of the meter by 60.80% and also the impugned order directing the 1st Respondent to revise the short claim to previous period of 6 months. Aggrieved by the order passed by the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant is an Electricity Consumer of BESCO. Installation bearing R.R No C2P 252 stands in the name of the Appellant. The installation was serviced on 15.05.1987 with a sanctioned load of 5HP. The Meter Rating Sub-Division, BESCO inspected the installation on 21st November, 2012 and observed slow recording of the meter by 60.80%. Based on MT Rating Sub-Division's report, the 1st Respondent raised short claim for Rs.56,594/- on 16.12.2012. Prior to this inspection, the Appellant had made a complaint to the 1st Respondent regarding the fast recording of the meter on 23.11.2012 and also made oral representations requesting to set right the defective meter and to refund the excess amount recovered. The 1st Respondent, without addressing these concerns of the Appellant, made a counter-attack and raised a bill for Rs.56,594/-. Thus, the issuance of the bill on the ground of slow recording of the meter was a counterblast to the Appellant's claim.

3. Further, the Appellant, in his letter dated 17.02.2010, brought to the notice of BESCO that he had not been running the Hotel, but still he was getting energy bills. Again, on 23.11.2012, the Appellant wrote to BESCO requesting to replace the defective meter and to refund the excess amount collected. But, all of a sudden, the MT Rating Sub-Division conducted inspection of the subject installation on 21.11.2012 and made observation that the meter had a slow recording by

60.80%. The Appellant has not signed the mahazar nor was there any Authorised Representative present on behalf of the consumer during the inspection. The Appellant denies the signature on the Mahazar. The MT Reading Sub-Division has not attributed any tampering or alteration of the meter to the Appellant. The Appellant is running the hotel since 1987 and there are no complaints against him. Therefore, the action of BESCO is ill motivated and just to defeat the earlier claim of the Appellant. As per Regulation 27.03(iii) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the Licensee has to take the signature of the Consumer for witnessing the test and also agreeing to pay the back billing charges in case of slow recording of the meter. In the present case, neither the Appellant nor his authorised representative was present during the inspection. This violated Regulation 27.03(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Aggrieved by this decision, a complaint was filed before the 2nd Respondent and the 2nd Respondent in its order observed that the Appellant had signed the mahazar and the inspection had been done on the basis of the Appellant's complaint. The reasoning of the 2nd Respondent was opposed to the pleadings of both parties. Thus, the 2nd Respondent has erred in appreciating the admitted facts and come to the wrong conclusion. The 1st Respondent, in spite of repeated requests, did not replace the defective meter nor installed a parallel meter. The Appellant even made a request to the 1st Respondent to conduct fresh inspection in his presence. Mahazar does not speak of tampering or altering of the meter. Hence, prayed this Authority to issue directions to MT Rating sub-Division to conduct fresh test in the presence of the Appellant in order to clear all the doubts.

4. The 1st Respondent's comments were called vide this office letter No OMB/B/G-163/2013/251 dated 01.08.2013.

5. The 1st Respondent in his statement of objections dated 16.08.2013 denied having conducted inspection in the absence of the Appellant and stated that inspection had been conducted in the presence of the Hotel Cashier and MT Rating

Division had obtained the signature of the cashier for witnessing the test. Further, denied the Appellant having disputed the accuracy of the meter during the inspection also having paid the testing fee directly to the third party agency to undertake testing.

6. The case was taken up for hearing on 26.11.2013 & and final hearing was conducted on 28.11.2013. Shri G.R Shastry, Advocate, appeared for the Appellant and, on behalf of BESCO, the Assistant Executive Engineer (EI), C-2 Sub-Division, Malleshwaram, Bangalore appeared and both parties submitted their respective arguments.

7. Both the advocate for the Appellant and the 1st Respondent reiterated the submissions made in the appeal memo and statement of objections respectively.

8. Both parties were informed vide letter No.OMB/B/G-163/2013/311 dated 13.11.2013 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.

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

(a) Whether the MT rating Division has followed the procedure prescribed for meter testing?

(b) Whether the short claims for Rs.30,255/is justified?

10. MT Rating Sub- Division inspection report says that the inspection was taken up on complaint by the 1st Respondent and, however, the report is not clear whether the Consumer had been notified regarding the inspection. It looks as though the

Testing Division visited the Hotel suddenly at the behest of 1st Respondent and appears to have conducted inspection in the presence of the Hotel Cashier who seems to have not been authorised to sign the mahazar. Regulation 27.02(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka mandates the testing staff to draw a mahazar and obtain the signature of the Consumer or his representative for witnessing the test and also agreeing to pay the back billing charges in case of slow recording of the meter. In the present case, the Cashier, though has signed the mahazar for witnessing the test, the Licensee cannot construe that the Cashier had consented to pay the back billing charges on behalf of the Consumer. Since the Cashier was not aware of MT Rating Division's visit, he could not have taken authorisation from the Consumer to be present during inspection and given consent to pay the back billing charges in case of slow recording of the meter. Since there is no authorisation from the Consumer to the Cashier to be present during the inspection, we cannot say that he was an Authorised Representative of the Consumer and inspection has been done in the presence of the Consumer's Representative. Inspection report says that the inspection was taken up on the complaint by the 1st Respondent and may be the 1st Respondent would have requested the MT Rating Sub-Division for meter testing at the behest of the Consumer or on his written complaint regarding fast recording of the subject meter. From the records made available to this Authority, the Appellant is found to have made several complaints to the 1st Respondent regarding fast recording of the meter. When such being the case, AEE(EI/MT rating Division should have necessarily procured the attendance of the Consumer during inspection and should have displayed to the Consumer that the meter is not fast recording as alleged by him but it is recording slow by 60.80%. This would have helped the Consumer to take decision either to accept or reject the findings. If the consumer had accepted the findings, the matter would have ended then and there. In case the consumer had not accepted the findings and refused to pay the back billing charges, then the Licensee could have taken that the Appellant had not accepted the findings of the MT Rating Sub-Division and, hence, the matter should be referred to the third party agency for testing and the MT Rating Division or the 1st Respondent

could have advised the Appellant to pay the prescribed testing fee directly to the third party agency.

11. In view of the fact that the Appellant was not present during the inspection, the Licensee should have at least sorted out this issue with the Appellant subsequently. After ascertaining his views on the inspection, the Licensee either could have recovered the back billing charges in case of no objection to pay the back billing charges from the Appellant side or could have referred the meter to third party agency for test if the Appellant had disputed the accuracy of the meter during the inspection. Neither of these appear to have been done in the instant case. Hence, it is considered necessary to remand the case to the MT Rating Division for fresh inspection of the subject meter as per the procedure prescribed under regulation 27.03(iii)&(iv) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Hence, the following order:

ORDER

12. In the light of the observation made above, the impugned order is set aside and the matter is remanded to the M.T Rating Sub-division for fresh meter test following Regulation 27.03(iii) & (iv) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The M.T.Rating Sub-Division shall complete this exercise within 30 days from the date of this Order.

13. In the result, the appeal **is partly allowed**.


(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Smt.B.Sujaya S.Shetty, Proprietor: Canara Restura, No.150/1, 1st Main Road, (Opp: Old CTO), Sheshadripuram, Bangalore-560020 (represented by Shri G.R.Shastry, Advocate – Authorised Representative).

2. The Chairman, Consumer Grievance Redressal Forum, BESCO, Bangalore
3. The Assistant Executive Engineer (Ele), O & M C-2 Sub Division, BESCO, Malleshwaram, Bangalore-560003 .
4. The Assistant Executive Engineer(EI), M.T.Rating Sub-Division, BESCO, Bangalore
5. Shri Vinayaka.K., Law Officer, BESCO Corporate Office, K.R.Circle, Bangalore-560001.
6. Managing Directors of ESCOMs.
7. PS to Hon.Chairman, KERC
8. PS to Secretary, KERC