

# Before the Ombudsman, K.E.R.C. Bangalore

Present: Shaik Ahmed,  
Ombudsman

Case No.OMB/B/G-24/2007/3604  
dated 12.12.2007

## Applicant :

Shri R.Nagaraja Setty,  
Ananth Enterprises,  
No.24, Albert Victor Road,  
Kalasipalyam,  
**BANGALORE-560002**

## Respondents:

1. The Asst,Executive Engineer(EI)  
CO&M, W-5 Sub Division, BESCOM,  
Mysugar Building, J.C.Road,  
**BANGALORE-560002**

2.Consumer Grievance Redressal Forum,  
BESCOM, Central Stores Premises,  
Near E.S.I. Hospital,  
Rajajinagar,  
**BANGALORE-560010.**

This Complaint is directed against the Order dated 15.2.2007 of the 2<sup>nd</sup> Respondent passed in file NO.CGRF/99/2007/1493. The case of the Complainant is that he had applied for sanction of power for his commercial complex on 20.9.2005. The 1<sup>st</sup> Respondent did not provide the power supply within 30 days of the application as provided in Section 43 of the Electricity Act. Instead, the power supply was provided on 19.4.2006 i.e. after a delay of 182 days. According to the Complainant the 1<sup>st</sup> Respondent should pay him a penalty of Rs.200/- for each day of delay as provided by the KERC (Licensees Standards of Performance) Regulations 2004. The Complainant therefore has sought a direction to the 1<sup>st</sup> Respondent to pay a penalty of Rs.36,400/- for the delay of

182 days at the rate of Rs.200/- per day in accordance with KERC (Licensees Standards of Performance) Regulations 2004.

He had filed a petition before the 2<sup>nd</sup> Respondent seeking a direction to the 1<sup>st</sup> Respondent for the payment of penalty of Rs.36,400 as provided in the KERC (Licensees Standards of Performance) Regulations 2004. The 2<sup>nd</sup> Respondent, after hearing both the parties, has rejected the petition on the ground that the delay was due to non-cooperation and non-submission of certain documents by the Complainant himself and not at the instance of the 1<sup>st</sup> Respondent.

Aggrieved by the Order passed by the 2<sup>nd</sup> Respondent, the Complainant has filed this Complaint. In the written submission, the 1<sup>st</sup> Respondent has stated that the delay was because of the non-cooperation, non-submission of Architect Plan of the premises and also non-payment of the required fee by the Complainant in time. The 1<sup>st</sup> Respondent has further submitted that the Complainant has also questioned the necessity of the approval of the Chief Electrical Inspector as the height of the building was more than 15 meters. According to the 1<sup>st</sup> Respondent, there was no delay on the part of BESCOM in arranging power supply to the Complainant.

I have heard the Complainant on 10.12.2007. He has submitted that there was no need to submit an Architect's Plan of the building for obtaining power sanction. He has also contended that the fee of Rs.80,300/- levied towards recovery of expenditure by the 1<sup>st</sup> Respondent is not correct and that he has challenged the relevant Regulation of KERC before the Hon'ble High Court. The Complainant has further stated that he did not indulge in unnecessary correspondence as alleged by the 1<sup>st</sup> Respondent and, in fact, the 1<sup>st</sup>

Respondent has intentionally delayed the power supply only to harass him. He, therefore, requests to set aside the Orders of the 2<sup>nd</sup> Respondent and direct the 1<sup>st</sup> Respondent to pay the penalty of Rs.36,400/- as per KERC (Standards of Performance) Regulations 2004 for the wilful delay of 182 days.

I have considered the submissions put forth by both the parties. The contention of the Complainant that an Architect's Plan of the premises is not necessary to get the power sanction is totally incorrect. Under Clause 9.01 of KERC (ES&D) Code 2000-01 (which was relevant to this case) the application for power sanction should be accompanied by an Architect's Plan of the premises. The other contention of the Complainant that the levy of fee towards recovery of expenditure is illegal is also not correct. Clause 3.1.5 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 (as amended on 12.1.2006) provides for the levy of charges towards electrical lines, transformer, etc. on the consumer. The Complainant has stated that he has challenged the legality of these Regulations before the Hon.High Court. Admittedly, there is no order from the Hon.High Court staying or annulling these Regulations which are in force now. Mere challenging of the aforesaid Regulations before the Hon.High Court will not exempt the Complainant from paying the fee prescribed thereunder.

Further, the premises has been inspected by the Electrical Inspector on 1.3.2006 as required under Clause 9.16 of the KERC (ES&D) Code 2000-01. The Inspectorate has given the report to the 1<sup>st</sup> Respondent on 2.3.2006. The Complainant has paid the required fee on 15.4.2006 towards the cost of service line for providing power supply to the Cellular Telecommunication equipment. The installation has been serviced on 19.4.2006. Hence, I do not see any

delay on the part of the 1<sup>st</sup> Respondent for providing power supply to the premises of the Complainant. The delay was because of non-submission of Architect Plan and non-payment of the required fee by the Complainant himself. The question of paying penalty by the 1<sup>st</sup> Respondent at the rate of Rs.200/- per day for 182 days does not arise. Therefore, the impugned Order dated 15.2.2006 passed by the 2<sup>nd</sup> Respondent needs no interference.

The Complaint is, therefore, disposed accordingly.

(Shaik Ahmed)  
Ombudsman

TO:

1. Shri R.Nagaraja Setty, Ananth Enterprises, No.24, Albert Victor Road, Kalasipalyam, Bangalore-560002
2. The Asst,Executive Engineer (Ele) CO&M, W-5 Sub Division, BESCO, Mysugar Building, J.C.Road, Bangalore-560002
3. Consumer Grievance Redressal Forum, BESCO, Central Stores Premises, Near E.S.I. Hospital, Rajajinagar, Bangalore-10.
4. The Managing Director, BESCO Corporate Office, K.R.Circle, Bangalore-560001
5. The General Manager, (Tech), BESCO, Corporate Office, K.R.Circle, Bangalore-560001.
6. PS to Chairman 7.PS to Member-I 8.PS to Member-(Tech) 9. Secretary
10. Consultant (O.C.A.) 11. Chairpersons of all CGRF 12. Director(Tariff)

