

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

Present: Shaik Ahmed,
Ombudsman

Case No.OMB/B/G-30/2007/3492
dated 20.11.2007

Applicant :

Shri Raymond Vijay Soans,
36, 8th Cross,
Kanakanagar, R.T.Nagar Post,
BANGALORE
(Represented by Counsel, Mr. A.B.Colaco)

Respondents:

1. The Asst,Executive Engineer,
C-5 Sub Division, BESCO, M,
K.B.Sandra,
BANGALORE.
2. The General Manager(Tech)
BESCO Corporate Office,
K.R.Circle,
BANGALORE-560001
- 3.Consumer Grievance Redressal Forum,
BESCO, Central Stores Premises,
Near E.S.I. Hospital,
Rajajinagar,
BANGALORE-560010.

The applicant above named has filed this application to set aside the order No.BESCO/BC25/1731/2003-04 dated 28th March 2007 passed by the 2nd Respondent with a direction to refund the infrastructure development fee (Service Line Cost) which he has paid to 1st Respondent. The facts of this case are as follows:

The 1st Respondent has levied and collected a sum of Rs.12,000/- from the Applicant towards infrastructure development charges(Service Line Cost) for providing power connection to his house in Kanakanagar (R.T.Nagar Post) Bangalore. The Applicant has stated that the Kanakanagar Layout is a Private Layout developed during 1986-87 by a Private Developer. Subsequently, the Layout was included within the limits of Bangalore City Corporation which has collected betterment/development charges of Rs.15,000/- from him for providing basic civic amenities. According to him, a further levy of infrastructure fee of Rs.12,000 by the 1st Respondent is illegal as the area has all the infrastructure like supply lines, distribution mains, transformers etc. required for the supply of power.

He has further stated that the provisions of KERC (ES&D) Code 2000-01 which provide for levy of infrastructure development fee, has come into force from 29.3.2001 cannot be made applicable to the Layout which was formed about 15 years back and that too when the Layout has all necessary electrical infrastructure. Further, the 1st Respondent has provided power connections to a number of houses in the area without collecting any infrastructure development fee. According to the Applicant, the levy of Rs.15000/- by the 1st Respondent towards infrastructure development fee (Service Line Cost) is discriminatory, arbitrary and illegal. The Applicant has further stated that he has challenged the levy of infrastructure development charges before the Hon. High Court in Writ Petition No.10167/2005. The Hon'ble High Court has disposed the above Writ Petition on 25.10.2006 with the directions to BESCO to pass appropriate order in accordance with law after examining the objections of the Writ Petitioner and the report of the jurisdictional AEE, BESCO in the matter.

In pursuance of the above directions of the Hon.High Court, the General Manager(Tech) BESCO has examined the representation submitted by the

Petitioner and passed a detailed order holding that the levy of Rs.12,000 by the 1st Respondent towards Service Line Cost is in order as the same is in accordance with the Electricity Supply & Distribution Code 2000-01.

Aggrieved by the Order of the General Manager(Tech), BESCO, the Applicant had filed a petition before the 3rd Respondent to set aside the Order of the 2nd Respondent and to order refund of Rs.12,000/- he has paid towards service line cost. The 3rd Respondent too, after hearing both the parties, has held that the levy of Rs.12,000/- towards service line/infrastructure development charges is in accordance with the law.

Aggrieved by the order passed by the 3rd Respondent, the Applicant has filed this application before me. The Applicant was given an opportunity to appear in person before me to adduce further evidence, if any, in support of his claim. He has failed to appear. The 1st Respondent has filed a written statement vide letter No.AEE/C5/SD/AE(T)/S-52-55 dated 14.09.2007 justifying the levy of RS.12,000/- towards infrastructure development charges (Service Line Charges).

I have gone through the records and have examined the materials submitted by both the parties.

The levy of betterment/development charges by the Bangalore City Corporation is for providing civic amenities like roads, drainage, etc. and not for providing power supply which is done by a different Authority, namely, the

BESCOM. The Developer/Promoter of a layout is required to provide necessary infrastructure in the layout to facilitate power supply to the houses constructed therein. Admittedly, the Developer of the Kanakanagar Layout has not provided any electrical infrastructure to facilitate supply of power by BESCOM to the buildings constructed in this Layout. On the other hand, the BESCOM has provided necessary electrical infrastructure in the Kanakanagar Layout by spending Rs.1.00 crore. Clause 10.04 of KERC (Electricity Supply and Distribution) Code 2000-01 provides for levying of cost of service lines on the consumer for providing power supply in respect of layouts where the Developer/Promoter has not provided basic electrical infrastructure required for the supply of power. Therefore, the levy of Rs.12,000/- towards Service Line Cost on the Applicant is in order.

Further, the contention of the Applicant that the provisions of KERC (ES & D) Code 2000-01 are not applicable to the old Layout is not correct as this Code do not make any discrimination about its applicability. The applicant has filed his application for power supply on 8.2.2005 i.e. after the enforcement of KERC (ES & D) Code 2000-01 and it is necessary for the 1st Respondent to sanction the power connection in accordance with the provisions of this Code. The 2nd Respondent in his Order has stated that the power connections to other premises in the area have been provided only after collecting the Service Line Cost. The contention of the Applicant that the 1st Respondent is discriminatory in collecting the Service Line Cost from him is not correct.

In the circumstances stated above, I hold that the levy of Rs.12,000/- on the Applicant towards Service Line Cost is in accordance with the KERC (ES & D)

Code 2000-01. Therefore, the impugned order dated 26.6.2007 passed by the 3rd Respondent in file No. CGRF/21/2007/1974 needs no interference.

The Application is, therefore, rejected.

(Shaik Ahmed)
Ombudsman

TO:

1. Shri Raymond Vijay Soans, 36, 8th Cross, Kanakanagar, R.T.Nagar P.O. Bangalore
2. The General Manager, (Tech), BESCO, Corporate Office, K.R.Circle, Bangalore-560001.
3. Consumer Grievance Redressal Forum, BESCO, Central Stores Premises, Near E.S.I. Hospital, Rajajinagar, Bangalore-10.
4. The Asst,Executive Engineer, C-5 Sub Division, BESCO, K.B.Sandra, Bangalore.
5. The Managing Director, 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)

