

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

Present: Shaik Ahmed,
Ombudsman

Case No.OMB/G/G-37/2007/ and OMB/G/G-38/2007/3866

Dated 14.02.2008

Applicant :

1. Shri Shrikar R.C.
Shrikar Engineering,
No.6A, 4th Main, 3rd Cross,
J.C.Industrial Layout,
Yelachenahalli 2nd Stage,
Kanakapura Road,
BANGALORE-560062
2. Smt.Sumangala S.Chiploonkar,
Shriduarga Engineers,
No.6, 4th Main, 3rd Cross,
J.C.Industrial Layout,
Yelachenahalli 2nd Stage,
Kanakapura Road,
BANGALORE-560062

Respondents:

1. The Asst.Executive Engineer(Ele)
S-6 Sub Division, BESCOM
ISRO Layout,
BANGALORE-560078.
- 2.Consumer Grievance Redressal Forum,
BESCOM, Central Stores Premises,
Near E.S.I. Hospital,
Rajajinagar,
BANGALORE-560010.

1. This is a complaint directed against the order of the CGRF, BESCOM passed on 07.08.2007 in file NM.CGRF/24/2007/2183. The facts of this case in brief are as follows:

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2. The 1st Complainant had applied for sanction of electricity (30 KW) to his industrial premises situated at 6A, 4th Main, 3rd Cross, Industrial Layout, Yelachenahalli 2nd Stage, Kanakapura Road, Bangalore. The 2nd Complainant too had applied for similar sanction (20.5 KW) to her industrial premises at No.6, 4th Main, 3rd Cross, in the same Industrial Layout of Yelachenahalli. Before supplying electricity, the 1st Respondent had collected a sum of Rs.1.20 lakh from the 1st Complainant and Rs.92,000 from the 2nd Complainant towards Infrastructure charges and the Complainants had paid this fee under protest. Apart from the Infrastructure charges, the 1st Respondent had also collected Rs.52,240 and Rs.38,265 from the Complainants towards security deposits (3 MMD) which was more than what was prescribed under the relevant Regulations. According to the Complainants, the levy of Infrastructure charges by the 1st Respondent was illegal as the area in which their premises are situated has all electrical infrastructure like power supply lines, transformers etc. The 1st Respondent has serviced their installations from the existing power supply lines without incurring any expenditure and that the cost of underground cables was borne by the Complainants.

3. Questioning the levy of Infrastructure charges and the excess amounts towards security deposits, the Complainants had filed petitions before the CGRF seeking a direction to the 1st Respondent to refund the Infrastructure fee and the excess amount paid by them towards security deposits with interest. They had also prayed for a compensation at the rate of Rs.50/- per day in accordance with KERC (Licensees' Standards of Performance) Regulations 2004 for not refunding the excess deposits in time.

4. The CGRF, after hearing both the parties, has held that the levy of Infrastructure charges by the 1st Respondent is in accordance with Clause

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3.2.3(i)(b) of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004. However, the CGRF has concluded that the 1st Respondent has collected excess amount towards security deposit from the Complainants and has ordered the 1st Respondent to refund the same. Further, the CGRF has rejected the prayer of the Complainants for grant of compensation of Rs.50/- per day for not refunding the excess amount collected towards security deposit in time on the ground that the Complainants get relief in the form of interest on delayed payments.

5. Aggrieved by the Order of the CGRF, the Complainants have filed separate complaints before the Ombudsman seeking the following relief:

- a) To set aside the order dated 7.8.2007 passed by the 2nd Respondent.
- b) To direct the 1st Respondent to refund the Infrastructure charges and the excess security deposit collected over and above the fixed deposits with interest at 1% per month.
- (c) To direct the 1st Respondent to pay a compensation at the rate of Rs.50/- per day in accordance with the KERC (Licensees' Standards of Performance) Regulations 2004 for delay in refunding the deposit.

6. The two complaints are clubbed together as the prayer made thereunder are similar and directed against a common order of the CGRF.

7. I have gone through the records placed before me by both the parties. The 1st Respondent has submitted his written replies to the contentions made by the Complainants. I have also heard the 1st Complainant, Shri Shrikar on 14.12.2007. The 2nd Complainant did not appear but has submitted a

written reply to the replies submitted by the 1st Respondent. The 1st Complainant has stated that the J.C.Industrial area of Yelchenahalli is well developed with existing electricity supply lines, transformers etc. and it is not an abandoned layout as claimed by the 1st Respondent. He has produced photographs of the area to prove that the area is well developed with necessary electrical infrastructure already in place. He has further stated that the 1st Respondent has supplied the power to the premises of the complainants using the existing power supply lines and, in the process, has not incurred any expenditure towards drawing power lines or creating the required electrical infrastructure. According to him, the levy of Infrastructure charges by the 1st Respondent is illegal. He has further stated that the CGRF has failed to appreciate these realities and has rejected their bona fide grievance. He also contended that the impugned Order suffers from legal infirmity as the provision of law i.e. Clause 3.2.3.(i)(b) quoted therein for the levy of infrastructure charges does not exist in the KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004. He, therefore, prays to set aside the impugned order and to grant the relief as sought in his complaint.

8. The 2nd Complainant in her written submission has contended that the 1st Respondent has not brought out any material on record to deny the submissions made in her complaint. She, therefore, prays for a direction to the 1st Respondent to refund the excess amount collected along with interest.

9. In the written reply, the 1st Respondent has stated that the levy of Infrastructure charges is in accordance with 3.2.3. (i)(b) KERC S&D Code. This is

not the correct provision of law. The expenditure incurred towards drawing of lines etc. (Infrastructure charges) is recovered from the applicants under Clause 3.2.3 of the KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 in respect of areas which are not developed. The provision of law quoted in the impugned order for the levy of Infrastructure charges is also not correct. This may be a typographical error which cannot be taken as a ground to set aside the impugned order as there is an enabling provision in the relevant Regulations to levy such charges.

10. Further, the 1st Respondent has not refuted or denied the contention of the Complainants that the area in question is a developed area with existing power supply lines. He has also not denied the contention of the Complainants that the power supply to the premises of the Complainants was provided from the existing supply lines without incurring any expenditure. As could be seen from the photographs produced before me by the Complainants, the area is well developed with many buildings with electricity supply lines already in place. The area, therefore, is definitely not an abandoned area. Hence, the levy of infrastructure charges by the 1st Respondent is not in order.

11. Both the Complainants have confirmed the receipt of cheques from the 1st Respondent towards the refund of excess security deposit as per the orders of the CGRF. Under item 14 of Schedule 1 to the KERC (Standards of Performance) Regulations 2004, the time limit prescribed for the refund of deposit is within 60 days after the receipt of the request. As seen from the records, there is not much delay in refunding the excess amount collected towards security deposits. Hence, the question of granting compensation at the rate of Rs.50/- per day in terms of KERC (Licensees Standards of Performance) Regulations 2004, does not arise.

12. In the circumstances stated above, I hold that the levy of the expenditure towards electrical lines/plants (infrastructure charges) on the Complainants is illegal as the premises in question are situated in a developed area and the 1st Respondent has serviced the installations in question from the existing lines without incurring any expenditure.

ORDER

13.(a) The 1st Respondent shall refund the Infrastructure charges collected from the Complainants with interest at 1% per month within 30 days of this order.

(b) The request of the Complainants to grant compensation at the rate of Rs.50/- per day in terms of KERC (Licensees Standards of Performance) Regulations 2004, for the delay in refunding the excess security deposits is rejected as there is not much delay on the part of the 1st Respondent to refund the amount.

14. The order of the CGRF is set aside to the above extent and the complaint is partially allowed.

(Shaik Ahmed)
Ombudsman

1. Shri Shrikar R.C., Shrikar Engineering, No.6A, 4th Main, 3rd Cross, J.C.Industrial Layout, Yelachenahalli 2nd Stage, Kanakapura Road, Bangalore-560062

2. Smt.Sumangala S.Chiploonkar, Shridurga Engineers, No.6, 4th Main, 3rd Cross, J.C.Industrial Layout, Yelachenahalli 2nd Stage, Kanakapura Road, Bangalore-560062

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3. Consumer Grievance Redressal Forum, BESCOM, Central Stores Premises, Near E.S.I. Hospital, Rajajinagar, Bangalore-560010.

4. The Asst,Executive Engineer, S-6 Sub Division, BESCOM ISRO Layout, Bangalore-560078

5. The Managing Director, BESCOM Corporate Office, K.R.Circle, Bangalore-560001

6. PS to Hon.Chairman 7. PS to Hon.Member-I 8. PS to Hon. Member-(Tech)

9. Secretary 10.Consultant (O.C.A.) 11. Chairpersons of all CGRF

12. Director(Tariff)