
**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
No.16, C-1, Millers Tank Bed Area, Vasanth Nagar, Bengaluru-560 052.**

Dated: 22.06.2021

Present

Sri Shambhu Dayal Meena	..	Chairman
Sri H.M. Manjunatha	..	Member
Sri M.D. Ravi	..	Member

No.AS/Misc.09/2020

BETWEEN:

1. Mrs. Sampath Kumari
W/o David M. Aged 50 years,
No.10, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural-560 083.
2. Mrs. Prathiba S.N.
W/o Ravi Prasad, Aged 35 years,
No.42, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural-560 083.
3. Mrs. Kavitha K.
W/o Venkatarami Reddy, Aged 35 years,
No.23, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural – 560 083.
4. Mr. Rahul S. s/o
Sudarshan Y. Aged 30 years,
No.36, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural-560 083.

No.AS/Misc-09/2020

5. Mrs. Lakshmi B.V.

W/o Jagananth, Aged 49 years,
No.52, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural – 560 083.

6. Mr. Sanjeev Kumar Gupta,

S/o Madhav Prasad Gupta, Aged 32 years,
No.37, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural – 560 083.

7.Mr. B. Chandrashekar,

S/o B.Venkatarama Naidu, Aged 45 years,
No.23-A, Khata No.111, Chaitra Medosa Layout,
Mylasandra village, Bangalore South,
Bengaluru Rural–560 083.

...COMPLAINANTS/PETITIONERS

(Represented by Advocate Sri.Shridhr Prabhu)

AND

1. Bengaluru Electricity Supply Company Limited,
Corporate Offices, K.R. Circle,
Bengaluru -560 001.

(Represented by its Managing Director)

2. The Assistant Executive Engineer (Elecl),
Bengaluru Electricity Supply Company Limited,
South Sub-Division- 10
B.G. Road, Begur,
Bengaluru-560 076.

.... RESPONDENTS

ORDER

1. The complainants/petitioners have filed this petition/complaint under Section 142 read with Section 42 of the Electricity Act, 2003 read with Regulation 3 & 4 of Karnataka Electricity Regulatory Commission (Duty of

No.AS/Misc-09/2020

the Licensee to supply Electricity on Request) Regulations, 2004 and prayed for the following reliefs, to:

- a) Call for records from the respondents relating to the complainants/petitioners and all such other households that are not given permanent power sanction but are forced to avail power supply on temporary tariff in Mylasandra Village in Begur Hobli in Bengaluru South taluk.
- b) Direct the Respondents to given permanent power supply to the installation of the complainant and that of almost about 1500 households in Sri Sai Layout of Bettadasanapura Village in Doddatogur Grama Panchayat in Bengaluru South Taluk, wherein permanent power connection is not provided.
- c) Direct the Respondents to pay the difference in tariff between the temporary tariff and domestic tariff from the date the temporary tariff was sanctioned up to the date of converting it into permanent tariff;
- d) Direct the respondents to pay compensation contemplated in the Standards of Performance Regulations;
- e) Grant the cost of this complaint; and
- f) Pass such other an incidental orders as are appropriate under the facts and circumstances.

The brief facts of the complaint are as follows:

2. Complainants/petitioners are permanent residents of addresses as mentioned in the cause title. They have submitted all requisite documents

No.AS/Misc-09/2020

in the prescribed format to the Respondent Company for availing permanent power connection. The sale deeds for residential proofs and applications submitted by the complainants/petitioners are all collectively produced as Annexure–C1 (collectively).

3. The Respondent No.1 has drawn a field report acknowledging that about 36 permanent installations are connected and are availing services from the respondent. A copy of the field report drawn by the respondent containing the details of the Revenue Register Numbers (RR Nos.) of the installations serviced by BESCO is produced herein as Annexure –C2.

4. The respondents, for the reasons best known to them have denied permanent power connection to the complainants/petitioners despite repeated requests, reminders and representations. Only influential and affluent sections in the layout, on a case to case basis, have got power connection. The poor and hapless persons such as the complainants/petitioners are denied power supply. Copies of representations dated 30.05.2020 submitted by the complainants/petitioners are produced herein as Annexure–C3 (collectively).

5. It is submitted that when it comes to influential and resourceful persons, the power connection is readily sanctioned. However, for the complainants/petitioners, the same is denied. In fact, the respondents have denied power connection on the ingenious ground that there is no infrastructure in the layout. This contradicts the stand taken and ground reality that 36 installations, by respondents own admission, have availed

No.AS/Misc-09/2020

power supply. A copy of the Respondent's letter dated 05.06.2020 are produced herein as Annexure-C4 (collectively).

6. The Gram Panchayat of Doddatoguru in its meeting proceedings has certified that about 1500 households in the area have not got permanent power supply. A copy of the meeting proceedings of Gram Panchayat dated 12.03.2020 are produced herein as Annexure-C5.
7. The complainants/petitioners by their letter dated 17.06.2020 requested the Hon'ble Commission to direct the Respondent No.1 to provide permanent power connections to their premises, copy of letters dated 17.06.2020 are herein produced as Annexure-C6.
8. This Commission by its letter dated 06.07.2020 to the Respondents had sought their response. However, there is no response from the respondents. A copy of the letter dated 6th July 2020 written by this Commission to Respondent No.1 is produced herein as Annexure-C7.
9. Complainants/petitioners received no response from the respondents; therefore, complainants/petitioners were constrained to submit complaint to Respondent No.1 by their letter dated 29.07.2020. A copy of which is herein produced as Annexure-C8.
10. Aggrieved by the inactions of the respondents, the complainants/petitioners once again submitted representation dated 31.07.2020 to this Commission, copy of the same is herein produced as Annexure-C9.

No.AS/Misc-09/2020

11. The grounds urged by the Complainants/Petitioners in the petition is that the right to electricity is a fundamental right guaranteed under Article 21 of the Constitution. As per Section 43 of the Electricity Act, 2003 the terms of the License and Conditions of Supply mandates to give power supply on the application from the consumers. Under Section 57 of the Electricity Act, 2003 also mandates the Commission to enforce the standard of Performance of the DISCOMs. In spite of specific provisions under the Act, Regulations and Directions of the Commission, the failure to arrange power supply is a serious violations of the Standards of Performance.
12. it is submitted that since grievance of the complainants/petitioners have not been resolved the complainants/petitioners are constrained to approach this Commission under Section 142 read with Section 42 of the Electricity Act, 2003 read with Regulations 3 & 4 of KERC (Duties of Licensee to supply Electricity on Request) Regulations, 2004 *inter alia* praying for a direction from this Hon'ble authority.
13. On 22.10.2020 the learned counsel for complainants /petitioners Sri. Dore Raj appeared and presented the facts of the petition and during submission on maintainability of the petition, the advocate agreed to file a memo to withdraw the petition. Accordingly, directed to file memo before the Commission. The Commission had not given any further date for hearing as the advocate agreed to file memo for withdrawal of complaint/petition. Subsequently, the complainants/petitioners through their Advocate had filed an Interlocutory Application for recalling the

No.AS/Misc-09/2020

Order dated 22.10.2020 and requested to address the arguments on merits. Accordingly, the Commission has fixed the date for hearing on maintainability on 08.06.2021 and heard the arguments of Advocate Sri Shridhar Prabhu, the complainants/petitioners Advocate, on maintainability of petition/complaint.

14. On perusal of the content of the petition/complaint, and all documents filed and the contention raised in the petition, the following issue arise for our consideration:

Issue: Whether the petition/complaint is maintainable in terms of the prayer made in the petition/complaint?

15. the statutory provisions relevant for disposal of petition are Section 42 (1), (5), (6) & (7), which is reproduced as hereunder:

“Sec 42. Duties of distribution licences and open access –

- (1) it shall be the duty of the distribution licence to develop and maintain an efficient coordinated and economical distribution system in its area of supply and to supply electricity in accordance with the provisions contained in this Act.
- (5) Every distribution licensee shall, within 6 (six) months from the appointed date or date of grant of license, whichever is earlier, establish a forum for a redressal of grievance of the consumer in accordance with the guidelines as may be specified by the State Commission.

No.AS/Misc-09/2020

(6) Any consumer, who is aggrieved by non-redressal of his grievance under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission."

16. Further, also refer to Section 142 of the Electricity Act, which is as follows:

"Section 142. (Punishment for non-compliance of directions by Appropriate Commission):

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction."

17. The Commission noted that in pursuance of Section 42(5) of the Electricity Act, 2003, this Commission has framed the Karnataka

No.AS/Misc-09/2020

Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004.

18. It would be appropriate to examine the relevant provisions of the aforesaid Regulations to deal with the issue the involved in this petition.

Clause 2(i) "Forum" means "Forum for redressal of grievances of Complainants' established by each distribution licensee.

Further Regulation 6 of the above said regulation prescribes procedure of lodging the complainants.

Further Clause 6.1 envisages that in the event of complaint not being redressed satisfactorily as provided in the Complaints Handling and Redressal Standards relating to Distribution and Supply (Standards and Performance) of power supply, the complainant shall submit his grievance to the Forum within the stipulated time frame.

19. By plain reading of the above provisions of the law, one can understand the jurisdiction and where the remedy available to the consumers i.e., complainants/petitioners. If there is a specific direction issued by the Commission by any order, then the action against the respondent under Section 142 is enforceable. As could be seen from contents of Annexure C-4 (collectively) dated 05.06.2020, BESCO has clearly explained the reasons/difficulties in arranging permanent power supply and the decision taken by Respondent is communicated to all the complainants/petitioners to take appropriate steps for obtaining permanent power connection as per

No.AS/Misc-09/2020

rules and provision of conditions of supply. The Commission merely forwarded the representation of the petitioners to BESCO for appropriate action as per rules and regulations and to inform Commission on the action taken on the representation of the complainants/petitioners. On plain reading the Annexure C-4 dated 05.06.2020 of the respondent BESCO, it is very clearly stated that after complying with all the required documents, the power supply will be given as per the provisions of Conditions of Supply of Electricity of distribution licensees in the State of Karnataka(CoS) Regulations. Moreover, the respondent BESCO has not denied power connection as temporary connection has been already provided to the petitioners and in order to arrange for permanent connection, the respondent has requested the complainants/ petitioners to resubmit the application with the required documents as stated in the letter dated 05.06.2020.

20. Further, the complainants/petitioners contended that the letter dated 06.07.2020 issued by the Commission is a direction to BESCO is a direction. As can be seen from the contents of the letter dated 06.07.2020 (Annexure C-7), it is not proper for the petitioner to construed the communication as a direction by the commission to BESCO for arranging permanent power supply. It may be noted that even before forwarding the letter by the Commission to the BESCO, it had already communicated its decision on the representation of the

No.AS/Misc-09/2020

petitioners explaining the requirements for arranging permanent power supply.

21. The Complainants had opportunity to respond to the respondent's communication, or otherwise they could have approached the competent authority as provided under Section 42 (5) or (6) of Electricity Act, 2003. On merits of the case, the Commission has not expressed any opinion. The complainants/petitioners are not aggrieved by any order of the commission to proceed against respondents under section 142 of Electricity Act, 2003. In fact, complainants had alternative and efficacious remedy under section 42 (5) and (6), as stated supra.

22. The Commission has noted the judgement of the Hon'ble Supreme Court in the case of Appeal (Civil) 2486/2006 in respect of MERC Vs. Reliance Energy Limited & Others dated 14.8.2007, the observation in para 18 is extracted here.

"The Consumers who still feel not satisfied with the order passed by the licensees'/distribution companies can approach the appropriate forum constituted under Section 42 (5) of the Act and, if still not satisfied, with the order passed by the appropriate forum to approach the Ombudsman under Section 42 (6) of the Act."

23. In view of the above facts, the Commission noted that the Complainants/Petitioners have not filed their Complaints before the Appropriate Forum i.e., Consumer Grievance Redressal Forum (CGRF),

No.AS/Misc-09/2020

BESCOM to redress their grievances and has filed this Complaint under Section 142 read with Section 42 of the Electricity Act, 2003 before this Commission without exhausting the grievance redressal mechanism available to them under the provisions of aforesaid Regulations. The Complaints/Petitioners ought to have filed complainant before CGRF rather than this Commission. In the instant case, the complainants/petitioners have no right to invoke any provisions of Electricity Act, 2003 by filing this kind of petition for adjudication by this Commission. This Commission is relied upon the Judgement of Hon'ble Supreme Court in Appeal (Civil) 2486/2006 in respect of MERC Vs. Reliance Energy Limited and Others and also provisions of the Karnataka Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations,2004. Hence, we answer the point in the negative.

24. For the foregoing reasons, we proceed to pass the following:

ORDER

The petition/complaint filed by the parties is
dismissed as not maintainable before this Commission.

Sd/-
(SHAMBHU DAYAL MEENA)
Chairman

Sd/-
(H.M. MANJUNATHA)
Member

Sd/-
(M.D. RAVI)
Member