

BEFORE THE ELECTRICITY OMBUDSMAN

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)
Vasanthanagar, Bengaluru-560052.

Present: S.S Pattanashetti,
Electricity Ombudsman,

Case No. OMB/H/G-365/2019

Dated 26/12/2019

In the matter of

Smt. Murtuzabi @ Rabiya Begum,
W/o. Abdul Aziz Contractor,
T.P. No. 5A, Ward No. X,
Near Shirur Railway Gate,
Bagalkot – 587101.
Bagalkot Taluk and District.

Represented by:
Shri. Abdul Aziz Contractor,
T.P. No. 5A, Ward No. X,
Near Shirur Railway Gate,
Bagalkot – 587101.
Bagalkot Taluk and District.

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Appellant

Vs

1) The Assistant Executive Engineer (Electrical),
O & M City Sub-Division, HESCOM,
Navanagar,
Bagalkot – 587103.
Bagalkot District.

2) Chairperson, Consumer Grievance Redressal Forum/(CGRF)
Bagalkot District,
Superintending Engineer (Ele),
O & M Circle, HESCOM, Navanagar,
Bagalkot - 587102.

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Respondents

1) This Appeal/Complaint is filed before this Authority, by Smt. Murtuzabi @ Rabiya Begum, (Appellant/Complainant), under the provisions of Clause 21.2 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004, in Form 'B' challenging the order No. ಬಿಜಿಕ್/ಅಇಂ(ವಿ)/ಉಲೆನಿ/ಸಲೆ/ಹಿಸ-1/2019-20/5220-5224 dated 29-07-2019 of CGRF, Bagalkot District, by inter-alia seeking the following reliefs:

- a. To quash the orders passed by the Respondents 1 and 2 under their order Nos 3546-47 and 910-12 dated 18-06-2018 and 24-05-2019 respectively.
- b. To consider the Tariff Schedule LT-5 instead of Tariff Schedule LT-3.
- c. To refund or adjust in future consumption of energy, the excess amount remitted by the Applicant.
- d. To recover interest @ 18% P.A paid towards excess amount to the Licensee from the authorities who are responsible for it.
- e. To pay compensation amount of Rs. 15,000/- for the losses and damages incurred by the Appellant/Complainant, to be recovered from the authorities responsible for it.

2) Brief facts, which are relevant to the case on hand, as claimed by the Appellant/Complainant are as follows:

The Appellant/Complainant has installed for the purpose of manufacture of soft water and soft drink, production of mineral water and other bottled waters on 07-05-2016 under Tariff Schedule LT-3. In this connection the Appellant/Complainant filed an application on 28-04-2018 along with relevant documents with Respondent-1/AEE to

change the Tariff schedule from LT-3 to LT-5. The Respondent-1/AEE issued an endorsement dated 24-05-2019 saying that when the Section Officer of his office visited the spot it was found that the power connection was being used for the purpose of water purification centre and at the same place the consumer was found selling water to the public through coin box, hence, it was confirmed that the unit is being used for commercial purpose and as per Tariff Order 2018 General Condition No. 23 tariff rate under LT-3 was fixed. Aggrieved by the endorsement of the Respondent-1/AEE the Appellant/Complainant filed a complaint before the CGRF, Bagalkot District. The CGRF in its order dated 29-07-2019 disposed of the complaint stating that the AEE (Ele) City Sub Division Bagalkot should visit the purified drinking water unit of the Appellant/Complainant and impose tariff rate applicable for the unit. Aggrieved by the order of the CGRF the present appeal/complaint has been filed by the Appellant/Complainant.

- 3) Both the parties were informed vide this office letter No. OMB/H/G-365/2019/D-1351 dated 23-08-2019, regarding availability of provision in Sub-Regulation 1 of Regulation 20 of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement through conciliation and mediation and to appear before this Authority on 05-09-2019. However, they have not availed the benefit of the said provision. The case was listed for hearing on 05-09-2019.
- 4) The Respondent-1/AEE has made his submissions in the representation filed on 05-09-2019. In the said representation he has stated that on 07-05-2016 for RR No. 64949 which is in the name of Appellant/Complainant tariff rate has been fixed as LT-3 and power connection given after spot inspection and verification that purified

mineral water is being sold by the Appellant/Complainant through coin box where the installation has been fixed. The CGRF Bagalkot District, in their order dated 29-07-2019 have ordered that the AEE (Ele), HESCOM City Sub Division Bagalkot, should inspect the mineral water unit of the Appellant/Complainant and fix the tariff applicable for the unit. After the orders of the CGRF the unit has been inspected again by him and found that purified mineral water is being sold to the general public through coin box by the Appellant/Complainant. Hence commercial tariff rate has been applied to the installation of the Appellant/Complainant. He has further stated that power sanction under LT-5 is given only in those cases where purified mineral water is produced. As the same purified mineral water is being sold in the same place through a coin box power connection under LT-3 Tariff has been given.

- 5) The Appellant/Complainant has also filed his written arguments at the time of hearing on 05-09-2019. He has stated in his written arguments that his installation was installed on 07-05-2016 under the Tariff Schedule LT-3 where the purpose of trade is “**Manufacture of soft water and soft drink, production of mineral water and other bottled waters**”. The said purpose of trade is confirmed by the Commissioner City Municipal Counsel Bagalkot and the Ministry of Micro, Small and Medium Enterprises Bagalkot issued under the license and the Udyoga Adhara Registration Certificate Annexure A, A1, B and C. On 28-04-2018 he wrote a letter to the Respondents 1 & 2 that the purpose of trade comes under Tariff Schedule LT-5 and not under LT-3. A reminder dated 11-05-2018 was also sent to the Respondents 1 & 2. Clause No. 23 of Tariff Order 2018 of HESCOM

dated 14-05-2018 is not applicable in this purpose of trade because this purpose of trade is already included in Tariff Schedule LT-5 and it is not there in Tariff Schedule LT-3. Hence it is prayed to quash the orders of Executive Engineer HESCOM Bagalkot dated 18-06-2018 and the endorsement of Respondent-1/AEE City Sub Division Bagalkot dated 24-05-2019 and to treat the installation under LT-5 and not under Tariff Schedule LT-3.

6) Perused the appeal memo, submissions made by Respondent-1/AEE and also written arguments filed by the Appellant/Complainant and the documents submitted by both the contesting parties. No doubt “Mineral Water processing plants, drinking water bottling plants and soda fountain units” is categorized under Tariff Schedule LT-5 in the **TARIFF ORDER 2018** of HESCOM approved by the KERC on 14-05-2018. In the same Tariff Order in the Chapter General Terms and Conditions of Tariff (Applicable to both HT and LT) Clause 23 the following is mentioned: -

“23. For the types of installations not covered under any Tariff schedules, the Licensee is permitted to classify such installations under appropriate Tariff schedule under intimation to the K.E.R.C and approval there on.”

The Respondent-1/AEE after inspection of the purified mineral water unit of the Appellant/Complainant found that mineral water was being sold at the same place and came to a conclusion that the activity was more commercial than industrial, hence, he took a decision to categorize the installation under LT-3 rather than LT-5. Even in the endorsement dated 24-05-2019 issued by the Respondent-1/AEE he has stated that when the Section Officer visited the installation it was found

that in the purified mineral water production centre mineral water was being sold through a coin box, confirming that the unit was being used for a commercial purpose. As per Tariff Order 2018 General Condition No. 23 the unit was categorized under LT-3 and power connection given. The Executive Engineer (Ele) O & M Division Bagalkot, through his letter dated 18-06-2018 has clarified that if purified drinking water is being sold through a tap near the installation, LT-3 tariff may be imposed, however, if the purified water is being transported to some other place and only production of purified mineral water is going on at the place of installation then LT-5 tariff may be imposed accordingly an endorsement may be given to the consumer.

- 7) In the **TARIFF ORDER 2018** approved by the KERC “LT-3 is applicable to commercial lighting, heating and motive power” and “LT-5 is applicable to LT Industries”. The activity of selling purified drinking water at the place of installation and production, through a coin box is a commercial activity and not an industrial activity. The Licensee has gone by the spirit of the Tariff Order and rightly applied LT-3 Tariff to the installation of the Appellant/Complainant.
- 8) After going through the documents submitted and the arguments of both the parties, I am inclined to agree that the interpretation and thinking of the Licensee that the manufacture of purified drinking water and selling it through a coin box at the same place is more a commercial activity than an industrial activity.
- 9) In view of the foregoing paras the following order: -

O R D E R

The Appeal/Complaint filed by the Appellant/Complainant is dismissed.

Sd/-
(S.S Pattanashetti)
Electricity Ombudsman.

- 1) Smt. Murtuzabi @ Rabiya Begum,
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- 4) Chairperson, Consumer Grievance Redressal Forum/(CGRF)
Bagalkot District,
Superintending Engineer (Ele),
O & M Circle, HESCOM, Navanagar,
Bagalkot - 587102.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PA to Secretary, KERC.
- 9) Chairperson of all CGRF's in the State.