

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/B/G-331/2019

Dated 25/06/2019

In the matter of

Sri R. Bhopal Reddy,
204/88, Munekollala Village,
Marathahalli Ring Road,
Bengaluru.

Represented by:
Shri M.A Delvi,
No.8, 3rd Cross, Pottery Town,
Bengaluru-560046. -

Appellant

Vs

- 1) Consumer Grievance Redressal Forum,
Bangalore Urban District, BESCOM,
Bengaluru.
- 2) The Assistant Executive Engineer (Electrical),
O & M S-17 Sub-Division, BESCOM,
Near Bangalore-one, Murugesh Palya,
Old Airport Road,
Bengaluru-560017.
- 3) The Assistant Executive Engineer (Electrical)
BESCOM, Vigilance, 13th Cross, Indiranagar,
Bengaluru. -

Respondents

1. This Application/Complaint is filed by Sri R. Bhopal Reddy (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 endorsement letter

No. ಗ್ರಾ.ಕು.ನಿ.ವೇ/ಅಧ್ಯಕ್ಷರು/ಪವ್ವ/7205-08 dated 20/03/2019 of CGRF, Bangalore Urban District, BESCO West Circle, Basaveswaranagar, Bengaluru-560079, before this Authority, by inter-alia seeking the following reliefs:

- a) To allow the appeal with costs;
- b) The inspection report filed by the Respondent No.3 dated 29-11-2018 be quashed;
- c) The order of the Respondent No.2 dated 02-03-2019 be quashed;
- d) The order of the Respondent No.1 be quashed; and
- e) To grant costs.

2. Brief facts, which are relevant to the case as claimed by the Appellant, are as follows:

- a) The Appellant/Complainant has availed Electricity to his installation S7HT-195 to an extent of 850 KVA serviced under HT-2B Commercial Tariff to his Premises spread over 2 acres and 29 guntas of land in Sy.No.88 of Munnekollala Village, Bengaluru East. As per provisions of Conditions of Supply of electricity and Tariff order a consumer under this category is permitted to use energy for construction, modifications and expansion purposes within the 'premises'. The provisions of Conditions of Supply of electricity define the term 'premises' in no uncertain terms. In the conditions of supply the term "premises" is defined as follows:

Premises: Includes any land, building or structure.

- b) It is further stated that the Respondent-3 inspected the premises on 30-11-2018 and made the following observations in his report that "during inspection of this installation, it is found that power supply was sanctioned to an extent of 850 KVA to one building i.e., MORE MEGA STORE. But he has constructed one more commercial complex at other side of the road and given for rent to run "Nagarjuna and Udupi Hotel" power supply to this new building was not sanctioned from BESCO. He is using power for this building by unauthorized extension by providing UG cable (LT) for

road crossing which attracts violation of usage of power unauthorized. Hence financial loss to BESCOM. To overcome this financial loss, NC case is registered for this installation as per ES & D code 42.05 of KERC. Back billing charges are to be collected.

% of power usage

Existing building 75%

Unauthorized extension 25%

- c) It is further stated that in pursuance to the inspection carried out by vigilance on 29-11-2018 and the draft back bill preferred by the vigilance on 04-12-2018 for Rs 55,82,374/- covering a period between 01-12-2017 to 01-11-2018 and served on this complainant with directions to pay the same within 30 days with a provision to file necessary objections against the conclusions, therefore the complainant has filed his objections on 01-01-2019.
- d) It is further stated that the Respondent-2, after hearing, issued an order dated 02-0-3-2019 by revising the claim to Rs 46,86,922/- and demanded payment of the same within fifteen days from the date of receipt of the order, and further stated that none of the proceedings were conducted in accordance with the provisions of S-126 of the Electricity Act, 2003.
- e) It is further stated that the Respondents 2 & 3 had colluded to target this complainant to file a false charge invoking the provisions of Cl. 42.05 of Conditions of Supply of Electricity and to that end the Respondent-3 conducted a farcical inspection on 29-11-2018 and made out an inspection report falsely implicating this complainant of violation of provisions of Conditions of Supply of Electricity. He has made a false accusation that a cable was drawn underneath the passage within the premises. There being no independent authority set by BESCOM to verify and resolve such issue except the statutorily established Forum for redressal of grievances known as "The Consumer Grievance Redressal Forum and hence the Forum was approached by a complaint dated 11-03-2019 seeking a declaration to the effect that there was no violation of Clause 42.05 of Conditions of Supply of Electricity on the grounds set out therein.

f) It is further stated that the chairperson of the Forum was advised by the Executive Engineer (Ele.) BESCOM, Vigilance not to admit and hear any complaint arising out of the inspections conducted by the vigilance irrespective of its veracity fearing the truth will tumble out as has happened in almost all the cases filed by the vigilance against the hapless consumer. The Chairperson expressing his helplessness succumbed objectively and passed an order dated 20-03-2019 declining to hear it, as the complaint arises out of an inspection conducted by the vigilance. Aggrieved by the order dated 20-3-2019 passed by the CGRF, Bangalore District, the Appellant has filed this Appeal before this Authority on the following grounds:

- i) The Consumer Grievance Redressal Forum being a statutory body and hence a quasi-judicial entity and hence has the required power to look into the complaints filed before it by a consumer and decide whether the issue of complaint falls within the excluded category. In its sphere of action no one in any capacity he is placed in can interfere in the working of the Forum the Chairperson was wrong in acting at the behest of the functionaries of the establishment. He has by his actions brought disrepute to the Forum;
- ii) The complaint does not fall in the category of S-126 or S-135 to 139 of the Electricity Act and hence it was wrong on the part of the CGRF to decline consideration of the complaint;
- iii) The installation has been classified under HT-2(B) Tariff with a contract demand of 850 KVA to the premises spread over an expanse of almost 3 acres. The complainant at the first instant had put up a structure and other buildings and structures were being put up. There were passages and roads within the premises for easy movements. The consumer availing bulk contract demand can, as per provisions of Conditions of Supply and Tariff order, put up constructions, carry expansions and extend electricity to the expanded units within the sanctioned limit;

- iv) A reading of the inspection report goes to show that this consumer has acted within his sanctioned load has the necessary provision to put up construction, expansion and additions. There being no violation of any of the provisions as alleged; and
 - v) In view of this, the complainant acting within the sanctioned limit of power and having not violated any provisions of either the Conditions of Supply of electricity the inspection report dated 29-11-2018 and the back bill dated 02-03-2019 are liable to be quashed and set aside.
3. In the parawise replies filed by the Respondent on 03-04-2019, it is stated that the installation bearing RR No. S7HT-195, was serviced on 25-05-2013 in the name of the Appellant, with the Contract Demand of 850 KVA. The installation was inspected by the AEE(Ele.) Vigilance, BESCOM, Bengaluru on 30-11-2018 and reported that the consumer has extended unauthorized power supply to the adjacent new structure which is not in their office records, which implies different entity, comprising of commercial complex with Ground, 1st and 2nd Floor, without informing BESCOM. The consumer arbitrarily utilized the power supply with the existing source of power supply to the installation bearing R.R No. S7/HT-195. The act of the consumer indicates the height of impunity. It is further submitted that unauthorized extension of power supply to a different entity, violates clause 4.00 and 8.00 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. It is further submitted that the Assistant Executive Engineer (Vigilance Cell) of BESCOM had inspected the installation on 30-11-2018 and reported the matter to the sub-

divisional Assistant Executive Engineer (El.) S-17 sub-division, highlighting the gross violations of Agreement entered into between BESCOM and the consumer of installation of S7HT-195, circumventing its terms and conditions, impacting the exchequer of BESCOM adversely. It is further submitted that the Assessing Officer has passed a speaking order under section 126 of Electricity Act,2003, duly levying back billing charges of Rs 46,86,922/- vide order No. 362-65 dated 02-03-2019, by duly following the prevalent rules and clauses and nothing is prejudicial and also by taking care of the valued consumer as well as protected the financial aspect of BESCOM, in a complete balanced way, after comprehensive detailed study of the clauses enshrined in the conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, followed with amendments till date. It is further submitted that the CGRF also has rejected the plea of the consumer in all its entirety, vide its order CGRF/West Circle, BESCOM No. 7205-08 dated 20-03-2019, which vindicates the stand taken by the Assessing Officer and further concluded that the consumer has not applied to seek additional power supply to the new entity. The contention of the consumer is that, he is the owner of the entire land. In this context, the consumer is trying to subterfuge the subject issue, misleading this office, about the ground realities. The consumer is presently utilizing 125KW + 25 HP of power, to the new entity, along with Electrical Appliances, which amounts to unauthorized extension of power supply. The interpretation of the consumer who is of the opinion, that he has the right to utilize the power supply with the existing installation in view of the title suit he possesses on

the entire property is totally wrong and he is trying to suit his convenience to his advantage throwing all the norms to the winds. Individual opinion based on personal conveniences cannot circumvent the law and prayed before this Authority, the appeal of the consumer may be rejected.

4. The Appellant in his submission made on 11/04/2019, by way of rejoinder to the parawise replies filed by the Respondent, has stated that the power to an extent of 850 KVA was sanctioned to the premises bearing Sy.No.88 and it was not sanctioned to any particular structure but to the premises, and hence the averment made to that extent by the Respondent is incorrect and misleading. It is further submitted that the so called inspection being carried out by the Assistant Executive Engineer, (Ele.) vigilance is factually incorrect, misleading and tendentious and further in his report it is stated that “the consumer is using power for this building by unauthorized extension of providing UG cable (LT) for Road Crossing which attracts violation of usage of power un-authorized”. For this the Appellant has clarified that there is no provision restricting a consumer from drawing cable underneath the passage provided by him within his premises for easy movement. The Respondent has failed to quote any relevant provision coming in the way of putting up such facility within one’s premises and does not amount to un-authorized extension by any stretch of imagination and thereby there is no violation of provisions of Conditions of Supply of Electricity as alleged by the Respondent. It is further submitted that the Respondent pursuant to the objections filed, after hearing the concerned parties has revised the back billing from

Rs 55,82,374/- to Rs 46,86,922/- neither furnished the reasons there to nor stating that this order is issued under the provisions of S-126 (3) of Electricity Act,2003 and thereby the Respondent was well aware that it was not a case of prejudicial use but trying in vain to defend an otherwise illegal claim. It is further submitted that the CGRF has not heard the complaint and has not passed any order on merit, but it was a questionable action by the Chairperson of CGRF who has acted unilaterally much against the provisions of KERC (CGRF & Ombudsman) Regulations, 2004 and hence the order is not on the merit of the case. It is further submitted that the commercial HT installation with huge contract demand of 850 KVA was to be mandatorily visited by the jurisdictional AEE, to read the meter month after month, as such he would not have visited with closed eyes since 2013 to this date i.e., almost five years during which this Appellant is putting up construction and observing the conditions laid down in clause 4.06 of the Conditions of Supply of Electricity. If there is any violation the Respondent could have initiated action five years back itself and not waited till its completion and the project is still in progress and the Appellant has carried out the electricity work keeping in view of the safety norms, and prayed before the Authority to quash the inspection report dated 30-11-2018 alongwith the demand order in No. AEE (Ele)/AAO/HAL/BESCOM/2018-19 dated 02-03-2019 beside imposing exemplary cost that this Appellant had suffered in defending a false and tendentious charge in the interest of justice and equity.

5. After careful and anxious consideration of documents and submissions made by the parties to this proceeding, the following points emerge for consideration:
- a) Whether the impugned endorsement letter/order dated 20-03-2019 issued by the Chairperson, CGRF, Bengaluru Urban District is just and proper and can be treated as the decision of the CGRF?

My findings to the above is as follows:

(a) In the Negative;

Reasons for the findings is narrated below:

It is observed that the Appellant has filed his complaint dated 11-03-2019 before the CGRF, Bengaluru Urban District under Regulation 6.2 of the KERC (CGRF & Ombudsman) Regulations, 2004. Once a complaint is filed in form 'A' of the Regulations, it becomes a complaint filed before the CGRF and not before the Chairperson or the Superintending Engineer of the Circle. This complaint has to be mandatorily placed before the CGRF and deliberated whether the complaint filed by the Consumer falls within the jurisdiction of the CGRF. Extract of clause 8 of KERC (CGRF & Ombudsman) Regulations, 2004 is reproduced herewith below:

8.Proceedings of the Forum:

- 8.1 The proceedings of the Forum shall be conducted in public.
- 8.2 The Proceedings of the forum shall be conducted by the Chairperson of the Forum in the presence of the members, the Quorum being two. In the absence of the Chairperson for any reason the member representing the Licensee shall preside over the forum.
- 8.3 Every order made by the Forum shall be signed by its chairperson and the Members conducting the proceeding. Provided that in case of difference of opinion among the members on any point or points, the decision of the majority shall prevail.

6. Legally, complaint of the Consumer should have been placed before the CGRF and then the CGRF should have deliberated on the legality of the complaint filed before it. Instead of following this procedure the Chairperson of CGRF has issued a letter that the subject matter of the complaint does not fall within the jurisdiction of the CGRF and the consumer may file the complaint before the proper Appellate authority. The CGRF Chairperson does not get any authority independently of the quorum required for conducting the proceedings of the CGRF. Once Form 'A' is filed before the CGRF in the prescribed format, the legal consequences are set in motion and all the procedure required for taking a decision on the complaint have to be gone through. Without commenting on the legal admissibility of the complaint, it can be said that the endorsement issued by the Chairperson of CGRF is without any jurisdiction and amounts to misuse of power.

7. The CGRF being a statutory body and hence a quasi-judicial entity is the proper authority to look into the complaint filed before it by a consumer and decide whether the subject matter of complaint falls within the excluded category. In its sphere of action no one in any capacity can interfere in the working of the Forum. Hence, the following order.

O R D E R

The impugned endorsement/order of Chairperson, CGRF, Bengaluru Urban District dated 20-03-2019 is quashed. The complaint of the Appellant should be placed before the CGRF for taking suitable decision.

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

- 1) Sri R. Bhopal Reddy,
204/88, Munekollala Village,
Marathahalli Ring Road, Bengaluru.
- 2) Shri M.A Delvi,
No.8, 3rd Cross,
Pottery Town, Bengaluru-560046.
- 3) The Chairperson, CGRF/Superintending Engineer,
Bangalore Urban District, BESCOM,
C.A Site No.05, West of Chord Road,
3rd Stage, Bhima Jyothi, HBCS Layout,
Next to Chord Road Hospital,
Basaveshwarnagar, Bengaluru-560079.
- 4) The Assistant Executive Engineer (Electrical),
O & M S-17, Sub-Division, BESCOM,
Near Bangalore-one, Murugesh Palya,
Old Airport Road, Bengaluru-560017.
- 5) The Assistant Executive Engineer (Electrical),
BESCOM, Vigilance, 13th Cross,
Indiranagar,
Bengaluru.
- 6) PS to Hon'ble Chairman, KERC
- 7) PS to Hon'ble Member (M), KERC
- 8) PS to Hon'ble Member (R), KERC
- 9) PS to Secretary, KERC.
- 10) Chairperson of all CGRFs in the State.

- 1) M/s LVD STRIPPIT India (P) Ltd,
310, 8th Cross, 4th Phase,
Peenya Industrial Area,
Bangalore-560058.
- 2) The Chairperson, CGRF/Superintending Engineer,
Bangalore Urban District, BESCOM,
C.A Site No.05, West of Chord Road,
3rd Stage, Bhima Jyothi, HBCS Layout,
Next to Chord Road Hospital,
Basaveshwarnagar,
Bangalore-560079.
- 3) The Assistant Executive Engineer (Electrical),
S-4 Sub-Division, BESCOM,
Bangalore.
- 4) PS to Hon'ble Chairman, KERC
- 5) PS to Hon'ble Member (A), KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Secretary, KERC.

To:

M/s LVD STRIPPIT India (P) Ltd,
310, 8th Cross, 4th Phase,
Peenya Industrial Area,
Bangalore-560058.

To:

The Chairperson, CGRF/Superintending Engineer,
Bangalore Urban District, BESCO,
C.A Site No.05, West of Chord Road,
3rd Stage, Bhima Jyothi, HBCS Layout,
Next to Chord Road Hospital,
Basaveshwarnagar,
Bangalore-560079.

To:

Shri M.A.Delvi,
Advocate,
No.8, 3rd Cross, Pottery Town,
Bengaluru-560046.