

BEFORE THE ELECTRICITY OMBUDSMAN

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

Present: **B.V. Patil,**
Electricity Ombudsman,
Case No. OMB/C/G-398/2020
Dated 26/06/2020

In the matter of

Sri. K.M. Laxman,
Garaganduru Villge,
Kumbur Post,
Madapur – 571251,
Somavarapete Taluk,
Kodagu District.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Electrical),
Kushalnagar O & M Sub-Division, CESC,
Somavarapete Taluk,
Madikeri.
- 2) Chairman, Consumer Grievance Redressal Forum/(CGRF)
Superintending Engineer (Ele)
O & M Circle, CESC,
Jodi Basaveshwara Road,
Kuvempunagara,
Mysuru.

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Respondents

- 1) This Appeal/Representation preferred before this authority by
K M Laxman of Garaganduru Village in Somavarapet Taluk
questioning the legality of the order passed by the Consumer
Grievance Redressal Forum Kodagu District, (herein after referred
as CGRF), bearing No. ಕಾನಿಇಂ(ಖಿ)/ಸಕಾನಿಇಂ(ಕ)/ಸಿಇಂ(ತಾಂ)/2019-
20/10022-30, dated 22-01-2020 under the provisions of Clause

21.2 of KERC Regulations 2004. The Appellant/Complainant submitted Form 'B' on 09.03.2020. The CGRF passed an order on 18.02.2020, the appeal was presented on 09.03.2020, hence the appeal is in time.

- 2) The brief facts of the case are that the Appellant in the name of his mother Smt. Neelamma filed an application before the Licensee's company for arranging the power supply to his house property at Bollur Village in Kushalnagar. However, the name of the applicant Smt. Neelamma was altered as Smt. Seetamma by his Son Sri N C Tilakananda in collusion with Respondent No. 1, power supply was obtained in the year 2008. After the death of the Smt. Seetamma instead of getting the power supply continued in the name of her heirs i.e., Sri N C Tilakananda and others, the Respondent No. 1 Licensee company in connivance with Sri N C Tilakananda got obtained an application for fresh connection in his name even though there was a due of consumption charges in respect of the previous connection held in the name of late Smt. Seetamma.
- 3) When the Appellant sought for cancellation of the connection, the Respondent No. 1 in collusion with the Sri N C Tilakananda arranged power supply through fresh connection which is against to the KERC Regulations. When the Respondent No. 1 refuse to

disconnect the electrical supply standing in the name of Sri N C Tilakananda, the Appellant filed a complaint before the Consumer Grievance Redressal Forum Kodagu. CGRF Kodagu, without examining the records produced by the Complainant/Appellant, erroneously rejected the complaint holding that the complainant is not a Consumer as defined under the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004. It is further held that there is a title dispute in respect of the premises in question which is of a civil nature, the same is outside the jurisdiction of the CGRF, dismissed the complaint which is incorrect and improper. The order passed by the CGRF is the non-application of mind, the same is perverse which is liable to be set aside by allowing the appeal, prayed for allowing the appeal.

- 4) After registering the appeal, notice was issued to both parties which was duly served. It was informed to both parties through the letter dated 15.05.2020 of this office in respect of the availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulation 2004, for settlement through Conciliation and Mediation, to appear before this authority on 23.06.2020. However, the parties did not avail the benefit of the said provision, the matter was not settled

either through mediation or conciliation. Accordingly, the case was taken up for hearing.

- 5) On 05.06.2020 the Assistant Executive Engineer (Ele) (Respondent No.1) Kushalnagar sent his parawise replies/comments through post which was received by this office on 17.06.2020. In parawise remarks it was submitted by the Respondent No. 1 that on the request of Smt. Seetamma an electrical power supply was serviced and power supply was connected to the house in her occupation on 08.12.2008 through connection bearing No. KNAEH 46461. After her death, Sri N C Tilakananda (her son) produced death certificate and executed a Surrender Indemnity Bond, requested for permanent disconnection installed in the name of his mother, on his request the power supply was permanently disconnected. Later Sri N C Tilakanand who was residing in the said premises submitted an application for fresh connection along with No Objection Certificate issued by the Grama Panchayat Guddehosur. On examination of the records, the fresh connection was serviced through KNL75927. Admittedly the said connection is standing in the name of Sri N C Tilakananda who is residing in the said house. The Appellant who submitted a complaint before the CGRF Kodagu, seeking disconnection of the electrical connection standing in the name of Sri N C Tilakananda,

the same was examined by the CGRF, rightly held that the Appellant/Complainant is not a Consumer, there is a title dispute between the parties which is of a civil nature, the same is outside the purview of CGRF, rightly dismissed the complaint, therefore, prayed for dismissal of the appeal.

- 6) On 23.06.2020 the Appellant Sri K M Laxman, and the representative of the Respondent No. 1 present before this authority.
- 7) I heard the arguments.
- 8) On the above contentions the points that arise for consideration of this authority are;
 - a. Whether the CGRF was right in dismissing the complaint holding that, it had no jurisdiction to deal with the complaint as the Appellant is not a Consumer?
 - b. Whether the order bearing No. ಕಾನಿಇಂ(ಬಿ)/ಸಕಾನಿಇಂ(ಕ)/ಸಿಇಂ(ತಾಂ)/2019-20/10022-30, dated 22-01-2020 passed by the CGRF Kodagu rejecting the complaint of the Appellant is perverse, liable to be interfered by this authority?
- 9) My answers to the above point are;
 - a. Affirmative.
 - b. Negative.

For the following,

REASONS

- 10) I perused the appeal memo, the records produced along with the appeal including the order passed by the CGRF Kodagu. On perusal of the records produced along with the appeal makes it clear that one Smt. Seetamma submitted an application on 13.11.2008 for new electrical connection to the house wherein she is residing with her family members along with No Objection Certificate issued by the Grama Panchayat Guddehosur. On examination of records and on satisfaction by the Respondent No. 1 regarding the occupation of the house by the Applicant, power supply was serviced through electric RR No. KNAEH 46461. In view of death of Consumer Smt. Seetamma, her son Sri N C Tilakananda submitted an application afresh for a new power supply connection on 30.06.2019 along with NOC certificate issued by Grama Panchayat Guddehosur. The Respondent No. 1 on its satisfaction that the Applicant Sri N C Tilakananda is residing in the said house at Bollur Village, fresh connection was serviced through KNL75927.
- 11) The main grievance of the Appellant/Complainant before the CGRF was to disconnect the above said electrical connection serviced in the name of Sri N C Tilakananda. The CGRF after

examining the case of the Appellant/Complainant held that the Appellant is not a Consumer as the electrical supply was serviced in the name of Sri N C Tilakananda, the Appellant/Complainant had no locus standi to file the complaint. It is further held that there is a title dispute in respect of the house property between the parties, CGRF has no jurisdiction to deal with the said issue and rejected the complaint.

- 12) Before considering the maintainability of the complaint before the CGRF as the Appellant/Complainant is not a Consumer, it is useful to refer Section 2 (g) and (h) of KERC (Consumer Grievance Redressal Forum and Ombudsman Regulations) 2004, which reads as under: -

(g) 'Complaint' means any grievance made by a consumer with regard to supply of electricity by the licensee, provided that grievance falling within the purview of any of the following provisions of the Act are excluded from the jurisdiction of the Forum:

- (1) unauthorized use of electricity as provided under section 126 of the Act
- (2) offences and penalties as provided under section 135 to 139 of the Act
- (3) accident in the distribution, supply or use of electricity as provided under section 161 of the Act, and

(h) 'Consumer' means any person who is supplied with electricity for his own use by a licensee under this Act or any other law for the time being in force and includes any person whose premises are for the

time being connected for the purpose of receiving electricity with the works a licensee.

On conjoint reading of Section 2 (g) and (h) of the Regulations referred supra, makes it clear that a consumer is any person who is supplied with electricity for his own use by a Licensee under the Electricity Act or any other law for the time in force including the premises to which the electricity is connected to any person with the works of a Licensee. Admittedly in this case the electricity installation No. KNAEH 46461 and KNL 75927 were serviced in the name of Late Smt. Seetamma and in the name of Sri N C Tilakananda respectively. The grievance of the Appellant/Complainant was to disconnect the above installations, the same grievance was before the CGRF. It is not in dispute that these 2 electrical installations were not standing in the name of Appellant/Complainant, the Appellant is not the Consumer under Respondent No.1 in respect of those installations. As per Section 2 (g) of the KERC (CGRF & Ombudsman) Regulations 2004, any complaint before the CGRF is to be presented pertaining to any grievance with regard to supply of electricity by the Licensee. When the Appellant/Complainant did not serviced with the above said connections by the Licensee Company (Respondent No. 1), the Appellant/Complainant does not falls within the definition of the

consumer as enumerated in the provisions of KERC (CGRF & O) Regulations 2004, such is the case the complaint submitted by the Appellant/Complainant is not at all maintainable before the CGRF. CGRF rightly held that the Appellant/Complainant does not falls within the definition of Consumer, whose complaint is not at all maintainable, rightly dismissed the Complaint.

- 13) Be that as it is, even for the sake of arguments (not admitted) the Appellant is treated as a consumer, now this authority will deal with the grievance of the Appellant/Complainant on its merits. During the course of arguments, the appellant submitted that in the year 2008, application was filed before the Distribution Licensee i.e., Respondent No. 1 for arranging the power supply in the name of his mother Smt. Neelamma to the premises in question. However, the Respondent No. 1 in collusion with Sri N C Tilakananda altered the name of Smt. Neelamma as Smt. K Seetamma, processed the application and arranged the power supply, serviced the installation in her name. The documents produced along with the appeal memo never discloses the filing of the application by the Appellant, the alteration of the name of Smt. Neelamma. On the contrary the documents reveals that the application for arranging the power supply was submitted by one Smt. Seetamma along with Non Objection Certificate issued by Grama Panchayat Guddehosur. On

examination of those records, the Distribution Licensee on its satisfaction in respect of the occupation of the premises in question by Smt. Seetamma and her family members, serviced the installation and arranged the power supply through its RR No. KNAEH 46461. The documents produced never discloses that the name of Smt. Neelamma was altered as Smt. K Seetamma, such allegations of the Complainant are not based on records, the same are bald statements of him. No satisfactory explanation is forthcoming from the Appellant/Complainant as to why he remained silent and did not objected for such installation and alteration of the name of her mother in the application since 2008 till the filing of the complaint before the CGRF. In the absence of any material produced by the Appellant his bald statement that the application submitted by him in the name of his mother Smt. Neelamma to the Distribution Licensee was altered in the name of Smt. K Seetamma, the Respondent No. 1 in collusion with Sri N C Tilakananda got serviced the installation and arranged the power supply does not holds any water which is far from truth.

- 14) It was also submitted that after the death of mother of Sri N C Tilakananda there was a due of electricity consumption charges pertaining to the installation standing in the name of Smt. Seetamma, the entertaining of fresh application for arranging the

power supply in the name of Sri N C Tilakananda is illegal and incorrect.

- 15) The records disclose that KNAEH 46461 was standing in the name of Smt. Seetamma. On the death of Smt. Seetamma, the power supply agreement entered into between the Consumer Distribution Licensee Company (Respondent No. 1) comes to an end. Thereafter, Sri N C Tilakananda who is the occupier of the premises in question filed a fresh application before the Respondent No. 1 along with NOC certificate issued by Grama Panchayat Guddehosur. The Respondent No. 1 on satisfying himself regarding the occupation of the premises in question by the family members of the Sri N C Tilakananda, the Distribution Licensee Respondent No. 1 processed the application, serviced the installation and arranged the power supply afresh. Such an installation and arrangement of power supply is in accordance with the regulations of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. While arranging the power supply by servicing the installation the primary duty of the Distributing Licensee Company is to enter into its satisfaction regarding the occupancy of the premises by the applicant, on entering into such satisfaction, the supply of electricity being an essential service, the Distributing Licensee is duty bound to arrange the power supply by

servicing the installation. In accordance with the regulations referred supra, the Respondent No. 1 being the Distributing Licensee, on entering into such satisfaction regarding the occupation of the premises, rightly arranged the power supply and serviced the installation to Sri N C Tilakananda. This authority does not find any irregularity or illegality in respect of the servicing of the installation by the Respondent No. 1.

- 16) During the arguments it was brought to the notice of this authority that there is a title dispute in respect of the premises in question between the Appellant and the family members of Sri N C Tilakananda pending before the competent court. It is an undisputed fact that the CGRF is established under the KERC Regulations to redress the grievances of the electricity consumers, CGRF had no power or jurisdiction to decide the title of the parties or legality of the occupation in respect of the premises in question for which power supply arrangement was made by the Distributing Licensee. Therefore, the CGRF rightly held that the real dispute between the Appellant and the family of Consumer Sri N C Tilakananda is a title dispute pertaining to the premises in question, the same does not falls within its jurisdiction, and held that the parties are at liberty to get their title dispute resolved by the competent court rightly dismissed the complaint. On examination

of the documents produced along with the order passed by the CGRF, in view of the discussion made above, this authority is of the considered opinion that the order passed by the CGRF is perfectly legal, the same is not perverse, liable to be interfered by this authority. Accordingly, point No. (a) is answered in the affirmative, point No. (b) is answered in the negative. Looking from any angle, the appeal filed by the Appellant is devoid of merits, liable to be dismissed.

17) In the result I proceed to pass the following order:

No. OMB/C/G-398/2020/D-1457

Dated 26-06-2020

O R D E R

The appeal is dismissed.

Sd/-
(B.V. Patil)
Electricity Ombudsman.

- 1) Sri. K.M. Laxman,
Garaganduru Villge,
Kumbur Post,
Madapur – 571251,
Somavarapete Taluk,
Kodagu District.
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Superintending Engineer (Ele)
O & M Circle, CESC,
Jodi Basaveshwara Road,
Kuvempunagara,
Mysuru.
- 4) PS to Hon'ble Chairman, KERC
- 5) PS to Hon'ble Member (M), KERC
- 6) PS to Hon'ble Member (R), KERC
- 7) PA to Secretary, KERC.