

BEFORE THE ELECTRICITY OMBUDSMAN

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

Present: **B.V. Patil,**
Prl. District Judge (Retd)
Electricity Ombudsman,
Case No. OMB/H/G-423/2021
Dated 19/04/2021

In the matter of

Smt. Vajirabhi Mai Benoor,
Survey No. 225/A,
Flat No. 1,
Bagalkot – 587101.

Represented by:

Sri Ranganatha M Padamukhe,
No. 6-C, Sector No. 10,
Navanagar,
Bagalkot – 587103.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Elec.),
O & M Rural Sub-division, HESCOM,
Navanagar,
Bagalkot - 587103.

Represented by:

H.V. Devaraju, B.A., LL.B.,
Advocate,
No. 39, Shop No. 24, Mezzaine Floor,
A.S.V.N.V. Bhavan, K.G. Road,
Bengaluru – 560009.

- 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/Representation preferred before this authority by Smt. Vajirabhi Mai Benoor, Bagalkot District questioning the legality of the order passed by the Consumer Grievance Redressal Forum Bagalkot (herein after referred as CGRF), bearing order No. ಬಿಜಿಕೆ/ಅಇಂ(ವಿ)/ಉಲೆನಿ/ಸಲೆ/ಹಿಸ-1/2020-21/15237-15241, dated 04.02.2021 under the provisions of Clause 21.2 of KERC Regulations 2004. The Appellant/Complainant submitted their appeal memo on 01.03.2021 after communication of the order passed by the CGRF. The CGRF passed an order on 04.02.2021, the appeal was registered in this office on 02.03.2021. Hence the appeal is on time.
- 2) The brief facts of the case are that the Chairman Bagalkot Co-operative Housing Society developed a layout in survey No. 225/A+B in Bagalkot town, accordingly the Chairman Bagalkot Co-operative Housing Society under taken the electrification of the residential plots in the layout under self-execution scheme. While sanctioning the estimate, the Respondent No. 1 estimated power load factor to each site formed by the society and load calculation sheet was also prepared by the Respondent No. 1. As per the Respondent No. 1 the site bearing No. 1 totally measuring 8446.60 Sq. Ft. estimated load for the said

plot was 14.41 KW, accordingly the Co-operative Society deposited supervision charges and GST in favor of Respondent No. 1. On 16.03.2018 estimate was sanctioned for electrification of the residential plots in favor of the society. The Appellant who purchased the site No. 1 from the society applied for power sanction. The Respondent No. 1 as per Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004, recovered the expenditure towards the cost of electrical line to the point of connection from the Appellant and issued the power sanction order. The Appellant filed an application for refund of developmental charges paid by her contending that she is not liable to pay any developmental charges as claimed by the Respondent No. 1, in view of the fact that the estimated load factor for the site No. 1 was fixed at 14.41 KW, developmental charges were already deposited by the developer Co-operative Society, sought for refund of developmental charges deposited by her from the Respondent No. 1. However the Respondent No.1 placing its reliance on Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004, rejected her claim. The Appellant filed a complaint before the CGRF Bagalkot, after hearing the parties CGRF dismissed the complaint.

- 3) The Appellant questioning the legality of the order passed by the CGRF filed the present appeal contending that;
- a) The order passed by the CGRF, Bagalkot is illegal and incorrect, the same is an outcome of non-application of mind.
 - b) The CGRF has failed to take into consideration that the developer has deposited developmental charges for the proposed load of 14.41 KW pertaining to the site No. 1, the Appellant is not liable to pay any developmental charges up to the proposed load of 14.41 KW, the Respondent No. 1 erroneously collected the developmental charges from the Appellant which is liable to be refunded.
 - c) The CGRF has failed to take into consideration that the Respondent No. 1 has wrongly interpreted Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004, erred dismissing the complaint, prayed for allowing the appeal.
- 4) After registering the appeal, notice was issued to both the parties which was duly served. It was informed to both the parties through letter dated 02.03.2021 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 25.03.2021, parties did not availed 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 25.03.2021 the Representative for the Appellant present. Sri H.V. Devaraj Advocate filed Vakalth for Respondent No. 1, list with documents filed. The Representative of the Appellant filed his written arguments along with xerox copies of the sanctioned order, certificate and other records.
- 6) Heard the arguments.
- 7) On the above contentions the point that arise for consideration of this authority is;
 - a. Whether the order bearing No. ಬಿಜಿಕೆ/ಅಇಂ(ಬಿ)/ಉಲೆನಿ/ಸಲೆ/ಹಿಸ-1/2020-21/15237-15241, dated 04.02.2021 passed by the CGRF Bagalkot District, rejecting the complaint of the Appellant is illegal, perverse, liable to be interfered by this authority?
- 8) My answers to the above point is in the;
 - a. Negative.

For the following,

REASONS

- 9) I perused the appeal memo, the records produced by both parties including the order passed by the CGRF Bagalkot District.
- 10) Before adverting with the contentions raised by the Appellant, I would like to refer Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004, which reads as under: -

Amended vide Notification No. KERC/CoS/D/14/14-15 dated 25th August 2014

3.1.1: Provision for Low Tension supply except for layouts:

For providing power supply to the Applicant under the LT category, for all the installation(s) clubbed together in a premises standing in the name of one or more persons, the Distribution Licensee shall recover the expenditure towards the cost of electric line/plant up to point of connection as follows from the Applicant:

(Note: For the purpose of clause 3.1.1, the point of connection means a terminal pole carrying LT/HT line and is situated within 30 meters outside the premises of the Applicant.)

A) For loads less than 35 KW in respect of domestic, commercial and mixed load installations:

<i>Requisitioned Load</i>	<i>Recoverable amount</i>
<i>Up to and inclusive of 3 KW</i>	<i>Nil</i>
<i>Above 3 KW up to and inclusive of 15 KW</i>	<i>Rs. 650 per KW for loads above 3 KW</i>
<i>Above 15 KW and less than 25 KW</i>	<i>Rs. 7800 plus Rs. 1300 per KW for loads above 15 KW</i>
<i>25 KW and above but less than 35 KW</i>	<i>Rs. 20,800 plus Rs. 15,000 per KW for loads above 25 KW</i>

- 11) On plain reading of the above said regulation makes it clear that power supply to the applicant under LT category for all the installations clubbed together in a premises standing in the name of one or more persons the distributing licensee (Respondent No. 1) shall recover the expenditure towards cost of electrical line up to the point of connection as per the schedule referred supra from the Applicant.
- 12) It is submitted by the Appellant while electrification of the residential layout formed by the Bagalkot Co-operative Housing Society, the estimated load calculation sheet prepared by the Respondent No. 1 clearly indicates that estimated load for the site No. 1 was 14.41 KW. The Developer has already deposited developmental charges in respect of the estimated load pertaining to the plot No. 1, therefore the Respondent No. 1 had no right to collect the developmental charges from the Appellant up to 14.41 KW, the Respondent No. 1 is entitled to recover the developmental charges over and above 14.41 KW, hence the Respondent No. 1 is liable to refund the developmental charges collected from the Appellant. In order to show that while execution of the electrification of residential layout by the Bagalkot Co-operative Housing Society in the said survey number under self-execution

scheme, the Co-operative Society has deposited developmental charges for the estimated load factor to the site No. 1 up to 14.41 KW, the Appellant did not produced any material evidence either before the CGRF or before this authority. In the absence of such material produced by the Appellant, the Respondent No. 1 is entitled to collect the developmental charges as per Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004. If at all the developer deposited developmental charges pertaining to the site No. 1 up to 14.41 KW which was estimated load. If at all the Respondent No. 1 has already collected the developmental charges pertaining to the site No. 1 upto the estimated load of 14.41 KW, the Respondent No. 1 is not entitled to recover the developmental charges twice from the Appellant. In the absence of material evidence produced by the Appellant to show that already the developmental charges pertaining to the site No. 1 up to the estimated load of 14.41 KW was deposited by the developer, the Respondent No. 1 is entitled to recover the developmental charges as per the above said regulations. The CGRF on taking into consideration, the facts and circumstance of this case rightly dismissed the complaint filed by the Appellant,

placing its reliance on Regulation 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004.

13) On examination of the order passed by the CGRF including the documents produced in the appeal, in view of the admitted facts as discussed supra, the CGRF on examination of the facts and circumstances of this case rightly dismissed the complaint. The order passed by the CGRF does not suffers from any material legal infirmities, the same is not perverse needs to be interfered by this authority. Accordingly, point No. 1 is answered in the negative.

14) In the result, I proceed to pass the following;

No. OMB/H/G-423/2021/D-1537

Dated: 19-04-2021

O R D E R

1) The appeal is dismissed.

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

- 1) Smt. Vajirabhi Mai Benoor,
Survey No. 225/A,
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- 2) Sri Ranganatha M Padamukhe,
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Superintending Engineer (Ele),
O & M Circle, HESCOM,
Navanagar,
Bagalkot– 587102.
- 6) PS to Hon'ble Chairman, KERC
- 7) PS to Hon'ble Member (M), KERC
- 8) PS to Hon'ble Member (R), KERC
- 9) PA to Secretary, KERC.