

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-422/2021
Dated 20/04/2021

In the matter of

Sri Abdul Ajiz, E Contractor,
TP No. 5A, Ward No. 10,
Near Shiroor Gate,
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 - 587101.

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 Sri Abdul Ajiz, E Contractor, 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-1/2020-21/15229-15233, 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 Appellant Sri Abdul Ajiz Ibrahim Sab contractor being a developer filed an application on 28.07.2020 before the Respondent No. 1 for electrification of his industrial layout found in Survey No. 347/2 and 347/3 of Sigikeri Village in Bagalkot Rural Taluk under self-execution scheme. There was a letter correspondence between the Appellant and the Respondent No. 1 in respect of submission of the necessary records for preparation of the estimate for electrification of the industrial layout, granting permission for execution of the work. After submission of the necessary records, the estimate was prepared by

the Respondent No. 1 and submitted to the divisional office which was returned for compliance of certain objections and to submit the necessary records. The Appellant who was dissatisfied with the action of the Respondent No. 1, noticed that there is an inordinate delay in granting permission for execution of the electrification work, who filed a complaint before the CGRF Bagalkot. The CGRF dismissed the complaint on the ground that the Complainant is not a registered consumer.

- 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 Regulation 3 and 4 of the KERC (Duty of the Licensee to Supply the Electricity on Request) Regulations 2004, erred in dismissing the complaint filed by the Appellant, 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 and list with documents filed. The Representative of the Appellant filed his written arguments along with xerox copy of the Regulation 3 and 4 of the KERC (Duty of the Licensee to Supply the Electricity on Request) Regulations 2004.
- 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-1/2020-21/15229-15233, 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 along with the appeal 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 2 (g) and (h) of KERC (CGRF & Ombudsman) Regulations 2004 which reads as under: -

2. Definitions

(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 of a licensee.

- 11) On plain reading of the above said regulations makes it clear that in order to file a Complaint before the CGRF, the Complainant must be a consumer defined under Regulation 2 (h) of the KERC (CGRF & Ombudsman) Regulations 2004.
- 12) On examination of the records produced in this case makes it clear that the Appellant is an applicant cum prospective consumer who filed an application for grant of electrification of his industrial layout found in survey no. 347/2 and 347/3 at Sigikeri Village, in Bagalkot Rural Taluk under self execution scheme. There was a letter correspondence in respect of the correction of the records produced by the Appellant, lastly the necessary corrected records were produced by the Appellant. On 06.03.2021 the Superintending Engineer (Ele), HESCOM, Bagalkot approved the estimate and ordered the Appellant to deposit the necessary supervision and other charges. The Appellant complaining about the delay in approval of the estimate by the Respondents filed a complaint before the CGRF. Admittedly the Appellant being an Applicant sought permission for electrification of his industrial layout, whose application was processed by the Respondent No. 1 does not falls within the definition of the consumer defined under Regulation 2 (h) of the KERC (CGRF & Ombudsman) Regulations

2004, the CGRF Bagalkot rightly dismissed the complaint. Much reliance was placed by the Appellant on Regulations 3 & 4 of the KERC (Duty of the Licensee to Supply the Electricity on Request) Regulations 2004, and submitted that the Appellant falls under the definition of the Consumer, he is entitled to file a complaint before the CGRF.

- 13) On conjoint reading of Regulation 3 & 4 of the above regulations makes it clear that nowhere in the above said regulations the word consumer is used. The Regulation 3 and 4 refers to the filing of application by the Applicant by the owner or occupier of the premises, who does not falls under the definition of the Consumer. Therefore mere filing of an application before the Respondent for grant of permission to execute the electrification work to the industrial area of the Appellant comes under prospective Consumer, such an Applicant does not falls within the purview of consumer defined under the KERC (CGRF & Ombudsman) Regulation 2004. The Applicant who is yet to be supplied with the electricity, by the Licensee company, the Appellant's application is under the process for grant of permission to execute the electrification work does not falls within the purview of consumer, therefore the complaint filed before the CGRF Bagalkot is

premature one, the same was not maintainable, rightly dismissed by the CGRF.

14) 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.

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

No. OMB/H/G-422/2021/D-1539

Dated: 20-04-2021

O R D E R

1) The appeal is dismissed.

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

- 1) Sri Abdul Ajiz,
E Contractor,
TP No. 5A, Ward No. 10,
Near Shiroor Gate.
Bagalkot – 587101.
- 2) Sri Ranganatha M Padamukhe,
No. 6-C, Sector No. 10,
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- 4) H.V. Devaraju, B.A., LL.B.,
Advocate,
No. 39, Shop No. 24, Mezzaine Floor,
A.S.V.N.V. Bhavan, K.G. Road,
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Bagalkot District,
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.