

**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/B/G-415/2020**  
**Dated 24/02/2021**

In the matter of

Smt. H.V. Godha Krishna Prasad,  
W/o. Sri M.V. Krishnaprasad,  
Residing at No. 116/5-1,  
11th Cross, Malleshwaram,  
Bengaluru – 560003.

**Represented by:**

K.L. Prabhakara & Associates, Advocates,  
No. 116/5-1, 3<sup>rd</sup> floor, 11<sup>th</sup> Cross,  
Near Union Bank of India,  
Malleshwaram,  
Bengaluru – 560003.

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Vs

Appellant

- 1) The Managing Director,  
BESCOM, Head Office,  
K.R. Circle,  
Bengaluru GPO,  
Near SJP Polytechnic College,  
Bengaluru – 560001.
- 2) The Superintending Engineer (Ele),  
Bengaluru South Circle,  
Office at K.R. Circle,  
Nrupathunga Road,  
Bengaluru – 560001.

- 3) The Assistant Executive Engineer (Elec.),  
O & M C-2 Sub Division, BESCOM,  
13<sup>th</sup> Cross, 3<sup>rd</sup> Main Road,  
Malleshwaram,  
Bengaluru – 560003.
- 4) Chairperson, Consumer Grievance Redressal Forum (CGRF)  
Bengaluru Urban District,  
Superintending Engineer (Ele),  
West Circle Office, BESCOM,  
CA Site, No. 05, West of Chord Road,  
3<sup>rd</sup> Stage, Bhima Jyothi, HSBC Layout,  
Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bengaluru – 560079. - Respondents

- 1) This Appeal/Representation preferred before this authority by Smt. H.V. Godha Krishna Prasad, W/o. Sri M.V. Krishnaprasad, Bengaluru Urban District questioning the legality of the order passed by the Consumer Grievance Redressal Forum Bengaluru Urban District (herein after referred as CGRF), bearing order No. CP/CGRFBU/BWC/M1/M2/4684-85, dated 30.11.2020 under the provisions of Clause 21.2 of KERC Regulations 2004. The Appellant/Complainant submitted their appeal memo on 24.12.2020 after communication of the order passed by the CGRF. The CGRF passed an order on 30.11.2020, the appeal was registered in this office on 24.12.2020. Hence the appeal filed is in time.

2) The brief facts of the case are that the installation bearing RR No. C2P 2919 was serviced by the Respondent No. 3 to the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building owned by the Appellant situated at 11<sup>th</sup> Cross, Malleshwaram, Bengaluru. The Appellant letted out 3<sup>rd</sup> and 4<sup>th</sup> floor of the building to one Sri. Shashikumar and Ms. B.R. Shruthi for the purpose of running paying guest hostel in the year 2013 and 2014. There was a misunderstanding between the tenants of the Appellant and Sri. Shashikumar in respect of running the paying guest hostel, the paying guest was being run without obtaining license from the BBMP, a complaint was lodged, the dispute went up to the High Court, Hon'ble High Court ordered to close the paying guest hostel. Accordingly paying guest hostel was seized and locked by the BBMP for a period of 2 years. The Appellant after obtaining license from BBMP in the year 2018 started paying guest hostel and paid the electricity consumption charges as per the bills issued by the Respondents. The officials of the third Respondent came to the installation, checked the meter reading and found that one digit was left out by the meter reader, accordingly short claims of ₹ 4,41,676/- was raised against the Appellant in the month of September 2019, complaining that the meter reader has recorded the consumption of another installation. The Appellant

filed his objections to the short claim notice issued by the Respondents, inspite of the objections filed the Assessing Officer passed final order of short claims for ₹ 4,41,676/-, demand notice was issued. The Appellant obtained periodical statement of consumption from November 2018 to October 2019. The Respondents issued a second demand notice and came to the premises and threatened to disconnect the power supply, in case the Appellant did not deposited the amount. Being aggrieved by the demand notice the Appellant filed a complaint before the CGRF, 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, Bengaluru Urban 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 Respondents have issued erroneous demand notices, the CGRF has failed to examine that the periodical statement produced by the Respondent No. 3 is created and concocted for the purpose of wrongful gain.
  - c) CGRF has failed to examine Section 56 of the Electricity Act 2003 in a right prospective.

- d) The CGRF has failed to take into consideration that the average consumption of the connection of the Appellant for the year 2018 and 2019, passed an illegal order which is unsustainable.
  - e) The CGRF has failed to take into consideration that the settled law is “No wrong doer should be enabled by law to take advantage of his own wrong doings”. The Respondent No. 3 by violating KERC regulations shall not put the Consumer/ Appellant into financial inconvenience.
  - f) The CGRF has failed to take into consideration that the Respondent No. 3 had no right to recover short claims arising out of their own commissions and omissions.
  - g) The CGRF has failed to take into consideration that the short claims raised by the Respondent No. 3 is not supported with any evidence on record. The order raising short claims suffers from malafides and motivated by extraneous reasons, therefore 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 24.12.2020 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 06.01.2021, 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) Heard the arguments. Both parties filed their written arguments.
- 6) On 05.01.2021 and 10.02.2021 the Respondent No. 3 submitted parawise remarks/arguments contending that the installation bearing RR No. C2P 2919 was serviced on 20.06.2000 with sanctioned load of 4 HP for domestic water pump under LT 2 Tariff Category in the name of Kaushalya, later the installation was converted to commercial LT 3 tariff category and transferred in the name of Mrs. Kumari HV Godha. The power supply connection for 4 HP domestic water pump was unauthorizedly extended by the Appellant for running paying guest hostel in 3<sup>rd</sup> and 4<sup>th</sup> floor of the building without approval from the Respondents. The Appellant obtained trade license from the BBMP to run paying guest hostel in the month of July 2018 and paid the electricity consumption charges up to October 2018. In the month of November 2018 the regular meter reader was changed in the routine course, newly deployed meter reader taken the wrong reading in respect of

RR No. W2LG 2190 which was existing besides to the installation of the Appellant in the same penal board. There are 8 installations with separate meters in the same penal board of the Appellant, the installation of the Appellant was inspected and RR No. C2P 2919 was calibrated by AEE (Ele.), MT Sub Division, Malleshwaram, MT rating report was submitted in respect of drop in the consumption, however the recorded units in the meter was 55712 units, the meter was recording within the permissible units. As per the MT report there is a difference of recording of 43623 units, a provisional order of supplemental claims for ₹ 4,41,676/- from November 2018 to September 2019 was served on the Appellant. The average consumption was 3974 units per month for the said period. The Appellant filed his objections to the provisional order, on taking into consideration consumption pattern, demand and collection in respect of the installation from January 2014 to January 2020, the final order of short claims for ₹ 4,41,676/- was passed by the Respondent. The copy of the periodical statement for the above said period was issued to the Appellant on 07.01.2020. The Appellant unauthorizedly used the installation for the power supply to the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building to run paying guest hostel, even though the installation was serviced for domestic

water pump. The Appellant has used excess connected load, who is liable to pay the short claims. The CGRF on taking into consideration facts and circumstances of this case rightly dismissed the complaint prayed for dismissal of the appeal.

7) On the above contentions the point that arise for consideration of this authority is;

a. Whether the order bearing No. CP/CGRFBU/BWC/M1/M2/4684-85, dated 30.11.2020 passed by the CGRF Bengaluru Urban 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 Bengaluru Urban District.

10) Before advertng with the contentions raised by the Appellant, I would like to refer some of the undisputed facts in this case.



11) It is not in dispute that the installation bearing RR No. C2P 2919 was serviced on 20.06.2000 with a sanctioned load of 4 HP for domestic water pump under LT 2 Tariff Category, which is clear from the copy of the power sanction order produced in this case. Admittedly this installation was not serviced by the Respondent for electrification to run the paying guest hostel at 3<sup>rd</sup> and 4<sup>th</sup> floor of the building owned by the Appellant. In order to show that power supply to the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building was serviced through the above said installation, the Appellant did not produced any material evidence in this case. In the absence of such material evidence, it can be held that the power supply to the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building to run a paying guest hostel is an unauthorized connection illegally used by the Appellant. The records produced in this case clearly discloses that when the installation of the Appellant showed an abnormal drop in consumption, the installation was inspected by the AEE (Ele.), MT Sub Division Malleshwaram on 27.09.2019, the meter was calibrated in the presence of representative of the Appellant and found that the recording of the installation for the period November 2018 to September 2019 was 55712 units, however the meter reader submitted the recording for the said period was 12089 units. The

Respondents on examination of the case of the Appellant it was found that the meter reader who wrongly recorded the reading of RR No. W2LG 2190 which is belonging to other consumer, instead of recording the actual consumption recorded in the meter of the Appellant. Both meters as well as other 6 meters are fixed in the same penal board. The meter reader while recording the consumption of the installation of the Appellant, wrongly recorded the consumption recorded in the other meter which is pertaining to the other portion of the building which is a bonafide mistake committed by the meter reader. When the actual consumption of the units for the above said period was found by calibrated testing conducted by the MT division of the Respondent, it was noticed that the meter of the Appellant was recording within the permissible limits. Even the average consumption for the said period pertaining to the installation of the Appellant was 3974 units per month which was tallied with consumption recorded prior to November 2018. The Appellant never questioned the legality of the MT inspection report before the appropriate forum, which attains finality. The final supplemental claims order was passed by the Assessing Officer taking into consideration the difference of units consumed pertaining to the installation of the Appellant. The

Appellant never denied the fact that the power supply was utilized for the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building to run paying guest hostel. After hearing the objections of the Appellant, the Respondent passed final order of short claims taking into consideration the average consumption of the Appellant. The CGRF on taking into consideration the evidence on record rightly dismissed the complaint. The order passed by the Respondent is in conformity with Regulation 29.03 of COS. The Appellant actually used the power for the 3<sup>rd</sup> and 4<sup>th</sup> floor of the building to run the paying guest hostel including domestic water pump for which the power was sanctioned. The non-issuing of correct bills was due to the bonafide mistake of the meter reader who wrongly recorded the consumption of other meter which was existing in the same penal board belonging to some other consumer instead of recording the actual consumption recorded in the meter of the Appellant. After noticing the mistake, the Respondent rightly examined the records including the average consumption of the Appellant, passed the final order of supplemental claims, the same is legal, which is in accordance with law.

- 12) It is submitted that as per Section 56 Sub Clause (2) of the Electricity Act 2003 and Regulation 29.08 of COS, the Respondent

No. 3 is not entitled to recover any short claims/arrears beyond a period of 2 years when such sum became first due unless such a sum has been shown continuously in bills, recoverable as arrears of charges of electricity supply. On examination of the records makes it clear that it was not a case of erroneous billing falling within the ambit of Section 56 Sub Clause 2 or Regulation 29.08 of COS. It is a simple case of mistake in recording the consumption of the other meter by the newly posted meter reader which is a bonafide mistake. The Appellant who has consumed the power and enjoyed the same by not paying the requisite consumption charges for the above said period and the short claims demand made by the Respondent No. 3 cannot be held as illegal and the same is barred by limitation under Section 56 (2) of Electricity Act 2003. It is well settled that a mistake can always be corrected and a mistake in wrong recording of the consumption of other meter can be rectified at a subsequent stage. Therefore, the supplemental claims of the Respondent No. 3 for the period from November 2018 to September 2019 is barred under the provisions of Electricity Act does not holds good and the same cannot be accepted. The Appellant consumed the electricity supplied by the Respondent No. 3 is not in dispute, such supplemental claims are not barred

under Section 56 (2) of the Electricity Act 2003. Therefore, the appeal filed by the Appellant is wholly devoid of merits liable to be dismissed. The learned council appearing for the Appellant placed his reliance on decisions rendered by the Hon'ble High Court of Karnataka in WP 45093/2015 and Civil Appeal No. 1672/2020 rendered by Hon'ble Supreme Court. I have gone through the principles rendered in the above said decisions, the principles rendered are not squarely applicable to the case of the Appellant.

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 the 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/B/G-415/2020/D-1526**

**Dated: 24-02-2021**

**O R D E R**

1) The appeal is dismissed.

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

- 1) Smt. H.V. Godha Krishna Prasad,  
W/o. Sri M.V. Krishnaprasad,  
Residing at No. 116/5-1,  
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3<sup>rd</sup> Stage, Bhima Jyothi, HSBC Layout,  
Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bengaluru – 560079.
- 7) PS to Hon'ble Chairman, KERC
- 8) PS to Hon'ble Member (M), KERC
- 9) PS to Hon'ble Member (R), KERC
- 10) PA to Secretary, KERC.