

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/C/G-416/2021
Dated 29/01/2021

In the matter of

Smt. Dr. DivyaKumari C.T.,
W/o. Dr. K.R. Nagesh,
2nd Cross, Shankarmatt Road,
K.R. Puram,
Hassan – 573201.

-

Appellant

Vs

1) The Assistant Executive Engineer (Elec.),
O & M Sub Division, CESC,
B M Road, P.B. No. 158,
Santhepete,
Hassan-573201.

2) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Hassan District,
Superintending Engineer (Ele),
O & M Circle, CESC,
Santhepete, B.M. Road,
Hassan-573201.

-

Respondents

1) This Appeal/Representation preferred before this authority by Smt.
Dr. DivyaKumari C.T. W/o. Dr. K.R. Nagesh, Hassan District
questioning the legality of the order passed by the Consumer
Grievance Redressal Forum Hassan (herein after referred as
CGRF), bearing No. ಸಿ.ಜಿ.ಆರ್.ಎಫ್/ಹಾ/ಜಿ-05/2020-21/4552-63,

dated 05.12.2020 under the provisions of Clause 21.2 of KERC Regulations 2004. The Appellant/Complainant's appeal memo received through post on 01.01.2021 after communication of the order passed by the CGRF. The CGRF passed an order on 05.12.2020, the appeal was registered in this office on 04.01.2021, hence the appeal is in time.

- 2) The brief facts of the case are that the Appellant obtained a plan approval from the Hassan municipality for the construction of the building in her site at Hassan in the year 2016, 80% of the construction of the building was completed in the year 2017, the electrical contractor of the Appellant did not submitted the application to the Respondent No. 1 for permanent power connection as the building was not completed for occupation. The Appellant at the first instance filed an application for permanent power connection on 11.11.2019, no action was taken by the Respondent No. 1. Second application for permanent power connection was filed on 17.07.2020, the said application was rejected informing the Applicant that the total built up area is 751.90 Sq. meters. In view of 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017, the Appellant has

to provide a separate space in her premises free of costs for installation of transformer and other associated equipments. During the inspection, the official of the Respondent No. 1 found that there was no separate space ear marked in the premises of the Appellant for installation of the transformer and associated equipments therefore the request of the Appellant was came to be rejected and an endorsement was issued on 20.08.2020. Challenging the said endorsement, the Appellant filed a complaint before the CGRF Hassan. On 05.12.2020 CGRF Hassan disposed of the complaint directing the Respondent No. 1 to take appropriate steps for installation of the transformer and associated equipments including service of installation as per 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 and held that the endorsement issued by the Respondent No. 1 is proper and correct.

- 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, Hassan is illegal and incorrect, the same is an outcome of non-application of mind.

- b) CGRF has failed to take into consideration that the construction of the building was commenced in the year 2016 when 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 was not in force.
 - c) The CGRF has failed to take into consideration that the Appellant was unaware of the said amendment when the building was completed.
 - d) The CGRF has failed to take into consideration that the Appellant has constructed the building in the entire site, there is no open space measuring 3 x 5 Sq meters available for erection of the transformer and other associated equipments, failed to order for providing permanent power connection within the existing infrastructure on receiving the developmental charges from the Appellant, 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 04.01.2021 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 18.01.2021. However, the 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 18.01.2021 the Appellant Smt. Dr. DivyaKumari C.T present. The official of the Respondent No. 1 Sri Hemachandra K C Assistant Executive Engineer (Ele.) City Sub division CESC, Hassan were present.
- 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. ಸಿ.ಜಿ.ಆರ್.ಎಫ್/ಹಾ/ಜಿ-05/2020-21/4552-63, dated 05.12.2020 passed by the CGRF Hassan 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. As per the final order.

For the following,

REASONS

- 9) I perused the appeal memo, the records produced along with the appeal including the order passed by the CGRF Hassan District.
- 10) Before adverting 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 Appellant constructed a new building in K.R. Puram at Hassan, the total built up area was 751.90 Sq. meters. The Appellant filed an application for sanction and service of permanent power connection to the newly constructed building at the first instance on 11.11.2019. The electrical contractor did not submitted the entire file for power sanction as the building was not completed for occupation, no action was taken on the said application. The Appellant filed second application on 17.07.2020, the official of the Respondent No. 1 inspected the building and found that the total built up area was 751.90 Sq. meters and noticed that no open space was ear marked for erecting the transformer, distribution line and associated equipments for servicing the installation, rejected the application of the Appellant placing reliance on 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017.

12) Before considering the case of the Appellant, I would like to refer 9th Amendment to Regulation 3.1.3 (A) (new) of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 and also Regulation 3.1.5 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004, which reads as under: -

9th Amendment to Regulation 3.1.3 (A) (new) of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017

**Notification No. KERC/D/3/17-18 dated 27.12.2017
3.1.3 (A) NEW**

- i) In the case of new buildings where the requisitioned load of 25 KW or more but less than 35 KW or built up area of the building exceeds 500 Sq. meter but is less than 800 Sq. meters, the applicant shall provide the required space at free of cost in his premises for erection of distribution line and transformer and associated equipment at it's cost by the licensee.
- ii) In the case of new buildings availing power supply with requisitioned load of less than 25 KW or with built up area of less than 500 Sq. meters, subsequently when the additional requisitioned load and the existing sanctioned load exceeds 25 KW or more but less than 35 KW or the additional built up area including the existing built up area exceeds 500 Sq. meters but is less than 800 Sq. meters, the conditions specified in the above sub clause shall also be applicable.
- iii) In the above cases, the licensee is at liberty to utilize any balance capacity in the transformer installed by him.

Regulation 3.1.5 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004.

3.1.5 Where the requisitioned load is 25 KW or more or built up area in the premises of the Applicant exceeds 500 Sq. meters, the Applicant shall provide the required space in his premises and also provide at his own cost electric line, distribution transformer and associated equipments. The transformer so provided by the Applicant shall be dedicated to the premises of such Applicant. The details of space to be provided by the Applicant are as follows: -

- (a) An electrical room with RCC roof having clear floor area of 5 meters x 4 meters with a vertical clearance of 2.75 meters with locking facility, exhaust fans and adequate size of cable duct, shall be provided at the ground floor within the Applicant's premises nearer to the main entrance for installing floor mounted distribution transformer and associated switchgear or
- (b) A clear space of 3 meters x 5 meters open to the sky shall be provided within the Applicant's premises preferably at the main entrance for installing structure mounted distribution transformer and switchgear.

13) On plain reading of the above regulations makes it clear that when a new building is constructed by the consumer where the requisition load is 25 Kw or more and built up area of the building exceeds 500 Sq meters, the applicant shall provide the required space at free of cost in his premises for erection of distribution line, transformer and associated equipment at its cost by the licensee. Condition 3.1.5 (a) & (b) referred supra makes it clear that the consumer has to provide an electrical room with RCC roof having a clear floor of 5 x 4 meters with a vertical clearance of 2.75 meters with locking facility, exhaust fans and adequate size of cable duct,

at the ground floor within the applicants premises near to the main entrance for installing floor mounted distribution transformer and associated switch gear or a clear space of 3 x 5 meters opened to the sky shall be provided within the applicants premises preferably at the main entrance for installing structured mounted distribution transformer and a switch gear.

- 14) It is not in dispute that the Appellant has constructed a building in her site, the total built up area is 751.90 Sq. meters, no open space was ear marked by the Appellant for erecting transformer, switch gear and other associated equipments. On plain reading of Clause (a) & (b) of Regulation 3.1.5 of CGRF Regulation makes it clear that the Appellant has to provide an electrical room as described in Clause (a) in the ground floor nearer to the main entrance for installing floor mounted distribution transformer and associated switchgear or for installation of structure mounted distribution transformer and switchgear she has to provide a clear space of 3 x 5 meters open to the sky preferably at the main entrance for installation of structure mounted distribution transformer and switchgear. Neither in the appeal memo nor before the CGRF, the Appellant did not stated about providing such an electrical room or an open space as described in Clause (a) & (b) of Regulation 3.1.5.

These regulations were incorporated for the benefit of the consumer on taking into consideration the safety of the inmates of the building. There are chances of catching fire to the transformer when there is an excess load or in other exigencies. The Appellant submitted that she is ready to provide necessary space in the car parking area. In case the transformer and other associated equipments were erected inside the building or in the car parking area, any untoward incident of catching fire of the transformer was taken place, there are chances of danger to the life and property of the inmates of the building. To avoid such exigencies only Clause (a) & (b) of Regulation 3.1.5 the KERC was incorporated directing the consumer for providing adequate space in the ground floor nearer to the main entrance or a space open to the sky preferably at the main entrance for installation of the transformer and other associated equipments so as to safe guard the interest of the inmates of the building. Therefore, the CGRF on taking into consideration the relevant regulations rightly directed the Respondent No. 1 to take appropriate action as per 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 and

rightly held that the endorsement issued by the Respondent No. 1 dated 20.08.2020 is proper and correct.

- 15) It was submitted by the Appellant that she commenced the construction of the building in the year 2016 when 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 was not in force, therefore the said amendment is not applicable to the case of the Appellant. It is an undisputed fact that the building was completed in the year 2020 when the second application for permanent power sanction was submitted. The first application for permanent power sanction was filed in the year 2019 when the construction of the building was not completed in toto, therefore the application was not processed by the electrical contractor of the Appellant. At the time of filing both applications for permanent power sanction by the Appellant, the 9th Amendment to Regulation 3.1.3 (A) (new) KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 dated 27.12.2017 was brought into the force, which was applicable to the Appellant, the Appellant was liable to provide an open space and electrical room for erecting transformer, associated equipments including the servicing of the installation. In the absence of such a space provided by the

Appellant in her building, the Respondent No. 1 rightly rejected her prayer for permanent power connection placing its reliance on Regulation 3.1.3 (A), the contention of the Appellant that the said regulation does not applicable to her case holds no water.

16) On the examination of 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 on the above terms.

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

No. OMB/C/G-416/2021/D-1519

Dated: 29.01.2021

O R D E R

1) The Appellant is directed to provide an electrical room with RCC roof having clear floor area of 5 x 4 meters with a vertical clearance of 2.75 meters with locking facility, exhaust fans and adequate size of cable duct at the ground floor within her premises nearer to the main entrance for installing floor mounted distribution transformer and associated switchgear to the Respondent No. 1 free of costs.

Or

2) Appellant shall provide a clear space of 3 x 5 meters opened to the sky within the premises preferably at the main entrance for installing structure mounted

distribution transformer and switchgear. The Appellant shall notify to the Respondent No. 1 regarding the availability of the such a space with necessary sketch within 15 days from the date of the receipt of this order.

- 3) On receipt of such a notice of identification of the space in the premises from the Appellant, the Respondent shall forth with inspect the premises regarding the suitability of the space proposed by the Appellant, he shall erect transformer and associate equipments after taking all safety measures. The Respondent No. 1 is entitled to collect necessary fees and deposits as prescribed under the act and regulations while servicing the installation.
- 4) In the absence of a clear space of 3 x 5 meters open to the sky within the premises of the Appellant preferably that the main entrance for installing the structure mounted distribution transformer and switchgear the Respondent No. 1 shall consider the providing of spun pole mounted transformer structure at the cost of the Appellant, if the regulations empowers the Respondent No. 1 for erecting spun pole mounted transformer structure, consider the same as a special case.
- 5) On the above terms the appeal is disposed off.

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

- 1) Smt. Dr. DivyaKumari C.T.,
W/o. Dr. K.R. Nagesh,
2nd Cross, Shankarmatt Road,
K.R. Puram,
Hassan – 573201.
- 2) The Assistant Executive Engineer (Elec.),
O & M Sub Division, CESC,
B M Road, P.B. No. 158,
Santhepete,
Hassan-573201.

- 3) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Hassan District,
Superintending Engineer (Ele),
O & M Circle, CESC,
Santhepete, B.M. Road,
Hassan-573201.
- 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.