

BEFORE THE ELECTRICITY OMBUDSMAN

No. 16 C-1, Miller Tank Bed Area
Vasanthnagar, Bengaluru-560 052.

Present: S.S. Pattanashetti
Electricity Ombudsman

Case o.OMB/H/G-288/2017

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M/s.Basavaraj Cotton Pressing Unit
C/o Tushar M.Baddi,
“Arihant Park”
Near S.B.I. Keshwapur,
Hubballi-580023.

:Appellant

VS

1. The Assistant Executive Engineer,
O & M Sub-Division HESCOM,
Nargund,(Represented by Advocate
Sri H.V. Devaraju, No.39, Shop No.24,
Mezzanine Floor, A,S,V,N,V,Bhavan
K.G. Road, Bangalore-560 009.
2. The Chairperson, CGRF, HESCOM,
Gadag District. :Respondents.

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This is an Appeal filed under Regulation 21.02 of
KERC (CGRF & Ombudsman) Regulations, 2004 against

the order of CGRF, HESCOM, Gadag District, (herein after referred to as the 2nd Respondent, in case No: ಅಇಂ(ಎ)/ಉಲೆನಿ/ಗ್ರಾ.ಕುಂ.ಕೊ.ನಿ.ವೇ/ಗದಗ/ಕಡತ-15/cys/05

dated: 31-07-2017. The appellant has prayed to call for records, set right the revenue accounts as per norms, award interest as per KERC guidelines, revise the revenue bills ie from the date of inspection under LT-5 industrial tariff instead of LT-3 commercial tariff, direct the respondent to strictly comply with the provisions of the KERC Regulations and Act specified thereunder, to take direct head of HESCOM to take strict action against the respondent individual for the wilful disobedience, and award interest to the instant litigation as this Authority deems fit in the interest of justice and equity.

Both the Parties were informed vide letter No.OMB/H/G-288/2017/D-948 dated: 06-10-2017 regarding the availability of provisions in Sub-Regulation 1 of Regulation 20 of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement through conciliation and mediation. However, they have not availed the benefit of the said provision.

The 2nd Respondent in the impugned order dated:29-11-2014 has made the following order:

“ ಗ್ರಾಹಕರ ಕುಂದು ಕೊರತೆ ನಿವಾರಣಾ ವೇದಿಕೆಗೆ ಆದೇಶ ಸಂಖ್ಯೆ: ಹೆಸ್ಕಾಂ/ಜಿ.ಎಂ(ಟಿ)/ಇಇ- 4/ಎಟ/15-16/ಸಿ.ವೈ.ಎಸ್-2296, ದಿನಾಂಕ: 06.10.2015 ಹಾಗೂ ಹೆಸ್ಕಾಂ/ಜಿ.ಎಂ(ಟಿ)/ಇಇ- 4/ಎಟ/17-18/ಸಿ.ವೈ.ಎಸ್ 231, ದಿನಾಂಕ: 20.04.2017 ರನ್ವಯ ದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಈ ಕೆಳಗಿನಂತೆ ಆದೇಶಿಸಲಾಗಿದೆ.

1. ಗ್ರಾಹಕರ ಮನವಿಯನ್ನು ಪುರಸ್ಕರಿಸಲಾಗಿರುವುದಿಲ್ಲ”

The Representative of the appellant in his written submission made along with Appeal proforma ‘B’ before this Authority states as below:

The issue pertains to refund of BBC amount to the appellant as per the orders of the Revenue Appellate Authority pertaining to meter No.RR NRDMP 108. Accordingly the appellant has submitted requisition to office of the AEE, Nargund to refund the BBC amount along with regular arrears paid so far under LT-3 commercial tariff. The appellant has made several correspondences with Respondent- 1 AEE, Nargund for the same. After prolonged correspondences the licensee has withdrawn the impugned BBC amount demanded

in the month of March 2017 but failed to refund the amount pre-deposited with respect to the BBC amount.

Since the AEE has not refunded the amount, the appellant has filed a complaint before the CGRF in form 'A' dated 21-04-1011.

The 1st Respondent – AEE has filed statement of objections dated 16-09-2017 before this Authority. He has submitted as follows:

“The 1st Respondent submits that the appellant is the consumer of the installation bearing RR No.NRDMP-108, serviced under LT5 industrial tariff and however, on 21-09-2010 the Vigilance had inspected the said installation and found that the consumer using the said installation for commercial purpose for selling the water through tractors and thus, the consumer was misused the power from industry to commercial and therefore, raised a demand of Rs.1,23,926/- towards Back Billing Charges on account of misuse of power. The consumer aggrieved by the said demand has filed an appeal before the Appellate

Authority by depositing the 50% of the said demand vide receipt Nos. 043841 and 043842 even dated 01-01-2011. The Appellate Authority after holding enquiry was pleased to pass an order dated: 29-02-2016 in case No.11694-99 holding that 1st Respondent has failed to establish as to the misuse of power and therefore set aside the Back Billing with a direction to revise the bill to an extent of 1 HP, which was excess load.

The 1st Respondent submits that on receipt of the order of the Appellate Authority, the 1st Respondent has forwarded to the Executive Engineer (Ele) on 31-03-2016 for appropriate orders.

The 1st Respondent submits that, when the matter stood thus the Appellant submitted letter dated 20/09/2016, which was received on 23/09/2016 under which the appellant wrongly described in reference no. 2 that letter dated 29/02/2016, which was not submitted by the appellant and on same date one more reminder dated: 20/09/2016 with a request to refund the amount deposited by the appellant, while filing the

appeal before the Revenue Appellate Authority. The 1st Respondent on receipt of the letter dated: 20/09/2016, addressed a letter to the Executive Engineer (Ele) on 23/09/2016 with a request to appropriate approval and sent a detailed reply to appellant on 27/12/2016, intimating that request of the appellant has been forwarded to the competent authority for appropriate orders and on receipt of the same, action will be taken as to set right the ledger account of the appellant's installation.

It is submitted that the Financial Advisor has accorded approval by its communication dated 28/02/2017 and thereafter the 1st Respondent has passed an order adjusting the said deposit amount into the ledger account of the appellant in the month of March 2017 and the same has been communicated to the appellant by its communication dated:15/03/2017 and the said deposited amount has been adjusted towards monthly consumption charges payable by the appellant in respect of the installation bearing RR No. NRDMP 108 from December 2016 to

September 2017 and therefore there is no delay on the part of the 1st Respondent.”

Notices were issued to both the parties vide this office letter No.OMB/H/G-2017/D-948 dated 06-10-2017 to appear before this Authority on 25-10-2017, and put forth their arguments, after exploring the possibilities of settlement by agreement through conciliation and mediation between the licensee and complainant or by passing an Award in accordance with Sub-Regulation 1 Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004.

This case was taken up on 25-10-2017, 17-04-2018, 31-07-2018, 14-08-2018 and finally on 20-08-2018. Representative of Appellant was present. Respondent No.1 AEE along with his Advocate were present. Heard both the parties and examined oral and written submissions made by them.

It is observed that in the CGRF order dated: 31-07-2017 the complaint of the appellant is rejected only on

the ground of non submission of complaint within 30 days from the date of lodging of the grievance with the licensee. Ends of justice would be met if the appeal is disposed of with a direction to CGRF to hear the complainant and pass appropriate order on merits within 60 days, if proper reasons are given by the appellant for the delay and if the CGRF is convinced about the delay and condones the delay.

No.OMB/H/G-288/2017/D-1084

06-09-2018

ORDER

Wherefore, the case is remanded back to the CGRF to hear the complainant and pass appropriate order on merits within 60 days by condoning the delay to meet the ends of justice, if proper reasons are given by the appellant for the delay, and if CGRF is convinced about the genuinity of the same.

Sd/-

(S.S.Pattanashetti)
Electricity Ombudsman.

To:

- 1) M/s. Basavaraj Cotton Pressing Unit
C/o Tushar M.Baddi, "Arihanth Park"

- . Keshwapur,Hubli-580023
- 2) The Assistant Executive Engineer,
O&M Sub-Division, HESCOM,
Nargund,.
 - 3) Sri H.V. Devaraju, No.39, Shop No.24,
Advocate, Mezzanine Floor, A,S,V,N,V,Bhavan
K.G. Road, Bangalore-560 009.
 - 4) The Chairman, CGRF, HESCOM,Hubballi and
Gadag Districts, Hubballi.
 - 5)The Managing Director, Corporate Office,
HESCOM,P.B Road,
Navanagar,Hubli-30
 - 6)PS to Hon'ble Chairman,KERC
 - 7)PS to Hon'ble Member (A),KERC
 - 8)PS to Hon'ble Member(M),KERC
 - 9)PS to Secretary, KERC