

WELCOME TO ONE DAY LEGAL AWARENESS PROGRAM ON 04.12.2023



**By Smt. R. Sharada
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KERC, Bengaluru**

Today's Deliberation on

Legal Challenges arising before CGRF & Ombudsman while conducting cases and remedies Important applicable Laws

- ✓ Electricity Act, 2003 (Central Act)
- ✓ Karnataka Electricity Reform Act, 1999
- ✓ The Electricity (Rights of Consumers), Rules 2020 & Amendments
- ✓ Conditions of Supply of Electricity of Distributions Licensees in the State of Karnataka

Aim of The Electricity Act, 2003

The aim of the Electricity Act, 2003 to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, **protecting interest of consumers and supply of electricity to all areas**, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

SCOPE: - It is Central Act (Central Act No. 36/2003) applicable to whole India.
Enacted on 26.05.2003

Government of India revoked special status or autonomy granted to Jammu & Kashmir on 06.08.2019.

General types of Consumer Grievance

1. SUPPLY –

- (a) No Supply
- (b) Interrupted Supply
- (c) Voltage Variation

2. CONNECTION –

- (a) Delay in Service
- (b) Improper
- (c) Disconnection
- (d) Denial of Service

3. METERING –

- (a) Wrong/No Metering
- (b) Meter Faulty
- (c) Meter Replacement

4. BILLING –

- (a) Excessive Billing
- (b) Provisional Billing
- (c) No Billing
- (d) Subsidy Issues

5. PAYMENT –

- (a) Cash Collection
- (b) Accessibility for Payment (Online)

6. COMPENSATION –

- (a) Denial/Delay in Service Compensation
- (b) Improper Compensation

7. SERVICE (CGRF/OMBUDSMAN ROLE) –

- (a) Complaint handling
- (b) responsiveness to consumers' requests

Consumer Rights

- Right to consumer education
- Right to be informed
- Right to be heard
- Right to Seek redressal
- Right to choose
- Right to Data Privacy
- Right to safety

PART VI
DISTRIBUTION OF ELECTRICITY
Provisions with respect to distribution licensee

SECTION 42. (DUTIES OF DISTRIBUTION LICENSEE AND OPEN ACCESS): ---

(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(5) Every distribution licensee shall, within **six months** from the appointed date or date of grant of licence, whichever is earlier, **establish a forum for redressal of grievances of the consumers** in accordance with the guidelines as may be specified by the State Commission.

(6) **Any consumer**, who is aggrieved by **non-redressal of his grievances** under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as **Ombudsman** to be appointed or designated by the State Commission.

(7) The Ombudsman **shall settle** the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

KARNATAKA ELECTRICITY REGULATORY COMMISSION (CONSUMER GRIEVANCE REDRESSAL FORUM AND OMBUDSMAN) REGULATIONS, 2004

Regulation 2(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.

Regulation 2(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 work of a Licensee.

Regulation 4 – Jurisdiction of the Forum

- 4.1 The headquarters of the Forum shall be as specified by the Licensee.
- 4.2 The Forum shall have sittings at the headquarters and/or at any other place in the Licensees' area as may be decided by the Chairperson depending upon the number of grievances and area of operation.
- 4.3 The Forum shall meet at least once in a fortnight.

Regulation 5 - The obligations of Licensee

- 5.1 The Licensee shall notify details such as names of the Forum members, its officials, their address, telephone numbers etc., often in the media.
- 5.2 Making available copies of the procedure for lodging the complaints to the complainants free of costs.
- 5.3 Bills issued by the Licensee to the Consumers shall contain the address of the CGRF and also Ombudsman.

Regulation 6 – Procedure for Grievance Redressal and lodging complaints

- 6.1 In the event of a Complaint not being redressed satisfactorily, the consumer shall submit his grievance to the Forum not later than three months from the date on which his grievance should have been redressed.
The delay may be condoned if sufficient cause is shown.
- 6.2 Grievance shall be lodged in writing and shall be in Form 'A' enclosed to this Regulation.
- 6.3 Additional Information or documents could be called from either of the parties.
- 6.4 Interim orders could be passed.
- 6.5 Shall see natural justice in conducting procedure.

Regulation 7 – Procedure on admission of Complaint

- 7.1 Copy of the complaint shall be forwarded to the Licensee within 3 working days.
- 7.2 Licensee shall furnish parawise comments within 15 days of the intimation from the Forum.
In failing to furnish comments Forum shall proceed on the basis of material available on record.
- 7.3 Forum shall notify in writing the parties of the date of hearing of the grievance, giving sufficient advance notice.
- 7.4 After admission, the Forum shall cause a notice of hearing, and pass orders within maximum period of 60 days from the date of admission.
- 7.5 In case of default in appearance of the parties, the Forum shall pass an order on the basis of the material available on record.
- 7.6 Forum can call for any information/particulars or take evidence either oral or documentary from either of the parties.
- 7.7 The decision of the Forum shall be recorded in writing and communicated to the Complainant and the Licensee for compliance.

Regulation 8 – Proceedings of the Forum

8.1 Shall be conducted in public.

8.2 Shall be conducted by the Chairperson in the presence of the members, the quorum being two.

In the absence of the Chairperson, the member representing the Licensee shall preside over the Forum.

8.3 Order shall be signed by its Chairperson and the Members conducting the proceedings, in case of difference of opinion among the members on any point or points the decision of the majority shall prevail.

Regulation 9 – Findings of the Forum

- 9.1 If after the completion of the proceedings, the Forum is satisfied that any of the allegations contained in the Complaint is true, it shall issue an order to the Licensee directing it (a) redress the grievance of the Complainant (b) to pay such amount as may be awarded as costs to the Consumer.
- 9.2 Certified copy of every order rendered by the Forum shall be delivered to the parties.
- 9.3 Any Complainant aggrieved by the order may make representation against such order to the Ombudsman within a period of 30 days from the date of receipt of the order.

Regulation 10 – Monitoring by the Forum

- 10.1 Shall maintain a record of Complainant grievances reported to it and the results thereof.
- 10.2 Shall furnish quarterly report on the number of complaints received, redressed and pending to the Licensee within one month of the end of the quarter.
A copy of report shall be forwarded to the Ombudsman and the Commission.
- 10.3 The Commission may publish the report in such form and manner as it may deem fit.

GENERAL QUESTIONS

- The requirement of notice and its service?**

Regulation 7 of KERC (CGRF & Ombudsman) Regulations, 2004

- How many sittings shall be held by the CGRF per month?**

Regulation 4.3 of KERC (CGRF & Ombudsman) Regulations, 2004

- Appearance of the Advocates before CGRFs.**

- Recording of evidence wherever necessary?**

Regulation 7.6 of KERC (CGRF & Ombudsman) Regulations, 2004

- Quality of orders.**

- Whether dates are being fixed by CGRFs for pronouncement of Orders?**

(60 days) Regulation 7.4 of KERC (CGRF & Ombudsman) Regulations, 2004

Reasons or justification given by CGRF while passing final adjudications

Periodical inspections of meters by the Assessing Officers.

Clause 19.00 & 26.02 of CoS

Procedure to draw Mahajar.

Liability of new occupier to pay arrears of previous owner.

K.C. Ninan Vs Kerala State Electricity Board & Others, SC in Civil Appeal No. 2109-2110 of 2004 judgement dated 19.05.2023.

Programs for public awareness conducted & Legal camps held.

Section 152 of Electricity Act, 2003 (Compounding offences)

Amount utilized and submission of report.

JUDGEMENT FORMAT

- ❑ Cause Title.
- ❑ Mention the provisions under which the Complaint/Petition is filed.
- ❑ Gist of the Complaint/Petition.
- ❑ Issuance of notice, service on the parties, appearance of the parties either themselves or through Representatives.
- ❑ Receipt or non-receipt of statement of objections from the Respondents.
- ❑ Any rejoinder or reply filed by the parties.
- ❑ Submission of arguments on merits by the parties.
- ❑ Furnishing of documents by the parties.

- ❑ Framing of points in dispute/issues.
- ❑ Answers to the points/issues as decided by the Forum.
- ❑ Reasons assigned to reach final conclusion.
- ❑ Operative portion.
- ❑ Date and Signatures.
- ❑ Giving information to the parties by way of furnishing a copy of the judgement/final orders.
- ❑ To bring to the knowledge of the parties about preferring appeal.

CAUSE TITLE

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM

(ADDRESS TO BE FILLED)

PRESENT: CHAIRPERSON

MEMBER 1

MEMBER 2

CASE NO.

DATED:

In the matter of

Name and Address of the Complainant

Represented by:

Name and Address of Representative or
Advocate

-

Complainant

Vs

The Assistant Executive Engineer (Ele),
(Address)

-

Respondent

**Mention the provisions under which the
Complaint/Petition is filed**

Gist of the Complaint/Petition

**Issuance of notice, service on the parties, appearance
of the parties either themselves or through
Representatives.**

**Receipt or non-receipt of statement of objections from
the Respondents**

Gist of Objections

Submission of arguments on merits by the parties

Heard the arguments, perused the records.

(If any of the parties submit written arguments, mention it).

Framing of points in dispute/issues.

AT THIS STAGE THE BELOW MENTIONED POINTS AROSE FOR MY CONSIDERATION.

a) Point No. 1: - Whether the order passed by ----- is capricious, perverted and not sustainable under law, thereby the interference of this Authority is needed.

b) Point No. 2: - What Order?

Answers to the points/issues as decided by the Forum

AS PER THE DISCUSSIONS MADE HEREIN AFTER MY ANSWERS TO THE ABOVE POINTS ARE AS BELOW: -

- a) In Negative/Affirmative.
- b) As per final order for the reasons stated below.

Reasons assigned to reach final conclusion

Operative portion

Date and Signatures.

Giving information to the parties by way of furnishing a copy of the judgement/final orders

28) POINT NO. 2: - As per the discussions made herein above in Point No. 1, I proceed to pass the following order: -

ORDER

File Number

Dated:

Operative Portion.

Sd/-
Member

Sd/-
Chairperson

Sd/-
Member

ಪ್ರಕರಣ ಸಂಖ್ಯೆ : - OMB/M/G-486/2023

ದೂರುದಾರ/ಅಪೀಲುದಾರರು : - ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರ ಸ್ವಾಮಿ

ಎದುರುದಾರರು: - ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್ (ವಿ), ಮೆಸ್ಕಾಂ

ಪ್ರಶ್ನಿತ ಆದೇಶ: -

ಸ್ಥಾವರ ಸಂಖ್ಯೆ 21498ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪ್ರತಿವಾದಿಗಳು ದಿನಾಂಕ 06.03.2019ರಲ್ಲಿ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿ, ಅವರ ಹೆಸರಿಗೆ ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಿರುವುದನ್ನು ರದ್ದುಗೊಳಿಸಿ ದಿವಂಗತ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರ ಕಾನೂನು ಬದ್ಧ ವಾರಸುದಾರರಾದ ಶ್ರೀಮತಿ ಬಿ.ಎಸ್. ನಾಗವೇಣೀರವರ ಹೆಸರಿಗೆ ನಿಯಮಾನುಸಾರ ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಲು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಪ್ರತಿವಾದಿಗಳಿಗೆ ಆದೇಶಿಸಿದೆ.

ಅಪೀಲಿನ ಸಾರಾಂಶ: -

ಎಲ್ ಮುರುಗೇಶಪ್ಪ ಬಿನ್ ಸಿದ್ದರಾಮಪ್ಪ ಎನ್ನುವವರು ತಮಗೆ ಸೇರಿದ ವಿದ್ಯುತ್ ಸ್ಥಾವರ ಸಂಖ್ಯೆ 21498 ಹಾಗೂ ಈ ಸ್ಥಾವರ ಇರುವ ಜಾಗವನ್ನು ನೋಂದಣಿ ಕ್ರಯಪತ್ರದ ಮೂಲಕ ದಿನಾಂಕ 10.01.1994ರಂದು ಮೇ| ಮಣಿ ಅಂಡ್ ಕೋ ಕಂಪನಿಗೆ ಮಾರಾಟ ಮಾಡಿರುತ್ತಾರೆ. ಈ ಕಂಪನಿಯ ಪಾಲುದಾರರು ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರ, ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿ, ಹಾಗೂ ಬಿ.ಎಲ್. ಶ್ರೀಲಕ್ಷ್ಮೀರವರಾಗಿದ್ದರು. ಮಾರಾಟದ ನಂತರ ಎಸ್. ಮುರುಗೇಶಪ್ಪನವರು ವಿದ್ಯುತ್ ಸ್ಥಾವರವನ್ನು ಪಾಲುದಾರರಾದ ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರ ಹೆಸರಿಗೆ ಬದಲಾವಣೆ ಮಾಡಿಸಿರುತ್ತಾರೆ.

ದಿನಾಂಕ 20.03.1991ರಂದು ಮೇ| ಮಣಿ ಅಂಡ್ ಕೋ ಕಂಪನಿಯ ಪಾಲುದಾರಿಕೆ ಪತ್ರ ನೋಂದಣೆ ಆಗಿರುತ್ತದೆ. ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರು ಮೃತಪಟ್ಟ ನಂತರ ಮತ್ತೊಬ್ಬ ಪಾಲುದಾರರಾದ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರ ಹೆಸರಿಗೆ ದಿನಾಂಕ 06.03.2019ರಂದು ವಿದ್ಯುತ್ ಸ್ಥಾವರ ಬದಲಾವಣೆ ಆಗಿರುತ್ತದೆ. ಈ ರೀತಿ ಇದ್ದಂತಹ ವೇಳೆಯಲ್ಲಿ ಮೃತ ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರ ಪತ್ನಿ ಶ್ರೀಮತಿ ನಾಗವೇಣಿರವರು ಎಲ್ಲಾ ವಿಷಯಗಳನ್ನು ಮರೆಮಾಚಿ ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆಯವರಿಂದ ಆದೇಶವನ್ನು ಪಡೆದು ಆ ಮೂಲಕ ತಮ್ಮ ಹೆಸರಿಗೆ ವಿದ್ಯುತ್ ಸ್ಥಾವರವನ್ನು ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ, ಅಪೀಲು ಸಲ್ಲಿಸಿದೆ.

ಎದುರುದಾರರ ಸಮಜಾಯಿಶಿ (ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್ (ವಿ) ಹಾಗೂ ಶ್ರೀಮತಿ ನಾಗವೇಣಿ): -

ಶ್ರೀಮತಿ ನಾಗವೇಣಿರವರ ಹೆಸರಿಗೆ ಸ್ಥಾವರ ಸಂಖ್ಯೆ ಬದಲಾವಣೆ ಆಗುವಷ್ಟರಲ್ಲಿ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಪಾಲುದಾರಿಕೆಯಿಂದ ನಿವೃತ್ತಿ ಹೊಂದಿದ್ದರೆಂದು, ದಿನಾಂಕ 01.04.2013ರಲ್ಲಿಯೇ ಪಾಲುದಾರಿಕೆ ಪುನರ್ಚನೆ ಆಗಿದ್ದು ಸದರಿ ಪತ್ರಕ್ಕೆ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಸಹ ಸಹಿ ಮಾಡಿ ಪಾಲುದಾರಿಕೆಯಿಂದ ಹೊರ ಬಂದಿದ್ದರೆಂದು, ಹೊಸದಾಗಿ ಮಾಡಿದ ಪಾಲುದಾರಿಕೆ ಪತ್ರದ ಸಿಂಧುತ್ವವನ್ನು ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಯಾವುದೇ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಪ್ರಶ್ನಿಸಿಲ್ಲ ಎಂದು, ಹೊಸ ಪಾಲುದಾರಿಕೆ ಸಂಸ್ಥೆಯಲ್ಲಿ ಶ್ರೀಮತಿ ಬಿ.ಎಸ್. ನಾಗವೇಣಿ, ಶ್ರೀ ಬಿ.ಎಸ್. ನಾರಾಯಣ ಹಾಗೂ ಕವಿತಾ ಸಂತೋಷ್ ಎನ್ನುವವರು ಪಾಲುದಾರರಾಗಿತ್ತಾರೆಂದು, ಅಷ್ಟೇ ಅಲ್ಲದೇ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿ ಎನ್ನುವವರು ತಮ್ಮ ಹೆಸರಿಗೆ ವಿದ್ಯುತ್ ಸ್ಥಾವರ ಸಂಖ್ಯೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಡುವಂತೆ ಕೋರಿ ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಯ ದಿನಾಂಕದಂದು ಅವರು ಪಾಲುದಾರರು ಆಗಿರಲೇ ಇಲ್ಲವೆಂದು, ಹೀಗಿದ್ದರೂ ಸಹ ದಿನಾಂಕ 06.03.2019ರಂದು ಮೋಸದಿಂದ ವಿದ್ಯುತ್ ಸ್ಥಾವರ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಶ್ರೀಮತಿ ನಾಗವೇಣಿರವರ ಹೆಸರಿಗೆ ವಿದ್ಯುತ್ ಸ್ಥಾವರ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಶ್ರೀಮತಿ

ಎದುರುದಾರರ ಸಮಜಾಯಿತಿ (ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆ): -

ದಿನಾಂಕ 01.10.2021ರಂದು ಶ್ರೀಮತಿ ಬಿ.ಎಸ್. ನಾಗವೇಣಿರವರು ತಮ್ಮ ದಿವಂಗತ ಪತಿ ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರ ಹೆಸರಲ್ಲಿದ್ದ ಸ್ವಾಮಿ ಸಂಖ್ಯೆ 21498ನ್ನು ತಮ್ಮ ಹೆಸರಿಗೆ ತಪ್ಪು ಮಾಹಿತಿ ನೀಡಿ ದಾಖಲೆಗಳನ್ನು ಮರೆಮಾಚಿ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆಂದು ಆರೋಪಿಸಿ ತಮ್ಮ ಮುಂದೆ ದೂರು ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ ತಾವು ಉಭಯಪಕ್ಷಕಾರರ ಹೇಳಿಕೆಗಳನ್ನು ಪಡೆದು ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿರುತ್ತೇವೆಂದು, ಆ ಸಮಯದಲ್ಲಿ ದಿನಾಂಕ 13.02.2019 ರಂದು ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ತಮ್ಮ ಜೊತೆ ಪಾಲುದಾರರಾಗಿದ್ದ ಶ್ರೀ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರರವರ ದಿನಾಂಕ 16.11.2018ರಂದು ಮೃತ ಪಟ್ಟರೆಂದು ಮರಣ ಧೃಡೀಕರಣ ಪ್ರಮಾಣ ಪತ್ರ ಸಲ್ಲಿಸಿ ಖಾತೆ ಬದಲಾವಣೆಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ತದನಂತರ ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್‌ರವರು ಸುಮಾರು 21 ದಿನಗಳ ಕಾಲ ಕಾದು ನೋಡಿ, ಸ್ಥಳ ಪರಿಶೀಲಿಸಿ ಯಾವುದೇ ಆಕ್ಷೇಪಣೆ ಬರದೆ ಇದ್ದ ಕಾರಣ ದಿನಾಂಕ 06.03.2019ರಂದು ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಿರುತ್ತಾರೆಂದು, ಇದಾದ ಆರು ತಿಂಗಳ ನಂತರ ದಿನಾಂಕ 06.09.2019ರಂದು ಶ್ರೀಮತಿ ಬಿ.ಎಸ್. ನಾಗವೇಣಿರವರು ತಮ್ಮ ಪತಿಯ ನಿಧನದ ನಂತರ ತಾವು ಅಮೆರಿಕಾದಲ್ಲಿ ಮಗಳ ಮನೆಯಲ್ಲಿ ಇದ್ದಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಮೋಸದಿಂದ ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿದ್ದರೆಂದು, ಆದ್ದರಿಂದ ತಮ್ಮ ಹೆಸರಿಗೆ ಖಾತೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಡಬೇಕೆಂದು ಕೋರಿಕೊಂಡಿದ್ದೇ ಅಲ್ಲದೇ ದಿನಾಂಕ 01.04.2013ರಲ್ಲಿ ಹೊಸದಾಗಿ ನೋದಾಯಿಸಲ್ಪಟ್ಟ ಪಾಲುದಾರಿಕೆ ಹಕ್ಕು ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿದ್ದರೆಂದು, ಸದರಿ ಪಾಲುದಾರಿಕೆ ಹಕ್ಕು ಪತ್ರದಲ್ಲಿ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಸಾಕ್ಷಿ ಸಹಿ ಹಾಕಿದ್ದೇ ಅಲ್ಲದೇ ಪಾಲುದಾರಿಕೆಯಿಂದ ಹೊರಬಂದಿದ್ದರೆಂದೂ, ಈ ಎಲ್ಲಾ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ತಾವು ಪ್ರಶ್ನಿತ ಆದೇಶ ಹೊರಡಿಸಿ ಆ ಮೂಲಕ ಸ್ವಾಮಿ ಸಂಖ್ಯೆ 21498ನ್ನು ಶ್ರೀಮತಿ ನಾಗವೇಣಿರವರ ಹೆಸರಿಗೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಡಲು ಆದೇಶ ಹೊರಡಿಸಿದ್ದೇವೆಂದು, ತಮ್ಮ ಮುಂದೆ ಇದ ಪಕ್ಕದಲ್ಲೇ ಶ್ರೀ ಬಿ.ಎಸ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಪಕ್ಕದಲ್ಲೇ ಇದ್ದಿರಬೇಕೆಂದು ದಾಖಲೆಗಳನ್ನು

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಅವಲೋಕನೆ ಹಾಗೂ ಆದೇಶ: -

- ❑ ಬಿ.ಎಸ್. ಶಾಂತಕುಮಾರವರು ಜಿವಂತ ಇರುವವರೆಗೆ ಸ್ಥಾವರ ಸಂಖ್ಯೆ 21498ರ ಖಾತೆ ಬದಲಾವಣೆ ಆಗಿದ್ದ ವಿಚಾರದಲ್ಲಿ ಯಾವುದೇ ವಿವಾದವು ಪಾಲುದಾರಿಕೆ ಸಂಸ್ಥೆಯ ಇತರೇ ಪಾಲುದಾರರಲ್ಲಿ ಉದ್ಭವಿಸಿರುವುದಿಲ್ಲ.
- ❑ ದಿನಾಂಕ 01.04.2013ರಲ್ಲಿಯೇ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ನೋಂದಣಿ ಪಾಲುದಾರಿಕೆ ಪತ್ರದ ಮೂಲಕ ಪಾಲುದಾರಿಕೆ ಸಂಸ್ಥೆಯಿಂದ ಬಿಡುಗಡೆ ಹೊಂದಿರುತ್ತಾರೆಂದು, ಶ್ರೀಮತಿ ನಾಗವೇಣಿರವರು ನುಡಿದಿದ್ದನ್ನು ಅಪೀಲುದಾರರಾದ ಕುಮಾರಸ್ವಾಮಿರವರು ಒಪ್ಪಿಲ್ಲ.
- ❑ ದಾವೆ ಸಂಖ್ಯೆ 208/2019ರಲ್ಲಿನ ವಾದ ಪತ್ರ ಹಾಗೂ ಪ್ರತಿವಾದ ಪತ್ರಗಳನ್ನು ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರು ಮೇ| ಮಣಿ ಅಂಡ್ ಕೋ ಪಾಲುದಾರಿಕೆ ಸಂಸ್ಥೆಯ ವಹಿವಾಟು ಹಾಗೂ ಲಾಭಗಳಲ್ಲಿ ತಮಗೂ ಸಹ ಪಾಲು ಬರಬೇಕೆಂದು (D-Schedule Item No. 2) ಕೋರಿರುತ್ತಾರೆ.
- ❑ ಪಿ.ಸಿ.ಆರ್. 107/2020ರಲ್ಲಿನ ಶ್ರೀಮತಿ ನಾಗವೇಣಿ ಹಾಗೂ ಇತರೇ ಮೂರು ಜನರ ವಿರುದ್ಧ ಕುಮಾರಸ್ವಾಮಿರವರು IPC ಕಲಂ 406, 417, 465, 468, 469 r/w 34 ಅಡಿಯಲ್ಲಿ ಕ್ರಿಮಿನಲ್ ಪ್ರಕರಣವನ್ನು ಹೂಡಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ. ಈ ಮೇಲಿನ ಎರಡೂ ಸಿವಿಲ್ ಹಾಗೂ ಕ್ರಿಮಿನಲ್ ಪ್ರಕರಣಗಳು ಅಂತಿಮ ತೀರ್ಮಾನಗೊಳ್ಳದೇ ವಿಚಾರಣಾ ಹಂತದಲ್ಲಿಯೇ ಬಾಕಿ ಇರುತ್ತವೆ. ಈ ಎರಡೂ ಪ್ರಕರಣಗಳಲ್ಲಿ ಎರಡನೇ ಪ್ರತಿವಾದಿ ಆಧರಿಸಿರುವ ದಿನಾಂಕ 01.04.2013 ಹಾಗೂ 03.09.2019ರ ನೋಂದಣಿ ಪಾಲುದಾರಿಕೆ ಪತ್ರಗಳ ಸಿಂಧುತ್ವವನ್ನು ಅಪೀಲುದಾರರು ಪ್ರಶ್ನಿಸಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ.
- ❑ ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆಯು ಕುಮಾರಸ್ವಾಮಿರವರಿಗೆ ತಮ್ಮ ಆಕ್ಷೇಪಣೆ ವ್ಯಕ್ತ

□ CGRFರವರು ಅಂತಿಮ ಆದೇಶದ ವಿರುದ್ಧ Ombudsman, ಬೆಂಗಳೂರು ಇವರಿಗೆ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಬಹುದು ಎಂಬ ಹಿಂಬರಹವನ್ನು ದಿನಾಂಕ 28.04.2022ರಂದು ಕುಮಾರಸ್ವಾಮಿರವರಿಗೆ ನೀಡಿರುತ್ತಾರೆ.

□ AIR 1994 Supreme Court 39 ಪ್ರಕರಣದಲ್ಲಿ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ ಈ ಕೆಳಕಂಡಂತೆ ಅವಲೋಕಿಸಿರುತ್ತದೆ: -

“5. It is well settled that no adverse orders can be passed against a party without giving it opportunity to place its case on this very ground the Writ Petition was allowed in part by the Learned Single Judge. Applying the same principle to the letters Patent Appeal it was necessary for the Division Bench to have issued notice to the Appellant and given it an opportunity to contest the appeal before proceeding to finally dispose it off. Since this has not been done, we set aside the impugned judgement and remit the letters Patent Appeal for fresh decision by the Division Bench.”

□ ಅದೇ ರೀತಿ AIR 1997 Rajasthan 15ರಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾವು ಈ ಕೆಳಕಂಡಂತೆ ಅವಲೋಕಿಸಿರುತ್ತದೆ: -

“Constitution of India, Article 14 – Natural Justice – Allotment of Land to Petitioner, Ex-Jagir – Exchange of land on application by Petitioner – Cancellation of exchange by Government – Opportunity to show cause not given to Petitioner – Order of

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಆದೇಶ: -

- ಅಪೀಲನ್ನು ಪುರಸ್ಕರಿಸಲಾಗಿದೆ.
- ಪ್ರಕರಣ ಸಂಖ್ಯೆ: 25/2021, ಆದೇಶ ಸಂಖ್ಯೆ: ಮೂರನೇ ಮವಿಸಾಕಂ/ಗ್ರಾಕುಂಕೊನಿವೇ/25/10747-53ರಲ್ಲಿ ಮೂರನೇ ಪ್ರತಿವಾದಿಯು/ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆರವರು ದಿನಾಂಕ 22.12.2021 ರಂದು ಮಾಡಿರುವ ಆದೇಶವನ್ನು ತಳ್ಳಿಹಾಕಲಾಗಿದೆ ತತ್ಪರಿಣಾಮವಾಗಿ ಪ್ರಕರಣ ಸಂಖ್ಯೆ 25/2021ನ್ನು ಮೂರನೇ ಪ್ರತಿವಾದಿ/ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆರವರಿಗೆ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ವಾಪಸ್ಸು (Remand) ಮಾಡಲಾಗಿದೆ.
- ಈ ಆದೇಶದ ಪ್ರತಿಯನ್ನು ಪಡೆದ ನಂತರ ಮೂರನೇ ಪ್ರತಿವಾದಿ/ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆರವರು ಪ್ರಕರಣವನ್ನು ಪುನಃ ಹೊಸದಾಗಿ ಕೈಗೆತ್ತಿಕೊಂಡು ಅಪೀಲುದಾರ ಶ್ರೀ ಬಿ.ಎಲ್. ಕುಮಾರಸ್ವಾಮಿರವರನ್ನು ಸೂಕ್ತ ಪಕ್ಷಕಾರರನ್ನಾಗಿಸಲು ಬೇಕಾದ ಕ್ರಮವನ್ನು ತೆಗೆದುಕೊಂಡು, ಸದರಿಯವರಿಗೆ ತಮ್ಮ ಹೇಳಿಕೆ ಹಾಗೂ ಸಾಕ್ಷ್ಯವನ್ನು ಒದಗಿಸಲು ಸೂಕ್ತ ಕಾಲಾವಕಾಶವನ್ನು ನೀಡುವಂತೆ ಆದೇಶಿಸಿಸಲಾಗಿದೆ.
- ತದನಂತರ ಉಭಯಪಕ್ಷಕಾರರಿಗೆ ತಮ್ಮ-ತಮ್ಮ ಕೇಸನ್ನು ಪ್ರತಿಪಾದಿಸಲು ಸಮಾನ

ಪ್ರಕರಣ ಸಂಖ್ಯೆ : - OMB/M/G-478/2022

ದೂರುದಾರ/ಅಪೀಲುದಾರರು : - ಶ್ರೀ ಗಣೇಶ್ ರಾವ್

ಎದುರುದಾರರು: - ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್ (ವಿ), ಮೆಸ್ಕಾಂ

ಅಪೀಲಿನ ಸಾರಾಂಶ: -

ಫೆಬ್ರವರಿ 2013ರ ಸಾಲಿನಲ್ಲಿ ಸ್ಥಾವರ ಸಂಖ್ಯೆ KUL-4603 ಇರುವ ಕಟ್ಟಡವನ್ನು ಅಪೀಲುದಾರರು ನೋಂದಣಿ ಕ್ರಯ ಪತ್ರದ ಮೂಲಕ ಖರೀದಿಸಿದ್ದು, ದಿನಾಂಕ 25.09.2014ರಲ್ಲಿ ಸ್ಥಾವರವನ್ನು ಅಪೀಲುದಾರರ ಹೆಸರಿಗೆ ಬದಲಾವಣೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಸದರಿ ಕಟ್ಟಡವು ವಾಸಕ್ಕೆ ಯೋಗ್ಯವಿಲ್ಲದ ಕಾರಣ ಅಪೀಲುದಾರರು ತಮ್ಮ ಕುಟುಂಬದೊಂದಿಗೆ 2015ರವರೆಗೂ ತಮ್ಮ ತಂದೆಯ ಮನೆಯಲ್ಲಿ ವಾಸವಿದ್ದು, ಜನವರಿ 2015ರಲ್ಲಿ ಖರೀದಿ ಮಾಡಿದ ಕಟ್ಟಡದ ದುರಸ್ತಿ ಮಾಡಿ ಗೃಹ ಪ್ರವೇಶ ನೆರವೇರಿಸಿರುತ್ತಾರೆಂದು, 2018ರ ಸಾಲಿನಲ್ಲಿ ಪ್ರವಾಹ ಬಂದ ಕಾರಣ ಅಪೀಲುದಾರರ ಮನೆಯು ನೀರಿನಿಂದ ಆವೃತಗೊಂಡು ಮನೆಯಲ್ಲಿದ್ದ ಎಲ್ಲಾ ದಾಖಲೆಯು ಕಳೆದು ಹೋಗಿತ್ತೆಂದು, ಈ ರೀತಿ ಇರುವಾಗ್ಯೇ ಒಂದನೇ ಎದುರುದಾರರು ಸ್ಥಾವರಕ್ಕೆ ಬೇಟಿ ಕೊಟ್ಟು ದಿನಾಂಕ 06.04.2013ರಿಂದ ದಿನಾಂಕ 19.11.2014ರವರೆಗೆ ಎಮ್. ಎನ್. ಆರ್ ಆಗಿತ್ತು ಎಂದು ರೂ. 84,209/- ಗಳನ್ನು ಪಾವತಿ ಮಾಡುವಂತೆ ತಿಳಿಸಿ ನೋಟೀಸು ಕೊಟ್ಟಿರುತ್ತಾರೆಂದು, ಈ ಬಗ್ಗೆ ಸಂಬಂಧಪಟ್ಟ ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆಗೆ ದೂರು ಸಲ್ಲಿಸಿದ್ದರೂ ಕೂಡ ವ್ಯಾಜ್ಯಾಂಶಗಳನ್ನು ಪರಿಶೀಲನೆ ಮಾಡದೇ ಆದೇಶ ಹೊರಡಿಸಿರುತ್ತಾರೆಂದು ಆದ ರಿಂದ ಅಪೀಲು

ಎದುರುದಾರರ ಸಮಜಾಯಿತಿ

ಆಂತರಿಕ ಪರಿಶೋಧನಾ ಲೆಕ್ಕಾಧಿಕಾರಿಗಳು ವಿಶೇಷ ತನಿಖಾ ಸಂದರ್ಭದಲ್ಲಿ ಸ್ಥಾವರ ಸಂಖ್ಯೆ KUL-4603 ಮಾಪಕವು ದಾಖಲಾಗುತ್ತಿಲ್ಲ ಎಂದು ಮನಗಂಡು ದಿನಾಂಕ 06.04.2013ರಿಂದ ದಿನಾಂಕ 19.11.2014ರವರೆಗಿನ ಸರಾಸರಿ ಆಧಾರದಲ್ಲಿ ಬಿಲ್ ನೀಡಿರುವುದು ಕ್ರಮಬದ್ಧವಾಗಿರುವುದಿಲ್ಲವೆಂದು ಮನಗಂಡು, ರೂ. 84,209/-ರಷ್ಟು ಕಂದಾಯ ಕಡಿಮೆ ಬೇಡಿಕೆ ಮಾಡಿರುವುದಾಗಿ ವರದಿ ನೀಡಿರುತ್ತಾರೆಂದು, ಇದರಆಧಾರದ ಮೇರೆಗೆ ದಿನಾಂಕ 05.10.2020ರಂದು ಅಪೀಲುದಾರರಿಗೆ ನೋಟೀಸು ಕೊಟ್ಟೆವೆಂದು ಅದಕ್ಕೆ ಅಪೀಲುದಾರರು ಆಕ್ಷೇಪಣೆ ವ್ಯಕ್ತಪಡಿಸಿದ್ದರೆಂದು, ಅದಕ್ಕಾಗಿ ತಾವು Consumer History Statement ಹಾಗೂ ಮಾಪಕಗಳನ್ನು ಕಳಚಿದ ಮತ್ತು ಪುನರ್ಜೋಡಣೆ ಮಾಡಿದ ನೋಂದಣಿ ಪುಸ್ತಕಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ದಿನಾಂಕ 20.03.2021ರಂದು ಆದೇಶ ಹೊರಡಿಸಿದ್ದೆವೆಂದು, ಸದರಿ ಆದೇಶದ ಪ್ರಕಾರ ರೂ. 84,209/- ಹಣವನ್ನು ಗ್ರಾಹಕರು ಪಾವತಿಸಬೇಕೆಂದು, ಇದೇ ರೀತಿ ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆರವರು ಸಹ ಆದೇಶ ಹೊರಡಿಸಿರುತ್ತಾರೆ ಎಂದಾಗಿರುತ್ತದೆ.

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಅವಲೋಕನೆ ಹಾಗೂ ಆದೇಶ: -

- 2013ರ ಸಾಲಿನಲ್ಲಿ ಅಪೀಲುದಾರರ ಸ್ಥಾವರ ಸಂಖ್ಯೆ KUL-4603 ಇರುವ ಮನೆಯನ್ನು ನೋಂದಣಿ ಕ್ರಯಕ್ಕೆ ಪಡೆದು ದಿನಾಂಕ 25.09.2014ರಂದು ಅಪೀಲುದಾರರ ಹೆಸರಿಗೆ ಬದಲಾವಣೆ ಆಗಿರುವುದರಲ್ಲಿ ವಿವಾದ ಇಲ್ಲ.
- 2013ರಲ್ಲಿ ಮನೆಯನ್ನು ಖರೀದಿ ಮಾಡಿದ ಸಂದರ್ಭದಲ್ಲಿ ಸದರಿ ಮನೆ ವಾಸಕ್ಕೆ ಯೋಗ್ಯ ಇಲ್ಲದೆ ಇರುವುದರಿಂದ ಅಪೀಲುದಾರರು ತಮ್ಮ ತಂದೆಯ ಮನೆಯಲ್ಲಿ ವಾಸವಿದ್ದು 2015ರ ಸಾಲಿನಲ್ಲಿ ದುರಸ್ತಿ ಮಾಡಿ ಅಲ್ಲಿಂದ ಸದರಿ ಮನೆಯಲ್ಲಿ ವಾಸ ಇರುತ್ತಾರೆ ಎನ್ನುವುದರಲ್ಲೂ ವಿವಾದ ಇಲ್ಲ.
- ಮನೆಯನ್ನು ಖರೀದಿ ಮಾಡಿದ ಸಮಯದಿಂದಲೂ ಒಂದನೇ ಎದುರುದಾರರು ಕಾಲಕಾಲಕ್ಕೂ ಕೇಂದ್ರಿಸಿದ ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ವೇದಿಕೆಯ ಅಪೀಲುದಾರರು ಪಾವತಿಸಿ ತನ್ನದಾಗಿಸಿದರು

- 2018ರ ಸಾಲಿನಲ್ಲಿ ಅಪೀಲುದಾರರ ಸ್ಥಾವರ ಸಂಖ್ಯೆ KUL-4603 ಇರುವ ಮನೆಯು ಪ್ರಕೃತಿ ವಿಕೋಪಕ್ಕೆ ಒಳಗಾಗಿದ್ದು ಪ್ರವಾಹದಲ್ಲಿ ಮುಳುಗಿತ್ತು ಎನ್ನುವುದು ಹಾಗೂ ಹೊಸಬೆಟ್ಟು ಗ್ರಾಮ ಪಂಚಾಯಿತಿಯಿಂದ ಅಪೀಲುದಾರರಿಗೆ ಪರಿಹಾರದ ಹಣ ದಿನಾಂಕ 31.08.2018ರಲ್ಲಿ ನೀಡಿರುತ್ತಾರೆ ಎನ್ನುವುದರಲ್ಲೂ ವಿವಾದವಿಲ್ಲ, ಏಕೆಂದರೆ ಈ ಮೇಲಿನ ಯಾವುದೇ ಅಂಶಗಳನ್ನು ಒಂದನೇ ಎದುರುದಾರರು ಅಲ್ಲಗಳೆದಿಲ್ಲ.
- ಒಂದನೇ ಎದುರುದಾರರು ಹಾಜರು ಪಡಿಸಿದ Consumer History Statement ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ "Read Status" Columnನಲ್ಲಿ ಏಪ್ರಿಲ್ 2013ರಿಂದ ಸೆಪ್ಟೆಂಬರ್ 2013ರವರೆಗೆ ಏನನ್ನೂ ನಮೂದು ಮಾಡದೇ ಖಾಲಿ ಬಿಟ್ಟಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ. ಅದೇ ರೀತಿ ಅಕ್ಟೋಬರ್ 2013 ಹಾಗೂ ನವೆಂಬರ್ 2013 ತಿಂಗಳುಗಳ ಮಾಪನ ನಮೂದಾಗಿರುವುದಿಲ್ಲ.
- ತದನಂತರ ಡಿಸೆಂಬರ್ 2013ರಿಂದ ಏಪ್ರಿಲ್ 2014ರವರೆಗೆ "Read Status"ನ್ನು "Normal" ಎಂಬುದಾಗಿ, ಅದಾದ ಮೇಲೆ ಮೇ 2014ರಿಂದ ನವೆಂಬರ್ 2014ರವರೆಗೆ "Read Status"ನ್ನು "MNR" ಎಂಬುದಾಗಿ ನಮೂದು ಮಾಡಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ.
- ದಿನಾಂಕ 25.05.2018ರಂದು ವಿಶೇಷ ತನಿಖಾ ಸಂದರ್ಭದಲ್ಲಿ ಆಂತರಿಕ ಪರಿಶೋಧನಾ ಅಧಿಕಾರಿಗಳು ದಿನಾಂಕ 06.04.2013ರಿಂದ 19.11.2014ರವರೆಗೆ ಅಂದರೆ ಒಂದು ವರ್ಷ ಏಳು ತಿಂಗಳು ಹದಿಮೂರು ದಿನಗಳಿಗೆ 14420 ಯುನಿಟ್‌ಗಳು ದಾಖಲಾಗದೇ ಇತ್ತು ಎಂದು ಕಂಡು ಬಂದಿತ್ತೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.
- ದಿನಾಂಕ 05.10.2020ರಲ್ಲಿ ಒಂದನೇ ಎದುರುದಾರರು ಪ್ರಾಥಮಿಕ ನೋಟೀಸನ್ನು ನೀಡಿ MNR ಆಗಿದ್ದ ಕಾರಣ ರೂ. 84,209/-ಗಳನ್ನು ಪಾವತಿ ಮಾಡುವಂತೆ ಹಿಂಬಾಕಿ ಬಿಲ್ಲು ನೀಡಿರುತ್ತಾರೆ.
- ಏಪ್ರಿಲ್ 2013ರಿಂದ ನವೆಂಬರ್ 2014ರವರೆಗೆ ಅಪೀಲುದಾರರ ಸ್ಥಾವರದ ರೀಡಿಂಗನ್ನು ಸಂಬಂಧಪಟ್ಟ ಸಿಬ್ಬಂದಿ/ ಅಧಿಕಾರಿರವರು ಪ್ರತಿ ತಿಂಗಳು ಪಡೆಯುತ್ತಿದ್ದರು, ಸುಮಾರು 19 ತಿಂಗಳ ಕಾಲ ಸದರಿ

- ದಿನಾಂಕ 25.05.2018ರಲ್ಲಿಯೇ ಆಂತರಿಕ ಪರಿಶೋಧನಾ ಅಧಿಕಾರಿಗಳು 14420 ಯುನಿಟ್‌ಗಳು ದಾಖಲಾಗಿಲ್ಲ ಎಂಬ ಮಾಹಿತಿ ಕೊಟ್ಟಿದ್ದರೂ ಕೂಡ ಸಂಬಂಧಿತ AEE (Ele) ರವರು ದಿನಾಂಕ 05.10.2020ರವರೆಗೆ ಅಂದರೇ ಸುಮಾರು ಎರಡುವರೆ ವರ್ಷಗಳ ಕಾಲ ಯಾವುದೇ ಕ್ರಮ ಕೈಗೊಳ್ಳದೆ ಯಾವ ಕಾರಣಕ್ಕಾಗಿ ಹಾಗೆಯೇ ಇದ್ದರು ಎಂಬುದನ್ನು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ತಿಳಿಸಿರುವುದಿಲ್ಲ.
- ಲೈಸೆನ್ಸುದಾರರು ನಿಯಮಾವಳಿ 26.02ಯ Conditions of Supply of Electricity of DistributionsLicensees in the State of Karnatakaರ ಪ್ರಕಾರ ಅಪೀಲುದಾರರಿಗೆ ಸೇರಿದಂತಹ ಸ್ಥಾವರ ಮಾಪಕವನ್ನು ನಿಯಮಾನುಸಾರ ತಪಾಸಣೆಗೆ ಒಳಪಡಿಸಿರುವುದಿಲ್ಲ.
- ದಿನಾಂಕ 25.05.2018ರಂದು ಆಂತರಿಕ ಪರಿಶೋಧನಾ ಅಧಿಕಾರಿಗಳ ಟಿಪ್ಪಣಿಯ ಅನ್ವಯ ನಿಯಮಾವಳಿ 27.04 ಹಾಗೂ 29.08ಯ Conditions of Supply of Electricity of Distributions Licensees in the State of Karnatakaದ ಅಡಿಯಲ್ಲಿ ಬಿಲ್ಲುಗಳನ್ನು ನೀಡಬೇಕಿತ್ತು ಆದರೇ ದಿನಾಂಕ 25.05.2018ರಂದು ಸುಮಾರು ಎರಡುವರೆ ವರ್ಷದವರೆಗೆ ಲೈಸೆನ್ಸುದಾರರು ಯಾವುದೇ ಕ್ರಮ ಕೈಗೊಳ್ಳದೆ ಸುಮ್ಮನೆ ಇದ್ದುದ್ದು ನಿಯಮಗಳಿಗೆ ಅನುಸಾರವಾಗಿ ಇರುವುದಿಲ್ಲ.
- ಜನವರಿ 2015ರಲ್ಲಿ 1134 ಯುನಿಟ್‌ಗಳಷ್ಟು ವಿದ್ಯುತ್ ಬಳಕೆ ಉಂಟಾಗಿತ್ತು ಎಂದು ಕಂಡು ಬಂದಂತಹ ಸಮಯದಲ್ಲಾದರೂ ಹಿಂದಿನ ತಿಂಗಳುಗಳಲ್ಲಿ '0' ಯುನಿಟ್ ವಿದ್ಯುತ್ ಬಳಕೆ ತೋರಿಸುತ್ತಿದ್ದು, ಈ ಸಂದರ್ಭದಲ್ಲಿಯೇ ಲೈಸೆನ್ಸುದಾರರು ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕಿತ್ತು, ಆದರೇ ಸುಮಾರು ಆರು ವರ್ಷಗಳ ಹಿಂದೆಯೇ ಈ ವಿಚಾರವು ಗೊತ್ತಾಗಿದ್ದರೂ ಯಾವುದೇ ಕ್ರಮ ಕೈಗೊಳ್ಳದೆ ದಿನಾಂಕ 05.10.2020ರಂದು ನೋಟೀಸನ್ನು ನೀಡಿರುತ್ತಾರೆ. ಸದರಿ ನೋಟೀಸು ಕಾಲ ಪರಿಮಿತಿಯನ್ನು ಮೀರಿರುತ್ತದೆ. ಇದು ಲೈಸೆನ್ಸುದಾರ ಕಂಪನಿಯ ಅಧಿಕಾರಿಗಳು ಹಾಗೂ ಸಿಬ್ಬಂದಿಯವರ ಕರ್ತವ್ಯ ಲೋಪ ಹಾಗೂ ನಿರ್ಲಕ್ಷ್ಯತೆಯನ್ನು ತೋರಿಸುತ್ತದೆ. ಇದಕ್ಕಾಗಿ

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಆದೇಶ: -

- ಅಪೀಲನ್ನು ಪುರಸ್ಕರಿಸಲಾಗಿದೆ.
- ಪ್ರಕರಣ ಸಂಖ್ಯೆ: CGRF/K-5/DK-5/2021-22, ಆದೇಶ ಸಂಖ್ಯೆ: ಮವಿಸಕಂ/ಗ್ರಾಕುಕೊನಿವೇ/ಕಾ-5/ದಕ-5/21-22/7596-597ರಲ್ಲಿ ಎರಡನೇ ಪ್ರತಿವಾಧಿಯು ದಿನಾಂಕ 30.10.2021ರಂದು ಮಾಡಿರುವ ಆದೇಶವನ್ನು ತಳ್ಳಿಹಾಕಲಾಗಿದೆ ತಪ್ಪರಿಣಾಮವಾಗಿ ಅನುಬಂಧ-6ರಲ್ಲಿ ಇರುವ ಒಂದನೇ ಪ್ರತಿವಾದಿಯವರ ಆದೇಶವನ್ನು ರದ್ದುಪಡಿಸಲಾಗಿದೆ.
- ಮೇಲ್ಕಂಡ ಆದೇಶದ ಕಂಡಿಕೆ 22 ಹಾಗೂ 23ರಲ್ಲಿ ಚರ್ಚಿಸಿದ ಅಂಶಗಳಿಗೆ ಅನುಸಾರವಾಗಿ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು Managing Director, MESCOMರವರಿಗೆ ಸೂಚಿಸುತ್ತಾ ಈ ಆದೇಶದ ಒಂದು ನಕಲನ್ನು ಕಳಿಸಿಕೊಡಲು ಕಛೇರಿಗೆ ನಿರ್ದೇಶಿಸಲಾಗಿದೆ.

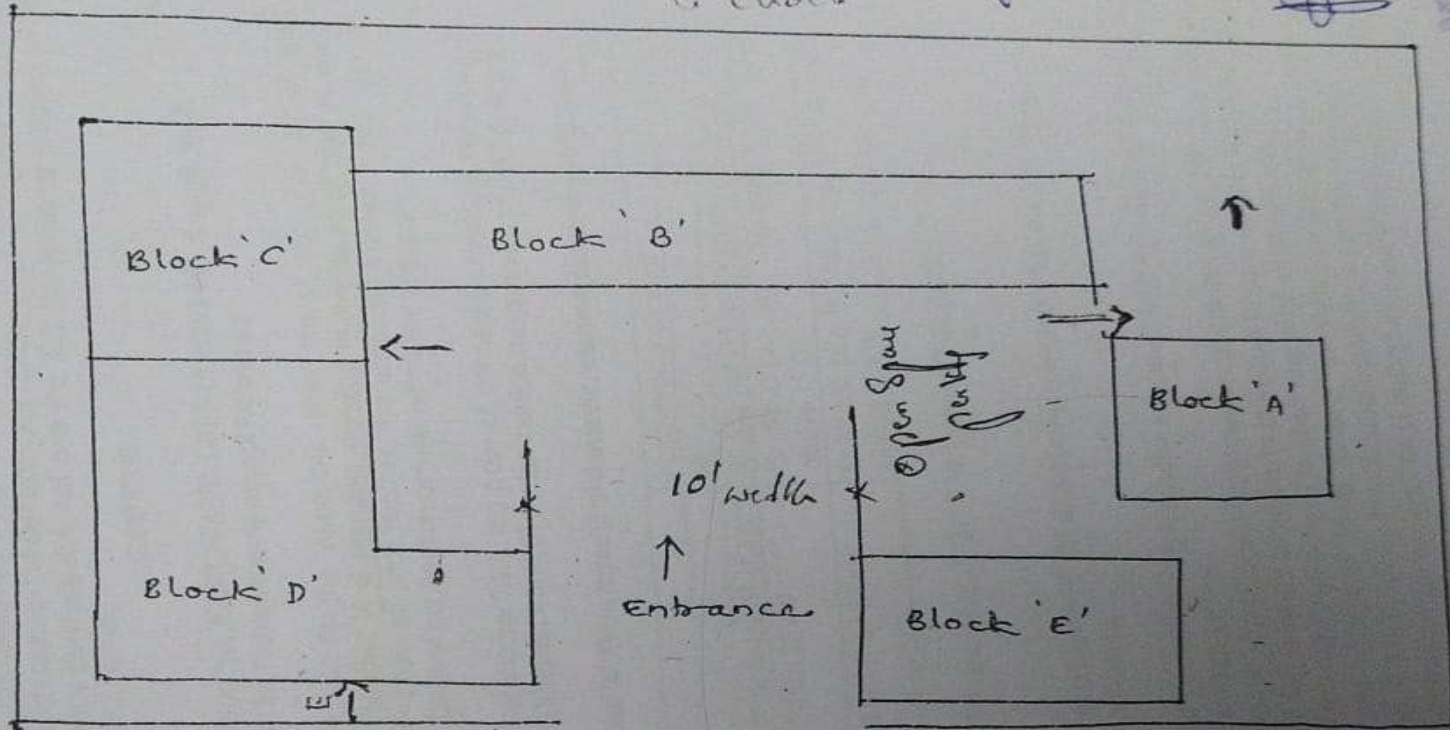
G. Chalu

11/11/19

[Signature]

Approved by
Assistant Executive Engineer
O & M, Sub-Division No. 1
HESCOM, RANEBENNUR

C. Road



Scale 1:1000

T.C. *[Signature]*

Station Road

People

[Signature]
 Assistant Executive Engineer (E₁)
 O & M, Sub-Division No-1
 HESCOM, RANEBENNUR

ಪ್ರಕರಣ ಸಂಖ್ಯೆ : - OMB/H/G-506/2022

- ದೂರುದಾರ/ಅಪೀಲುದಾರರು : - ಶ್ರೀ ಶಿವಯೋಗಿ ವಿ. ಕೆರೂಡಿ
- ಎದುರುದಾರರು: - ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್ (ವಿ), ಹೆಸ್ಯಾಂ

ಅಪೀಲಿನ ಸಾರಾಂಶ: -

ಹಾವೇರಿಯ ರಾಣೆಬೆನ್ನೂರು ನಗರದಲ್ಲಿ ದೂರುದಾರ/ಅಪೀಲುದಾರರಿಗೆ ಸೇರಿದ 'ಡಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡದಲ್ಲಿರುವ ನೆಲಮಹಡಿ ಕಟ್ಟಡಕ್ಕೆ ಸ್ಥಾವರ ಸಂಖ್ಯೆ ಆರ್‌ಆರ್ ನಂ. 8650 ವಿದ್ಯುತ್ ಮಂಜೂರಾತಿಯನ್ನು ದಿನಾಂಕ 15.04.1991 ರಂದು 4 ಕಿವಾಟಾ ಭಾರಕ್ಕೆ ನೀಡಲಾಗಿತ್ತೆಂದು, ದಿನಾಂಕ 28.01.2004ನಲ್ಲಿ ಸದರಿ ಸ್ಥಾವರಕ್ಕೆ ಹೆಚ್ಚುವರಿಯಾಗಿ 6 ಕೆಡ್ಲೂ ಭಾರಕ್ಕೆ ಆಗಿನ ನಿಯಮಾವಳಿಗಳ ಪ್ರಕಾರ ವಿದ್ಯುತ್ ಮಂಜೂರಾತಿಯನ್ನು ಪಡೆದು ಪುನಃ ದಿನಾಂಕ 08.01.2021ರಂದು 4 ಕೆಡ್ಲೂಗೆ ಸೀಮಿತಗೊಳಿಸಲಾಗಿರುತ್ತದೆ. ತದನಂತರ ಅಪೀಲುದಾರರು ಸದರಿ ಸ್ಥಾವರಕ್ಕೆ ಹೆಚ್ಚುವರಿಯಾಗಿ 16 ಕೆಡ್ಲೂ ವಿದ್ಯುತ್ ಪೂರೈಸಲು ದಿನಾಂಕ 28.02.2022ರಂದು ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ತದನಂತರ ES&D Code, 2000-01ರ ಪ್ರಕಾರ ಹಳೆ ಕಟ್ಟಡಕ್ಕೆ ಮತ್ತು ಹೊಸದಾಗಿ ನಿರ್ಮಿಸಿರುವ ಕಟ್ಟಡಕ್ಕೆ 9.08 ಪ್ರಕಾರ ಪ್ರತ್ಯೇಕ ನಿಯಮಾವಳಿಗಳಿದ್ದು KERC ನಿಯಮಾವಳಿ ತಿದ್ದುಪಡಿ ನಿಯಮ 28.11.2001ರ ಪ್ರಕಾರ 9.08 Note (b) ತಳಮಹಡಿ 06.10.1995ರಲ್ಲಿ ಮೊದಲು ಸರ್ವಿಸ್ ಆಗಿರುವುದರಿಂದ ಹಳೆ ನಿಯಮಾವಳಿಗಳ ಪ್ರಕಾರ ಕ್ರಮ ಕೈಗೊಂಡು KERC ES&D Code, 2000-01ರಲ್ಲಿಯ Section 30.07 ಪ್ರಕಾರ ಹಣ ಪಡೆಯಬೇಕಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಹೆಚ್ಚುವರಿಯಾಗಿ 16 ಕೆಡ್ಲೂವಿದ್ಯುತ್‌ನ್ನು ಪೂರೈಸಲು ಹಳೆ ನಿಯಮಾವಳಿಗಳು ಅನ್ವಯವಾಗುತ್ತವೆ. ಆದರೆ CGRFರವರು Regulations 3.1.7 Note (1)(D) of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 ಪ್ರಕಾರ

ಎದುರುದಾರರ ಸಮಜಾಯಿತಿ

ದೂರುದಾರ/ಅಪೀಲುದಾರರ ಕಟ್ಟಡಕ್ಕೆ KERC ನಿಯಮಾವಳಿ ತಿದ್ದುಪಡಿಯಲ್ಲಿ ನಿಯಮ 9.08(iv) Noteನ್ನು ರದ್ದುಗೊಳಿಸಲಾಗಿದ್ದು ಚಾಲ್ತಿ ನಿಯಮಾವಳಿ 3.1.7 ಟಿಪ್ಪಣಿ 1'ಡಿ' ಪ್ರಕಾರ 50 ಕೆಡ್ಲೊವರೆಗಿನ ಹೆಚ್ಚುವರಿ ವಿದ್ಯುತ್ ಭಾರಕ್ಕೆ ಪ್ರತಿ ಕಿವ್ಯಾಟ್‌ಗೆ ರೂ. 6,500/-ಗಳಂತೆ ಹಾಗೂ 50 ಕಿವ್ಯಾಟ್ ಮೇಲಿನ ಹೆಚ್ಚುವರಿ ವಿದ್ಯುತ್ ಭಾರಕ್ಕೆ ಪ್ರತಿ ಕಿವ್ಯಾಟ್‌ಗೆ ರೂ. 13,000/-ಗಳಂತೆ ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕ ಮತ್ತು GST ಪಾವತಿ ಮಾಡಬೇಕೆಂದು, ಇದೇ ರೀತಿ CGRFರವರು ಆದೇಶ ಮಾಡಿರುತ್ತಾರೆ.

ವಿದ್ಯುಚ್ಚಕ್ತಿ ಲೋಕಪಾಲರ ಅವಲೋಕನೆ ಹಾಗೂ ಆದೇಶ: -

- ದೂರುದಾರ/ಅಪೀಲುದಾರರು 'ಎ' ಬ್ಲಾಕ್‌ನಿಂದ 'ಇ' ಬ್ಲಾಕ್‌ವರೆಗೆ ಕಟ್ಟಡಗಳನ್ನು ರಾಣೇಬೆನ್ನೂರಿನಲ್ಲಿ ಹೊಂದಿರುತ್ತಾರೆ. ಪ್ರಸ್ತುತ ಪ್ರಕರಣದಲ್ಲಿ ಸದರಿ 'ಡಿ' ಬ್ಲಾಕ್‌ನ ನೆಲಮಹಡಿಯ ಸ್ಥಾವರ ಸಂಖ್ಯೆ 8655ಕ್ಕೆ ಹೆಚ್ಚುವರಿ ಭಾರವನ್ನು ಮಂಜೂರು ಮಾಡುವುದಾಗಿರುತ್ತದೆ. ಈ ವಿವಾದವು ಸುಮಾರು 2011ರಿಂದ ಚಾಲ್ತಿಯಲ್ಲಿರುತ್ತದೆ.
- ಅರ್ಜಿದಾರರ ಕೋರಿಕೆಯನ್ನು ತಿರಸ್ಕರಿಸಿ ದಿನಾಂಕ 19.12.2011ರಂದು ಅಂದಿನ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರು ಆದೇಶ ಹೊರಡಿಸಿದ್ದು ಸದರಿ ಆದೇಶದ ವಿರುದ್ಧ ದೂರುದಾರ/ಅಪೀಲುದಾರರು WP 27065-66/2012 (GM-KEB) ಎಂಬ ರಿಟ್ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯಲ್ಲಿ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯವು ದಿನಾಂಕ 21.04.2016ರಂದು ಆದೇಶ ಹೊರಡಿಸುತ್ತಾ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರು ಈ ಪ್ರಕರಣವನ್ನು ತಿರ್ಮಾನಿಸುವುದರಲ್ಲಿ Clause 3.1.7(C)ನ್ನು ಪರಿಗಣಿಸಿಲ್ಲವೆಂದು, ನಿಯಮಾನುಸಾರ ಆದೇಶ ಹೊರಡಿಸಬೇಕೆಂದು ನಿರ್ದೇಶಿಸಿ ಕಡತವನ್ನು ಪುನಃ ವಿದ್ಯುತ್

□ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರು ಕಡತವನ್ನು ಪುನಃ ಕೈಗೆತ್ತಿಕೊಂಡು ಪ್ರಕರಣವನ್ನು ಮತ್ತೊಮ್ಮೆ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿ ದಿನಾಂಕ 21.10.2016ರಂದು ಆದೇಶ ಹೊರಡಿಸಿ ಆ ಮೂಲಕ ರಾಣೆಬೆನ್ನೂರ AEE (Ele)ರವರಿಗೆ ನಿರ್ದೇಶನ ನೀಡುತ್ತಾ ಮತ್ತೊಮ್ಮೆ ದೂರುದಾರ/ಅಪೀಲುದಾರರಿಗೆ ಪ್ರಕರಣದಲ್ಲಿ ಅವಕಾಶ ನೀಡಿ ನಿಯಮಾನುಸಾರ ಆದೇಶ ಹೊರಡಿಸಬೇಕೆಂದು ನಿರ್ದೇಶಿಸಿರುತ್ತಾರೆ.

□ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರ ದಿನಾಂಕ 21.10.2016ರ ಆದೇಶದಿಂದ ನೊಂದ ಅಪೀಲುದಾರರು ರಿಟ್ ಅರ್ಜಿ 109357-109358/2017 (GM-KEB) ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಅರ್ಜಿಯಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾಲಯವು WP 27065-66/2012 ದಿನಾಂಕ 21.04.2016ರಲ್ಲಿ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರಿಗೆ ನೀಡಿದ ನಿರ್ದೇಶನಗಳ ಪಾಲನೆ ಆಗಿಲ್ಲವೆಂದು, ಪಕ್ಷಕಾರರ ನಡುವೆ ಇರುವ ವಿವಾದವನ್ನು ನ್ಯಾಯೋಚಿತವಾಗಿ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರು ತಿರ್ಮಾನ ಮಾಡಿಲ್ಲವೆಂದು, ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾಲಯದ ಆದೇಶಗಳಿಗೆ ವಿರುದ್ಧವಾಗಿ ರಾಣೆಬೆನ್ನೂರ AEE (Ele)ರವರಿಗೆ ಪ್ರಕರಣವನ್ನು ಹಿಂದಕ್ಕೆ ಕಳಿಸಿರುವುದು ಸರಿ ಇರುವುದಿಲ್ಲವೆಂದು, ಕಾನೂನಿಗೆ ವಿರುದ್ಧವಾಗಿರುತ್ತದೆಂದು ಅವಲೋಕಿಸಿ ಪುನಃ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರಿಗೆ ಪ್ರಕರಣವನ್ನು ನ್ಯಾಯೋಚಿತವಾಗಿ ವೀಕ್ಷಿಸಿ ಅಂತಿಮ ಆದೇಶ (Speaking Order) ಹೊರಡಿಸಬೇಕೆಂದು ದಿನಾಂಕ 21.04.2016ರಂದು ಮತ್ತೊಮ್ಮೆ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರಿಗೆ ಕಡತವನ್ನು ವಾಪಸ್ಸು ಕಳಿಸಿಕೊಟ್ಟಿರುತ್ತಾರೆ.

□ ಇದಾದ ನಂತರ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರು ದಿನಾಂಕ 16.10.2018ರಂದು ಆದೇಶವನ್ನು ಹೊರಡಿಸುತ್ತಾ ಅಪೀಲುದಾರರಿಗೆ ಸೇರಿದ 'ಡಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡವೆಂದು ಪರಿಗಣಿಸಬೇಕೆಂದು ಲೈಸೆನ್ಸುದಾರ ಕಂಪನಿಯು ಹೆಚ್ಚುವರಿ ಹಣವನ್ನು ಈಗಾಗಲೇ ಅಪೀಲುದಾರರಿಂದ ಪಡೆದಿದ್ದರೆ ಬಡ್ಡಿ ಸಹಿತ ಚೆಕ್ ರೂಪದಲ್ಲಿ ವಾಪಸ್ಸು ಮಾಡಬೇಕೆಂದು ಆದೇಶಿಸಿರುತ್ತಾರೆ.

□ ಈ ದೂರುಗಳನ್ನು ಸ್ವೀಕರಿಸಿ ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರು ದಿನಾಂಕ 07.06.2019ರಂದು ಆದೇಶ ಹೊರಡಿಸುತ್ತಾ ಗ್ರಾಹಕರಿಂದ ಹೆಚ್ಚುವರಿ ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕದ ರೂಪದಲ್ಲಿ ಪಾವತಿಸಿಕೊಂಡ ರೂ. 2,43,985/-ಗಳನ್ನು ಬಡ್ಡಿ ಸಹಿತ ಲೈಸೆನ್ಸುದಾರ ಕಂಪನಿಯು ವಾಪಸ್ಸು ಮಾಡಬೇಕೆಂದು ಆದೇಶಿಸಿರುತ್ತದೆ. ಆದರೆ ಗ್ರಾಹಕರು ಕೋರಿದ SOP ನಿಯಮಾವಳಿ ಪ್ರಕಾರ ಪರಿಹಾರ ನೀಡುವುದನ್ನು ನಿರಾಕರಿಸುತ್ತದೆ.

□ ಈ ಆದೇಶದ ವಿರುದ್ಧ ಗ್ರಾಹಕರು ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾಲಯಕ್ಕೆ WP No. 113202/2019 (GM-KEB) ಎಂಬ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯಲ್ಲಿ ರೂ. 50,000/-ಗಳಷ್ಟು ದಾವೆ ವೆಚ್ಚಗಳನ್ನು ಗ್ರಾಹಕರಿಗೆ ನೀಡುವಂತೆ ಆದೇಶಿಸಿರುತ್ತದೆ. ಈ ಆದೇಶದ ವಿರುದ್ಧ ಲೈಸೆನ್ಸುದಾರರು ಅಪೀಲನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ.

□ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯದ ಹಾಗೂ ವಿದ್ಯುತ್ ಲೋಕಪಾಲರ ಆದೇಶಗಳಲ್ಲಿನ ಅವಲೋಕನದಂತೆ ಗ್ರಾಹಕರಿಗೆ ಸೇರಿದ 'ಡಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡವೆಂದು ಈಗಾಗಲೇ ಪರಿಗಣಿಸಲ್ಪಟ್ಟಿದೆ. ಆದ್ದರಿಂದ 'ಡಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ Res-judicata ತತ್ವಗಳು ಅನ್ವಯಿಸುತ್ತವೆ.

□ Regulation 3.1.7 Note 1(C) KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 ಈ ಪ್ರಕರಣಕ್ಕೆ ಅನ್ವಯಿಸುತ್ತದೆ:

"In case of buildings serviced earlier to 25.08.2005, if the additional load for existing installations or additional installations under common mains is sought and if the total load inclusive of such additional load sought is within the specified load already sanctioned as per ES&D Code 2000-01, for which the Appellant has already remitted the cost towards service line at the rates prevailing on that date, then in such cases

❖ ಮೇಲಿನ ನಿಬಂಧನೆಗಳ ಪ್ರಕಾರ, ಗ್ರಾಹಕನ ಕಟ್ಟಡಗಳು 25.08.2005ಕ್ಕೆ ಮುಂಚಿತವಾಗಿ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಹೊಂದಿದ್ದರೆ ಅಂತಹ ಗ್ರಾಹಕನು ಅಸ್ತಿತ್ವದಲ್ಲಿರುವ ಅನುಸ್ಥಾಪನೆಗಳಿಗೆ ಹೆಚ್ಚುವರಿ ಭಾರವನ್ನು ಕೋರಿ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದರೆ ಅಥವಾ ಸಾಮಾನ್ಯ ಸೇವಾ ಮಾರ್ಗಗಳ ಅಡಿಯಲ್ಲಿ ಹೆಚ್ಚುವರಿ ಅನುಸ್ಥಾಪನೆಗಳನ್ನು ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದರೆ ಅಂತಹ ಸಂದರ್ಭಗಳಲ್ಲಿ ಹೆಚ್ಚುವರಿ ಭಾರವು ಸೇರಿದಂತೆ ಮಂಜೂರು ಮಾಡಲಾದ ಭಾರವು ಈಗಾಗಲೇ ನಿರ್ದಿಷ್ಟಪಡಿಸಿದ ಭಾರದ ಒಳಗಿದ್ದರೆ ಅಂತಹ ಸಂದರ್ಭಗಳಲ್ಲಿ ಗ್ರಾಹಕನು ಈಗಾಗಲೇ ಸೇವಾ ಮಾರ್ಗಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ವ್ಯಚ್ಛವನ್ನು ಪಾವತಿಸಿರುವುದರಿಂದ ಪುನಃ ಸೇವಾ ಮಾರ್ಗಗಳ ವೆಚ್ಚವನ್ನು ನೀಡುವ ಅಗತ್ಯ ಇರುವುದಿಲ್ಲ ಅಥವಾ ಟ್ರಾನ್ಸ್‌ಫಾರ್ಮರ್ ಅಥವಾ ಯಾವುದೇ ಇತರ ಪರಿಕರಗಳಿಗೆ ಸ್ಥಳವನ್ನು ಒದಗಿಸಬೇಕಾಗಿಲ್ಲ.

❖ ಪ್ರಸ್ತುತ ಪ್ರಕರಣದಲ್ಲಿ ಆರ್ ಆರ್ ನಂ. 8650ಕ್ಕೆ ನಿರ್ದಿಷ್ಟ ಭಾರವು 22.035 ಕೆಡೋಲ್ಟ್ಸ್ ಇರುತ್ತದೆ. ಅಸ್ತಿತ್ವದಲ್ಲಿರುವ ಭಾರವು 4 ಕೆಡೋಲ್ಟ್ಸ್ ಆಗಿರುತ್ತದೆ. ಗ್ರಾಹಕರು 16 ಕೆಡೋಲ್ಟ್ಸ್ ಭಾರವನ್ನು ಹೆಚ್ಚುವರಿಯಾಗಿ ಕೋರಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಗ್ರಾಹಕರು ಕೋರಿರುವ ಹೆಚ್ಚುವರಿ ಭಾರವು ಅಸ್ತಿತ್ವದಲ್ಲಿರುವ ಭಾರವು ಸೇರಿದಂತೆ 20 ಕೆಡೋಲ್ಟ್ಸ್ ಆಗಿದ್ದು ಇದು ನಿರ್ದಿಷ್ಟ ಭಾರವು 22.035 ಕೆಡೋಲ್ಟ್ಸ್ ಒಳಗೆ ಇರುತ್ತದೆ. ಆದ್ದರಿಂದ ಲೈಸೆನ್ಸುದಾರ ಕಂಪನಿಯು Regulation 3.1.7 Note 1(C) KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 ನಿಯಮಾವಳಿಯ ಪಾಲನೆ ಮಾಡಬೇಕಾಗುತ್ತದೆ.

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಆದೇಶ: -

The appeal filed by the Appellant/Complainant under Regulation 21(3) of & KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations 2004 is hereby allowed.

The order passed by the CGRF, Haveri dated 03.11.2022 in case No. 02, order No. ಹಾ/ಗ್ರಾಕುಕೊನಿವೇ/ಪ್ರ.ಸಂ-02/CR-29/2022-23/CYS-175 is hereby set aside.

The 1st Respondent/Licensee is hereby directed to sanction additional load of 16KW to the installation bearing RR No. 8650 belonging to the Appellant/Complainant by applying Regulations 3.1.7 Note (1)(C) of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004.

The parties are directed to bear their own costs.

ಪ್ರಕರಣ ಸಂಖ್ಯೆ : - OMB/H/G-502/2022

ದೂರುದಾರ/ಅಪೀಲುದಾರರು : - ಶ್ರೀಮತಿ ಡಾ| ಸುಶೀಲ ವಿ. ಕೆರೂಡಿ
ಎದುರುದಾರರು: - ಸಹಾಯಕ ಕಾರ್ಯನಿರ್ವಾಹಕ ಇಂಜಿನಿಯರ್ (ವಿ), ಹೆಸ್ಕಾಂ

ಅಪೀಲಿನ ಸಾರಾಂಶ: -

ಹಾವೇರಿಯ ರಾಣಬೆನ್ನೂರು ನಗರದಲ್ಲಿ ದೂರುದಾರ/ಅಪೀಲುದಾರರಿಗೆ ಸೇರಿದ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವು ಇರುತ್ತದೆಂದು ಇದರ ಸ್ಥಾವರ ಸಂಖ್ಯೆ ಆರ್‌ಆರ್ ನಂ. 366ಎಇಹೆಚ್ ಆಗಿರುತ್ತದೆಂದು, ದಿನಾಂಕ 13.09.2021ರಂದು ನೆಲಮಹಡಿ ಕಟ್ಟಡಕ್ಕೆ 3+3 ಕಿವ್ಯಾಟ್ ವಿದ್ಯುತ್ ಪೂರೈಸಲು ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದರೆಂದು, ಮೊದಲಿಗೆ ಇದ್ದ ಕಟ್ಟಡವನ್ನು ಕೆಡವಿ ಹೊಸ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿದ್ದರೆಂದು, ಆದ್ದರಿಂದ ಹಳೆಯ ಸ್ಥಾವರವನ್ನು ಶಾಶ್ವತವಾಗಿ ವಿದ್ಯುತ್ ನಿಲುಗಡೆ ಮಾಡಲಾಗಿತ್ತು ಹೊಸ ಕಟ್ಟಡವು ನಾಲ್ಕು ಅಂತಸ್ತಿನ ಕಟ್ಟಡವಾಗಿದ್ದು ಪ್ರತ್ಯೇಕವಾಗಿರುತ್ತದೆಂದು, ಈ ಹಿಂದೆ ಹೆಸ್ಕಾಂ ಕಛೇರಿಗಳಿಂದ ನೀಡಲಾದ ದಾಖಲಾತಿಗಳಲ್ಲಿ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡವಾಗಿ ನಮೂದು ಮಾಡಲಾಗಿರುತ್ತದೆಂದು, ಇತರೆ 'ಬಿ', 'ಸಿ' ಹಾಗೂ 'ಇ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಗಳಿಗೆ ದಿನಾಂಕ 06.10.1995ಕ್ಕಿಂತ ಪೂರ್ವದಲ್ಲಿ ಆ ಸಮಯದಲ್ಲಿ ಚಾಲ್ತಿಯಲ್ಲಿದ್ದಂತಹ ನಿಯಮಗಳ ಪ್ರಕಾರ ವಿದ್ಯುತ್ ಸಂಪರ್ಕವನ್ನು ನೀಡಿರುತ್ತಾರೆಂದು, ಈ ಕಟ್ಟಡಗಳು ಹೊಸದಾಗಿ ನಿರ್ಮಿಸಿರುವ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡದಿಂದ ಅಂತರ ಕಾಯ್ದುಕೊಂಡಿರುತ್ತದೆಂದು, ಹಾಗೂ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಕ್ಕೆ ಬರಲು ರಸ್ತೆಯಿಂದ ಪ್ರತ್ಯೇಕ ಮಾರ್ಗ ಇರುತ್ತದೆಂದು, ಆದ ಕಾರಣ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡವಾಗಿ ಪರಿಗಣಿಸಬೇಕಾಗಿರುತ್ತದೆಂದು, ಆದ್ದರಿಂದ ಒಂದನೇ ಎದುರುದಾರರು ವಿಧಿಸಿರುವ ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕ ರೂ. 6,904/-ಕ್ಕೆ ಬದಲಾಗಿ ಮೊದಲು 3 ಕಿ.ವ್ಯಾಟ್‌ಗಳಿಗೆ ಯಾವುದೇ ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕ ಇರುವುದಿಲ್ಲ ಮತ್ತು ಹೆಚ್ಚಿನ 3 ಕಿ.ವ್ಯಾಟ್ ಭಾರಕ್ಕೆ ರೂ. 650/-ರಂತೆ ಪ್ರತಿ ಕಿ.ವ್ಯಾಟ್‌ಗೆ ಶುಲ್ಕವನ್ನು ಭರಿಸಬೇಕಾಗಿರುತ್ತದೆಂದು, ಆದ್ದರಿಂದ ಒಟ್ಟು ರೂ. 1,950/-ಗಳನ್ನು ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಭರಿಸಬೇಕೆಂದು, ಅದರಂತೆ ಆದೇಶಿಸಿ ವಿದ್ಯುತ್ ಮಂಜೂರಾತಿ ನೀಡಬೇಕೆಂದು ಕೋರಿಕೊಂಡಿರುತ್ತಾರೆ. ಆದರೆ CGRF ಅಧಿಕಾರಿಗಳು 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಕ್ಕೆ

ಎದುರುದಾರರ ಸಮಜಾಯಿತಿ

ದೂರುದಾರ/ಅಪೀಲುದಾರರ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವು ಮೊದಲಿಗೆ ಹಳೆ ಕಟ್ಟಡ ಆಗಿತ್ತೆಂದು, ಇದಕ್ಕೆ ಆರ್.ಆರ್ ನಂ. 366ಎಇಹೆಚ್ ಇತ್ತೆಂದು, ಈ ಸ್ಥಾವರದ ಶಾಶ್ವತ ವಿದ್ಯುತ್ ನಿಲುಗಡೆ ಆಗಿರುತ್ತದೆಂದು, ಈ ಕಟ್ಟಡದ ನೆಲಮಹಡಿಯಲ್ಲಿ ಎರಡು ಸಂಖ್ಯೆ ವಿದ್ಯುತ್ ಬಳಕೆ ಸಲುವಾಗಿ 3+3 ಕಿವ್ಯಾಟ್ ವಿದ್ಯುತ್ ನೀಡಲು ಕೋರಿಕೆ ಪತ್ರ ಸಲ್ಲಿಸಿರುವುದು ನಿಜವೆಂದು ಒಪ್ಪಿರುತ್ತಾರೆ. ಈ ಕೋರಿಕೆ ಪತ್ರದ ಅನುಗುಣವಾಗಿ ತಮ್ಮ ಕಛೇರಿಯ ಶಾಖಾಧಿಕಾರಿ ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಿದ್ದರೆಂದು, ಆ ಸಮಯದಲ್ಲಿ ಸದರಿ ಕಟ್ಟಡದ ಜೊತೆಗೆ ಅದೇ ಆವರಣದಲ್ಲಿರುವ ಇನ್ನೂ ಉಳಿದ 'ಬಿ', 'ಸಿ' ಹಾಗೂ 'ಇ' ಎಂಬ ಕಟ್ಟಡಗಳ ಬಿಲ್ಡ್‌ಅಪ್ ಏರಿಯಾವನ್ನು (Built-up Area) "6th Amendment, KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004, dated 07.09.2011ರ ಪ್ರಕಾರ "as there is no separate entrance to the buildings from road side" ಎಂಬುದಾಗಿ ಪರಿಗಣಿಸಿ ಸದರಿ ಕಟ್ಟಡಗಳ ಆರ್.ಆರ್ ಸಂಖ್ಯೆಗಳನ್ನು ಪರಿಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡಿರುತ್ತಾರೆ.

ಸದರಿ ಸ್ಥಳದ ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ ಸದರಿ ಕಟ್ಟಡವು ನಾಲ್ಕು ಅಂತಸ್ತಿನ ಕಟ್ಟಡವಾಗಿದ್ದರೂ ಸಹ ಸದರಿ ಕಟ್ಟಡದ ನೆಲಮಹಡಿಗೆ ಮಾತ್ರ ಪರವಾನಗಿ ಪತ್ರವನ್ನು ನೀಡಿರುತ್ತಾರೆಂದು, ಈ ಪರವಾನಗಿ ಪತ್ರದ ಚಕ್ಕುಬಂದಿಯ ಪ್ರಕಾರ ಸದರಿ ಕಟ್ಟಡ ಹಾಗೂ 'ಬಿ', 'ಸಿ', 'ಡಿ' ಹಾಗೂ 'ಇ' ಬ್ಲಾಕ್‌ಗಳು ಒಂದೇ ಆವರಣದಲ್ಲಿ ಇರುತ್ತದೆಂದು, ಇವುಗಳಲ್ಲಿ 'ಡಿ' ಮತ್ತು 'ಇ' ಬ್ಲಾಕ್‌ಗಳಿಗೆ ರಸ್ತೆಯಿಂದ ಪ್ರತ್ಯೇಕವಾಗಿ ನೇರ ದಾರಿ ಇರುತ್ತದೆಂದು, 'ಎ' ಬ್ಲಾಕ್‌ಗೆ ನಗರಸಭೆ ರಸ್ತೆಯಿಂದ ನೇರವಾಗಿ ದಾರಿ ಇಲ್ಲವೆಂದು, ಸದರಿ 'ಎ' ಬ್ಲಾಕ್ ಹಾಗೂ 'ಬಿ' ಮತ್ತು 'ಸಿ' ಬ್ಲಾಕ್‌ಗಳಿಗೆ 'ಇ' ಬ್ಲಾಕ್ ನೆಲಮಹಡಿಯ ಮೂಲಕ ಒಂದು "ಕಾಮನ್ ಪ್ಯಾಸೇಜ್" (Common Passage) ಇರುತ್ತದೆಂದು, ಆದ್ದರಿಂದ ಆವರಣದಲ್ಲಿ ಇರುವ 'ಎ', 'ಬಿ' ಹಾಗೂ 'ಸಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಗಳನ್ನು ಪರಿಗಣಿಸಿದಾಗ ಅದರ ವಿಸ್ತೀರ್ಣ (built-up area) 648.99 ಚದರ ಮೀಟರ್‌ಗಳಾಗಿದ್ದು, ಹಾಲಿ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಕೇಳಿರುವ 3+3 ಲೋಡ್ ಸೇರಿದಂತೆ 'ಬಿ' ಮತ್ತು 'ಸಿ' ಕಟ್ಟಡಗಳ ಆರ್.ಆರ್. ನಂಬರ್‌ಗಳ ಒಟ್ಟು ಲೋಡ್ 18 KW ಆಗುತ್ತದೆಂದು, ನುಡಿದಿರುತ್ತಾರೆ. ಮತ್ತೆ ಮುಂದುವರೆದು ನಿಯಮಾವಳಿ 3.1.1ನ KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004ನ ಪ್ರಕಾರ 15 ಕಿ.ವ್ಯಾಟ್‌ಗಿಂತ ಹೆಚ್ಚಿನ 3 ಕಿ.ವ್ಯಾಟ್‌ಗೆ ಪ್ರತಿ ಕಿ.ವ್ಯಾಟ್ ರೂ. 1,300/-+GST ಸೇರಿ ರೂ. 4,602/- ಹಾಗೂ 15 ಕಿ.ವ್ಯಾಟ್‌ವರೆಗಿನ 3 ಕಿ.ವ್ಯಾಟ್‌ಗೆ ಪ್ರತಿ ಕಿ.ವ್ಯಾಟ್‌ಗೆ ರೂ. 650/-+GST ಸೇರಿ ಒಟ್ಟು ರೂ. 2,302/- ಅಂದರೆ ಒಟ್ಟಾರೆ ರೂ. 6,904/- ಅಭಿವೃದ್ಧಿ ಶುಲ್ಕದ ಹಣವನ್ನು ಅದರೊಂದಿಗೆ ಹೆಚ್ಚುವರಿ ಆರಂಭಿಕ ಭದ್ರತಾ ಠೇವಣಿಯನ್ನು ಹಾಗೂ ಮೇಲ್ವಿಚಾರಣಾ ಶುಲ್ಕ ಭರಣವನ್ನು ದೂರುದಾರ/ ಅಪೀಲುದಾರರು ಪಾವತಿಸಬೇಕಾಗಿರುತ್ತದೆಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಮತ್ತೆ ಮುಂದುವರೆದು ದೂರುದಾರ/ಅಪೀಲುದಾರರ ಕಟ್ಟಡವು ಹೊಸ ಕಟ್ಟಡವಾಗಿದ್ದ ಕಾರಣ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ನೀಡುವಾಗ ನಿಯಮಾವಳಿ 3.1.1 ಹಾಗೂ 3.1.5 Note (4)ನ KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004ನ್ನು ತಾವು ಪಾಲನೆ

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಅವಲೋಕನೆ ಹಾಗೂ ಆದೇಶ: -

- ❖ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಹಾಗೂ ಅವರ ಕುಟುಂಬದವರಿಗೆ ಸೇರಿದ 'ಎ' ನಿಂದ 'ಇ' ಬ್ಲಾಕ್‌ನ ಕಟ್ಟಡಗಳು ರಾಣೇಬೆನ್ನೂರುನಲ್ಲಿ ಇರುತ್ತವೆಂದು, ಈಗಾಗಲೇ ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾಲಯದ ಆದೇಶದ ಮೇರೆಗೆ 'ಡಿ' ಬ್ಲಾಕ್‌ನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡ ಎಂಬುದಾಗಿ ಪರಿಗಣಿಸಲಾಗಿರುತ್ತದೆಂದು ಕಂಡುಬರುತ್ತದೆ. ಪ್ರಸ್ತುತ ಪ್ರಕರಣದಲ್ಲಿ ದೂರುದಾರ/ಅಪೀಲುದಾರರು 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡದ ಮಾಲೀಕರಾಗಿದ್ದು ಬಹಳ ಹಿಂದೆಯೇ ಆರ್.ಆರ್. ನಂ. 366ಎಇಹೆಚ್‌ರ ಮೂಲಕ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಹೊಂದಿದ್ದರೆಂದು, ಇದಾದ ಮೇಲೆ ಹಳೆಯ ಕಟ್ಟಡವನ್ನು ಪೂರಾ ಕೆಡವಿ ಹಾಕಿದ್ದು ಹೊಸ ಕಟ್ಟಡವನ್ನು ನಿರ್ಮಾಣ ಮಾಡಿದ್ದರೆಂದು ಕಂಡು ಬರುತ್ತದೆ, ಮತ್ತು ಈ ಹೊಸ ಕಟ್ಟಡದ ನೆಲಮಹಡಿಗೆ ಎರಡು ಸ್ಥಾವರಗಳಿಗೆ 3+3 ಕೆ.ಡಬ್ಲ್ಯೂ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ನೀಡಲು ದಿನಾಂಕ 13.09.2021ರಂದು ಒಂದನೇ ಪ್ರತಿವಾದಿಯ ಕಛೇರಿಗೆ ಅರ್ಜಿ ನೀಡಿದ್ದರೆಂದು ಕಂಡುಬರುತ್ತದೆ. ಇಷ್ಟು ವಿಚಾರಗಳನ್ನು ಯಾವುದೇ ಪಕ್ಷಕಾರರು ಅಲ್ಲಗಳೆದಿಲ್ಲ.
- ❖ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ನುಡಿದಂತೆ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡವೆಂದು ಪರಿಗಣಿಸಬೇಕೇ ಅಥವಾ ಬೇಡವೆ ಎಂದು ತೀರ್ಮಾನಿಸಬೇಕಾದ ಅಂಶವಾಗಿರುತ್ತದೆ.
- ❖ ನಿಯಮಾವಳಿ 4.09(xii)ನ Conditions of Supply of Electricity of Distributions Licensees in the State of Karnatakaದ ಪ್ರಕಾರ

"In the case of demolition and reconstruction of building, the existing installation shall be surrendered and agreement terminated and meter and service mains shall be removed. Only fresh service will be arranged for the reconstructed building treating it as a new building. Temporary power supply from the existing RR No. shall not be arranged for construction purposes in such cases. However, this Clause shall not be applied in case of addition/alteration to the existing building"

❖ ಮೇಲ್ಕಂಡ ನಿಯಮಾವಳಿ ಪ್ರಕಾರ ಯಾವುದಾದರೂ ಕಟ್ಟಡವನ್ನು ಕೆಡವಿ ಪುನಃ ನಿರ್ಮಾಣದ ಸಂದರ್ಭದಲ್ಲಿ ಈ ಮೊದಲಿಗೆ ಅಸ್ತಿತ್ವದಲ್ಲಿ ಇದ್ದ ಸ್ಥಾವರವನ್ನು ಲೈಸೆನ್ಸಿ ಕಂಪನಿಗೆ ಹಿಂದುರಿಗಿಸಬೇಕಾಗುತ್ತದೆ ಮತ್ತು ಗ್ರಾಹಕರು ಹಾಗೂ ಲೈಸೆನ್ಸುದಾರರ ನಡುವೆ ಮೊದಲಿಗೆ ಆಗಿದ್ದ ಒಪ್ಪಂದವನ್ನು ಕೊನೆಗೊಳಿಸಲಾಗುತ್ತದೆ. ಇದರ ಪ್ರಕಾರ ಮೀಟರ್ ಮತ್ತು ಸೇವಾಮುಖಿಗಳನ್ನು ತೆಗೆದುಹಾಕಲಾಗುತ್ತದೆ. ಇಂತಹ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಪುನರ್ ನಿರ್ಮಾಣಗೊಂಡ ಕಟ್ಟಡವನ್ನು ಹೊಸ ಕಟ್ಟಡವೆಂದು ಪರಿಗಣಿಸಿ ಹೊಸದಾಗಿ ವಿದ್ಯುತ್ ಸಂಪರ್ಕದ ವ್ಯವಸ್ಥೆ ಮಾಡಬೇಕಾಗುತ್ತದೆ, ಅದರಂತೆ ದೂರುದಾರ/ಅಪೀಲುದಾರರ ಹೊಸದಾಗಿ ನಿರ್ಮಾಣಗೊಂಡ ಕಟ್ಟಡವನ್ನು ಹೊಸ ಕಟ್ಟಡ ಎಂಬುದಾಗಿಯೇ ಪರಿಗಣಿಸಬೇಕಾಗುತ್ತದೆ.

❖ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಉದ್ಭವಿಸುವ ಮತ್ತೊಂದು ಪ್ರಮುಖವಾದ ಅಂಶವೇನೆಂದರೆ, ಈ ಪ್ರಕರಣದ ನೂತನವಾಗಿ ನಿರ್ಮಾಣ ಮಾಡಿದ ಕಟ್ಟಡವು (ಹಳೆಯ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡ) ರಸ್ತೆಯಿಂದ ನೇರ ಸಂಪರ್ಕವನ್ನು ಹೊಂದಿರುತ್ತದೆಯೇ ಎಂಬುದು ಆಗಿರುತ್ತದೆ.

❖ ದೂರುದಾರ/ಅಪೀಲುದಾರರ ಪ್ರತಿನಿಧಿಯವರು ತಮ್ಮ ಹೊಸ ಕಟ್ಟಡಕ್ಕೆ ಮುಖ್ಯ ರಸ್ತೆಯಿಂದ ನೇರ ಸಂಪರ್ಕ ಇರುತ್ತದೆಂದು, ಅಷ್ಟೇ ಅಲ್ಲದೇ ಒಂದನೇ ಎದುರುದಾರರ ಕೆಲವು ದಾಖಲೆಗಳಲ್ಲಿ ಹಿಂದೆ ಇದ್ದ 'ಎ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡ ಎಂಬುದಾಗಿ ನಮೂದು ಮಾಡಿರುತ್ತಾರೆಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಇದಕ್ಕೆ ಪ್ರತಿಯಾಗಿ ಒಂದನೇ ಪ್ರತಿವಾದಿಯವರು ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಹಾಗೂ ಅವರ ಕುಟುಂಬದವರಿಗೆ ಸೇರಿದ ಕಟ್ಟಡಗಳಲ್ಲಿ 'ಡಿ' ಮತ್ತು 'ಇ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಗಳಿಗೆ ಮಾತ್ರ ಮುಖ್ಯ ರಸ್ತೆಯಿಂದ ನೇರ ಸಂಪರ್ಕ ಇರುತ್ತದೆಂದು, 'ಡಿ' ಬ್ಲಾಕ್ ಕಟ್ಟಡವನ್ನು ಸ್ವತಂತ್ರ ಕಟ್ಟಡ ಎಂಬುದಾಗಿ ಈಗಾಗಲೇ ಮಾನ್ಯ ಉಚ್ಚನ್ಯಾಯಾಲಯವು ಆದೇಶ ಮಾಡಿರುತ್ತದೆಂದು, ಈಗ ಕಟ್ಟಿರುವ ನೂತನ ಕಟ್ಟಡಕ್ಕೆ ಹೋಗಬೇಕಾದರೆ 'ಇ' ಬ್ಲಾಕ್ ಕಟ್ಟಡಕ್ಕೆ ಇರುವಂತಹ ದಾರಿಯಿಂದಲೇ ಹೋಗಬೇಕಾಗುತ್ತದೆಂದು, ಅದೇ ರೀತಿ 'ಬಿ' ಮತ್ತು 'ಸಿ' ಬ್ಲಾಕ್‌ಗಳಿಗೂ ಕೂಡ 'ಇ' ಬ್ಲಾಕ್ ಮೂಲಕವೇ ಹೋಗಬೇಕಾಗುತ್ತದೆಂದು, ಆದ್ದರಿಂದ ತಾವು ನೂತನ ಕಟ್ಟಡವನ್ನು ಪ್ರತ್ಯೇಕ ಕಟ್ಟಡ ಎಂಬುದಾಗಿ ಪರಿಗಣಿಸಲು ಸಾಧ್ಯವಿಲ್ಲ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

❖ Cambridge Dictionary ಪ್ರಕಾರ "Road/Street" ಎಂಬ ಪದವನ್ನು ಈ ಕೆಳಗಿನಂತೆ ಉಲ್ಲೇಖಿಸಲಾಗಿದೆ: -

"Road/Street means any street, road, square, court, alley, passage, or riding path over which, the public have a right of way and includes.

(a) The roadway over any public bridge or cause way

(b) The footway attached to any such street public bridge or cause way.

(c) The drains attached to any such street public bridge or cause way and the land, whether covered or not by any pavement, verandah or other structure which lies on either side of the roadway upto the boundaries of the adjacent property whether that property is private property or property belonging to the Government or the Corporation."

ಮೇಲಿನ ವ್ಯಾಖ್ಯಾನದಂತೆ ರಸ್ತೆ ಎಂದರೆ ಯಾವ ದಾರಿಯಲ್ಲಿ ಸಾರ್ವಜನಿಕರು ಓಡಾಡುವಂತಹ ಹಕ್ಕನ್ನು ಒಳಗೊಂಡಿರುತ್ತಾರೋ ಅಂತಹ ದಾರಿಯನ್ನು ರಸ್ತೆ ಅಥವಾ ಮಾರ್ಗ ಎನ್ನಬಹುದಾಗಿರುತ್ತದೆ.

❖ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಆಧರಿಸಿದ Cambridge Dictionaryಯಲ್ಲಿ "Service Road" ಎಂಬ ಪದಕ್ಕೆ ಸಹ ವ್ಯಾಖ್ಯಾನ ನೀಡಿದ್ದು ಅದು ಈ ಕೆಳಗಿನಂತೆ ಉಲ್ಲೇಖಿಸಲಾಗಿದೆ: -

"Service Road means Road/lane provided adjacent to a plot for access or service purposes as the case may be and shall be parallel to the main road and may or may not be at grade with the main road and shall be partly or fully falling within the proposed road width of the main road."

ಮೇಲಿನ ವ್ಯಾಖ್ಯಾನದ ಪ್ರಕಾರ "ಸರ್ವಿಸ್ ರೋಡ್" (Service Road) ಎಂದರೆ ಪ್ರವೇಶ ಅಥವಾ ಸೇವಾ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಪ್ಲಾಟ್‌ನ ಪಕ್ಕದಲ್ಲಿ ಒದಗಿಸಲಾದ ರಸ್ತೆಯಾಗಿರುತ್ತದೆ, ಇದು ಮುಖ್ಯ ರಸ್ತೆಯ ಅಳತೆಯಷ್ಟೇ ಇರಲೂಬಹುದು ಇಲ್ಲದೇ ಸಹ ಇರಬಹುದು, ಅದೇ ರೀತಿ ಸಮಾನಾಂತರವಾಗಿರಬಹುದು ಅಥವಾ ಇಲ್ಲದಿರಬಹುದು ಎಂದಾಗಿರುತ್ತದೆ.

❖ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಹಾಜರು ಪಡಿಸಿರುವ ದಾಖಲೆಗಳನ್ನು ಒಂದಕ್ಕೊಂದು ಹೋಲಿಸಿ ತಾಳೆ ಮಾಡಿ ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ನಿರ್ಮಿಸಿರುವ ಹೊಸ ಕಟ್ಟಡಕ್ಕೆ ಬ್ಲಾಕ್ 'ಡಿ' ಹಾಗೂ ಬ್ಲಾಕ್ 'ಇ' ನಡುವೆ ಇರುವ "ಸಾಮಾನ್ಯ ಮಾರ್ಗದ" ಮೂಲಕವೇ ಹೋಗಬೇಕಾಗುತ್ತದೆಂದು ಸ್ಪಷ್ಟವಾಗುತ್ತದೆ. ಅಂದರೇ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಆಧರಿಸಿದ Cambridge Dictionaryಯ "Service Road" ಎಂಬ ವ್ಯಾಖ್ಯಾನದಲ್ಲಿ ಬರುವ ಪ್ರವೇಶ ಮಾರ್ಗವಾಗಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ. ಏಕೆಂದರೇ ಈ ಮಾರ್ಗದ ಮೂಲಕ ಸಾರ್ವಜನಿಕರು ಓಡಾಡುವಂತಹ ಹಕ್ಕನ್ನು ಒಳಗೊಂಡಿರುವುದಿಲ್ಲ, ಮೇಲೆ ಉಲ್ಲೇಖಿಸಲಾದ ಕಟ್ಟಡಗಳ ವಾಸಿಗರು ಹಾಗೂ ಅವರಿಗೆ ಸಂಬಂಧಪಟ್ಟವರು ಮಾತ್ರ ಬಳಸುವಂತಹ ದಾರಿಯಾಗಿರುತ್ತದೆ.

❖ ಈ ಹಂತದಲ್ಲಿ ನಿಯಮಾವಳಿ 3.1.5 Note (4)ರ 6th Amendment of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004, ಪರಿಶೀಲಿಸಿದ್ದೇನೆ ಅದು ಈ ಕೆಳಗಿನಂತಿರುತ್ತದೆ: -

"In case the sanctioned plan indicates two or more buildings in the same premises or if the sanctioned plans are separate and in different names but the buildings are attached and/or share a common passage or stair case they shall be clubbed together to calculate built up area.

In case of buildings having separate Kathas or Site/Land Ownership in different names and there is no entrance or common passage or way from one building to another inside the buildings and each building is having a separate entrance from the road side, such buildings need not be clubbed together to calculate built up area even though they share a common wall or common roof. They shall be treated separately for arranging power supply."

ಮೇಲ್ಕಂಡ ಖಂಡಿಕೆಯ ಪ್ರಕಾರ ಒಂದು ವೇಳೆ ಮಂಜೂರಾದ ಯೋಜನೆಯು ಒಂದೇ ಆವರಣದಲ್ಲಿ ಎರಡು ಅಥವಾ ಹೆಚ್ಚಿನ ಕಟ್ಟಡಗಳನ್ನು ಸೂಚಿಸಿದರೆ ಅಥವಾ ಮಂಜೂರಾದ ಯೋಜನೆಗಳು ಪ್ರತ್ಯೇಕವಾಗಿ ಮತ್ತು ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳಲ್ಲಿದ್ದು ಕಟ್ಟಡಗಳು ಮಾತ್ರ ಒಂದಕ್ಕೊಂದು ಲಗತ್ತಿಸಿಕೊಂಡಿದ್ದು ಇವುಗಳು ಸಾಮಾನ್ಯ ಮಾರ್ಗ ಅಥವಾ ಮೆಟ್ಟಿಲುಗಳನ್ನು ಹಂಚಿಕೊಂಡಿದ್ದರೆ ಅಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ನಿರ್ಮಾಣ ಪ್ರದೇಶವನ್ನು ಲೆಕ್ಕಾಚಾರ ಮಾಡಲು ಅವುಗಳನ್ನು ಒಟ್ಟಿಗೆ ಸೇರಿಸಲಾಗುತ್ತದೆ.

ಅದೇ ರೀತಿ ಕಟ್ಟಡಗಳು ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳಲ್ಲಿ ಇದ್ದು ಪ್ರತ್ಯೇಕ ಖಾತಾಗಳು ಅಥವಾ ಮಾಲೀಕತ್ವವನ್ನು ಹೊಂದಿದ್ದರೆ ಮತ್ತು ಕಟ್ಟಡಗಳ ಒಳಗೆ ಒಂದು ಕಟ್ಟಡದಿಂದ ಇನ್ನೊಂದು ಕಟ್ಟಡಕ್ಕೆ ಯಾವುದೇ ಪ್ರವೇಶ ಅಥವಾ ಸಾಮಾನ್ಯ ಮಾರ್ಗ ಅಥವಾ ಮಾರ್ಗವಿಲ್ಲದಿದ್ದರೆ ಮತ್ತು ಪ್ರತಿ ಕಟ್ಟಡವು ರಸ್ತೆ ಬದಿಯಿಂದ ಪ್ರತ್ಯೇಕ ಪ್ರವೇಶವನ್ನು ಹೊಂದಿದ್ದರೆ, ಅಂತಹ ಕಟ್ಟಡಗಳ ನಿರ್ಮಾಣ ಪ್ರದೇಶಗಳನ್ನು ಒಟ್ಟಿಗೆ ಸೇರಿಸುವ ಅಗತ್ಯ ಇರುವುದಿಲ್ಲ. ಒಂದು ವೇಳೆ ಸದರಿ ಕಟ್ಟಡಗಳು ಸಾಮಾನ್ಯ ಗೋಡೆ ಅಥವಾ ಸಾಮಾನ್ಯ ಮೇಲ್ಛಾವಣಿಯನ್ನು ಹಂಚಿಕೊಂಡರೂ ಸಹ ನಿರ್ಮಾಣ ಪ್ರದೇಶವನ್ನು ಲೆಕ್ಕಾಚಾರ ಮಾಡಲು ವಿದ್ಯುತ್ ಸರಬರಾಜು ವ್ಯವಸ್ಥೆಗಾಗಿ ಅವುಗಳನ್ನು ಪ್ರತ್ಯೇಕವಾಗಿ ಪರಿಗಣಿಸಬೇಕು ಎಂಬುದಾಗಿರುತ್ತದೆ. ಪ್ರಸ್ತುತ ಪ್ರಕರಣದಲ್ಲಿ ಈ ಮೇಲೆ ಚರ್ಚಿಸಿದಂತೆ ಮುಖ್ಯ ರಸ್ತೆಯಿಂದ ಪ್ರವೇಶವನ್ನು ಹೊಂದಿರುವ ಕಟ್ಟಡಗಳು 'ಡಿ' ಬ್ಲಾಕ್ ಹಾಗೂ 'ಇ' ಬ್ಲಾಕ್‌ಗಳು ಆಗಿರುತ್ತವೆ, ಈ ಎರಡೂ ಕಟ್ಟಡಗಳ ನಡುವೆ ಇರುವ common passage ಮೂಲಕ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ನಿರ್ಮಿಸಿರುವ ನೂತನ ಕಟ್ಟಡಕ್ಕೆ ಪ್ರವೇಶಿಸಬಹುದಾಗಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಒಂದನೇ ಎದುರುದಾರರು ನಿಯಮಾವಳಿ 3.1.1ರ Amended vide Notification No. KERC/CoS/D/14/14-15, dated 25.08.2014, KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004ನ ಪ್ರಕಾರ ಲೆಕ್ಕಾಚಾರ ಮಾಡಿ ದಿನಾಂಕ 03.08.2022ರಂದು ಪತ್ರದ ಮೂಲಕ ದೂರುದಾರ/ಅಪೀಲುದಾರರಿಗೆ ತಿಳಿಸಿರುವುದು ಸರಿಯಾಗಿರುತ್ತದೆ. ಎರಡನೇ ಎದುರುದಾರ/ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆಯವರು ಈ ಎಲ್ಲವನ್ನು ಪರಿಶೀಲಿಸಿ ದಿನಾಂಕ 19.09.2022ರಂದು ಆದೇಶಿಸಿರುತ್ತಾರೆ, ಸದರಿಯವರ ಆದೇಶ ನಿಯಮಗಳಿಗೆ ಅನುಸಾರವಾಗಿರುತ್ತದೆ, ಆದ್ದರಿಂದ ಸದರಿ ಆದೇಶದಲ್ಲಿ ಹಸಕೇಪ ಮಾಡುವ ಅಗತ್ಯವಿರುವುದಿಲ್ಲ. ಅಷ್ಟೇ ಅಲ್ಲದೇ ದೂರುದಾರ/ಅಪೀಲುದಾರರು ಸೂಕ್ತ ಹಣವನ್ನು

ವಿದ್ಯುಚ್ಛಕ್ತಿ ಲೋಕಪಾಲರ ಆದೇಶ: -

- ಅಪೀಲನ್ನು ವಜಾಮಾಡಲಾಗಿದೆ.
- ಎರಡನೇ ಎದುರುದಾರರು/ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆರವರು ದಿನಾಂಕ 19.09.2022ದಂದು ಪ್ರಕರಣ ಸಂಖ್ಯೆ 01/2022 ಆದೇಶ ಸಂಖ್ಯೆ: ಹಾ/ಗ್ರಾಕುಕೊನಿವೇ/ಪ್ರ.ಸಂ-01/ CR-29/2022-23/7090-97 ರಲ್ಲಿ, ಹೊರಡಿಸಿದ ಆದೇಶವನ್ನು ಸ್ಥಿರಗೊಳಿಸಲಾಗಿದೆ.
- ಕರ್ನಾಟಕ ವಿದ್ಯುಚ್ಛಕ್ತಿ ನಿಯಂತ್ರಣ ಆಯೋಗ (ಗ್ರಾಹಕರ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ವೇದಿಕೆ ಹಾಗೂ ಓಂಬಡ್ಸಮನ್) ನಿಯಮಗಳು 2004ರ, 22.7ರ ನಿಯಮಗಳ ಅಡಿಯಲ್ಲಿ ನಿಗದಿಪಡಿಸಲಾದ ನಿಬಂಧನೆಗಳನ್ನು ಅನುಸರಿಸಲು ಕಚೇರಿಗೆ ನಿರ್ದೇಶಿಸಲಾಗಿದೆ.



Day to day challenges arising before Ombudsman & CGRF

Section 56. (Disconnection of supply in default of payment): --

(1) Where any person **neglects to pay** any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, **after giving not less than fifteen clear days' notice** in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, **cut off** the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and **may discontinue** the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, **are paid**, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, **under protest**, -

- (a) an amount equal to the sum claimed from him, or
- (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section **shall be recoverable after the period of two years** from the date when such sum became **first due** unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

Limitation prescribed under Section 56(2) of The Electricity Act, 2003 & Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka – a bird view

Writ Petition No. 17225/2007 (GM-KEB) BE\$COM Vs M/s Ghousia College of Engineering, Ramanagara, Order dated 05.11.2008.

“Court held

It is not in dispute that the short claim was made known to the Petitioner only when it received the Audit report the same date has to be considered as the date on which such sum become 1st due. There was no occasion for the Petitioner to raise a bill prior to the receipt of the audit report. Therefore, this court is of the opinion that the period of 2 years has to be counted from the day on which Petitioner-Company has come to know of such short claim.”

Hon'ble Supreme Court in Civil Appeal No. 1672/2020 held between Assistant Engineer (D1), Ajmer Vidyuth Vitharan Nigam Ltd & Another Vs Rehamatullah Khan alias Rahamjualla SC dated 18.02.2020

7.4 The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period.

If the licensee company were to be allowed to disconnect electricity supply that the expiry of the limitation period of two years after the sum became "first due", it would defeat the object of Section 56(2).

8. *Section 56(2) however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.*

As per Section 17(1)(c) of the Limitation Act, 1963, in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time.

In Mahabir Kishore and Ors.vs State of Madhya Pradesh,⁵ this Court held that :-
“Section 17(1)(c) of the Limitation Act, 1963, provides that in the case of a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it.

Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009, dated 05.10.2021 in M/s Prem Cottex Vs Uttar Haryana Bijli Vitran Nigal Ltd & Others

*The Hon'ble Apex Court has held that as, the Consumer in that case was billed under a particular tariff code for the period from July 2009 to September 2011, but after audit, it was discovered that a difference Tariff code should have been applied therefore, a show cause notice was issued on 18.03.2014 raising an additional demand for the period from July 2009 to September 2011. Then a bill was raised on 25.05.2015 for the said aforesaid period. The Consumer challenged the demand before the District Consumer Forum but the order of the District Forum was reversed by the State Commission on an appeal by Licensee. The National Commission on a revision filed by the Consumer set aside the order of State Commission and restored the order of the District Forum. Further held this Court disposed of appeal preventing the Licensee from taking recourse to disconnection of supply but giving them liberty to take course to any remedy available in law for recovery of the additional demand. **Finally, the Hon'ble Supreme Court held that if a Licensee discovers in the course of audit or otherwise that a Consumer has been short billed, the Licensee is certainly entitled to raise a demand and allowed the prayer of the Licensee and granted 8 weeks time to the Appellant therein to make payment of the balance amount.***

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

Revision Petition No. 3953 OF 2010 dated 06.05.2022

Maharashtra State Electricity Distribution CO. LTD. Vs M/S. Santosh Printers

19. In a nutshell the electricity distribution co. was though within its right to raise a lawful and justified supplementary demand in case of a mistake or bonafide error, however the onus was on the electricity distribution co. to show that it was in fact a case of bonafide error and it was also dutybound to maintain credible record of the specific date on which the mistake first came to its notice so as to enable computation of limitation. It also owed a duty to provide the salient rationale and calculations to the consumer to clarify / explain the supplementary demand i.e. to clarify / explain the mistake made earlier and the rectification being made subsequently. In the present case it has failed to discharge its said duties.

20. The revision petition stands dismissed. An amount of Rs. 25,000/- shall be paid by the electricity distribution co. to the complainant within six weeks to defray litigation expenses of the revisional proceedings before this Commission. A cost of Rs. 1.00 lakh shall also be deposited by the electricity distribution co. in the 'Consumer Legal Aid Account' of the District Commission within six weeks.

21. The Registry is requested to send a copy each of this Order to the parties in the petition and to their learned counsel as well as to the District Commission immediately. The stenographer is also requested to upload this Order on the website of this Commission immediately.

**Writ Petition No. 8593/2020 (GM-KEB) Karnataka
Dated 29.09.2022**

**○ Nexgen Concrete Solutions, Ready Mix Concrete Vs Executive Engineer
(Ele), BESCO, Hoskote Division & Others**

*As could be seen from the Annexure-J, the Assistant Executive Engineer (Vigilance) though noticed that the **KERC has revised the Tariff order way back in the year 2017 i.e., on 11.04.2017**, ought to have sought explanation from Assistant Executive Engineer (O & M) i.e., Operation and Maintenance of the concerned Subdivision as to why the revised Tariff order has not been applied to the petitioner. **Having not done so, erroneously proceeded to pass order imposing penalty of Rs.4,73,109/- (Rupees Four Lakh Seventy Three Thousand One Hundred and Nine only).** Thereafter, the Assistant Executive Engineer (V), BESCO proceeded to issue Final Assessment Order and directed the petitioner to pay Rs.4,73,109/- (Rupees Four Lakh Seventy Three Thousand One Hundred and Nine only) within 30 days.*

In my considered opinion, both the Assistant Executive Engineer (O & M) and the Assistant Executive Engineer (Vigilance) have exercised their powers arbitrarily and illegally.

It is needless to observe that the exercise of power by the Officials of public body is subject to the judicial review. In the present case, there is no fault on the part of the petitioner. The officials concerned are not diligent in exercising their statutory powers and are compelling the Consumers, Citizens at large to approach the Court. Therefore, this Court deem it appropriate to quash Annexure-J and K and the Court is also directing the BESCO Authorities to recover the said amount of Rs.4,73,109/- (Rupees Four Lakh Seventy Three Thousand One Hundred and Nine only) from the official concerned and see that the amount is credited to the account of BESCO.



Whether the supply of electricity could be discontinued to the new owner on failure of the previous owners to pay the dues for consumption of electricity on the premises?

IN THE SUPREME COURT OF INDIA in Civil Appeal Nos. 1418 of 1995 held between Isha Marbles V/s. Bihar State Electricity Board and Another dated 03.02.1995.

Electricity –liability – Section 29(1) of State Financial Corporations Act, 1951 and Section 24 Electricity Act, 1910 – whether auction purchaser liable to meet liability of old consumer of electricity to premises which is purchased by him in auction sale under Section 29(1) – where premises owned by auction-purchaser when such purchaser seeks supply of electrical energy he cannot be called upon to clear past arrears as condition precedent to supply – what matter is contract entered into by erstwhile consumer with Board – Board cannot seek enforcement of contractual liability against auction-purchaser who is third party.

Case Law – K.C. Ninan Vs Kerala State Electricity Board and Others, SC in Civil Appeal No. 2109-2110 of 2004 judgement dated 19.05.2023.

Supreme Court: the 3-judge bench of Dr DY Chandrachud, CJI and Hima kohli and PS Narasimha, JJ has held that the duty to supply electricity under Section 43 of the Electricity Act 2003 is not absolute to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity.*

.....The supply of electricity was discontinued due to the failure of the previous owners to pay the dues for consumption of electricity on the premises. The previous owners had borrowed money or raised loans on the security of their premises. In some cases, the erstwhile owner went into liquidation. The premises were sold in auction sales generally on an “as is where is” basis. The new owners, who purchased the properties in auction, applied for new electricity connections for the premises to which electricity had been disconnected for failure to pay the dues. The Electric Utilities refused to provide an electricity connection unless the auction purchaser paid the dues of the previous owner. This refusal was derived from powers conferred under subordinate legislations, notifications, electricity Supply Codes or state regulations. The denial of electricity supply resulted in the institution of petitions under Article 226 before the High Court, leading to the judgments which are in appeal.

5. Section 2(c) of the 1910 Act defined “consumer” as any person supplied with energy by a licensee or any other person engaged in the business of supplying energy to the public under the Act, and included any person whose premises were for the time being connected for the purposes of receiving energy. Section 21(2) empowered a licensee to make conditions to regulate their relations with persons who were or intend to become consumers. Section 22 obligated a licensee to supply electrical energy, on application, to every person within the area of supply on the same terms as those on which any other person in the same area was entitled. Section 24 empowered the licensee to disconnect the supply of electricity if any person neglected to pay any charge or sum for energy due to the licensee.

Duty to supply electricity under section 43 of the Electricity Act, 2003 not absolute

It was argued by the Electric Utilities that the duty to supply electricity under Section 43 of the 2003 Act is not absolute. Accepting the argument, the Court held that the duty to supply electricity under Section 43 of the 2003 Act is not absolute and is subject to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity.

According to Section 43, the distribution licensee is obligated to supply electricity to the premises of an owner or occupier within a month of the receipt of an application requiring such supply. The provision casts a duty on the distribution licenses to supply electricity to the owner or occupier’s premises. Correspondingly, the owner or occupier of the premises has a right to apply for and obtain electric supply from the distribution licensee. Both the right and the corresponding duty are imposed by the statute. The owner or occupier of the premises has to submit an application to avail of the supply of electricity. Under Section 43., when electricity is supplied, the owner or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided by the Electric Utilities.

Premises cannot be a defaulter

The duty to supply electricity under Section 43 is only with respect to the owner or occupier of the premises, and not the premises, as it is the owner or occupier who has the statutory right to “demand” electricity for the premises under their use or occupation. Further, it is the applicant who has to fulfil all the statutory conditions laid down under the 2003 Act to become entitled to get supply of electricity to their premises. The applicant has to pay the necessary charges and comply with all terms and conditions as determined by the appropriate commission for the supply of electricity. While Sections 43 and 44 of the 2003 Act talk about supply of electricity to premises, the use of such phrases is borne out of the practical consideration of supply of electricity. Unlike other goods, a distribution licensee cannot insist that the consumer come to their factory or warehouse to receive the supply of electricity.

The distribution licensee necessarily has to lay down special infrastructure such as electricity lines and transformers to transmit electricity and supply it directly to the consumer, at their premises. On an application, the distribution licensee is statutorily obliged to supply electricity to the consumer. Consequently, the place where the supply of electricity is to be made has to be necessarily identified. Thus, Section 43 and 44 refer to the consumer’s premises to fix the situs for the purpose of supplying electricity.

“Thus, it is always the consumer who is supplied electricity and is held liable for defaulting on payment of dues or charges for supply of electricity. Perforce, the premises cannot be held to be a defaulter and no dues can be attached to the premises of the consumer.”

Whether arrears of electricity can become a charge or encumbrance over the premises

The provisions of the 1910 Act, 1948 Act, and the 2003 Act do not provided that the arrears of electricity dues would constitute a charge on the property or that such a charge shall be enforceable against a transferee without notice. In fact, the arrears of electricity cannot become a charge or encumbrance over the premises, in the absence of an express provision of law in the 1910 Act, 1948 Act or 2003 Act.

Hence, in general, a transferee of the premises cannot be made liable for the outstanding dues of the previous owner since electricity arrears do not automatically become a charge over the premises. Such an action is permissible only where the statutory conditions of supply authorise the recovery of outstanding electricity dues from a subsequent purchaser claiming fresh connection of electricity, or if there is an express provision of law providing for creation of a statutory charge upon the transferee.

**A question arose before the Hon'ble Supreme Court in the case
“Whether an electricity charge can be introduced by way of statutory
regulations or rules enacted by a regulatory commission under its rule
making power in the 2003 Act.”**

The electricity utilities can create a charge by framing subordinate legislation or statutory conditions of supply enabling recovery of electricity arrears from a subsequent transferee. Such a condition is rooted in the importance of protecting electricity which is a public good. Public utilities invest huge amounts of capital and infrastructure in providing electricity supply. The failure or inability to recover outstanding electricity dues of the premises would negatively impact the functioning of such public utilities and licensees. In the larger public interest, conditions are incorporated in subordinate legislation whereby Electric Utilities can recoup electricity arrears. Recoupment of electricity arrears is necessary to provide funding and investment in laying down new infrastructure and maintaining the existing infrastructure. In the absence of such a provision, Electric Utilities would be left without any recourse and would be compelled to grant a fresh electricity connection, even when huge arrears of electricity are outstanding. Besides impacting on the financial health of the Utilities, this would impact the wider body of consumers.

Implication of Section 56(2) on recovery of electricity dues by Electric Utilities

The statutory right of the licensee or the generating company to disconnect the supply of electricity is subject to the period of limitation of two years provided by Section 56(2). Section 56(2) provides that notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer “under this section” shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity. The limitation of two years is limited to recovery of sums under Section 56. This is evident by the use of the expression, “under this section”.

The period of limitation under Section 56(2) is relatable to the sum due under Section 56. The sum due under Section 56 relates to the sum due on account of the negligence of a person to pay for electricity. Section 56(2) provides that such sum due would not be recoverable after the period of two years from when such sum became first due. The means of recovery provided under Section 56 relate to the remedy of disconnection of electric supply. The right to recover still subsists.

Hence, it would not be held that the recovery of outstanding electricity arrears either by instituting a civil suit against the erstwhile consumer or from a subsequent transferee in exercise of statutory power under the relevant conditions of supply is bared on the ground of limitation under Section 56(2) restricts the remedy of disconnection under Section 56, the licensee is entitled to recover electricity arrears through civil remedies or in exercise of its statutory power under the conditions of supply.

328. The conclusions are summarised below:

b. The duty to supply electricity under Section 43 is with respect to the owner or occupier of the premises. The 2003 Act contemplates a synergy between the consumer and premises. Under Section 43, when electricity is supplied, the owner or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided by the Electric Utilities;



Erection of electrical poles and lay electric lines in the land of private persons

**GUJARAT STATE ENERGY TRANSMISSION CORPORATION LIMITED,
Versus RATILAL MAGANJI BRAHMBHATT (BAROT),
order dated 06.11.2020**

3.2 The writ applicant has a serious objection against erection of such electric pole by the Corporation in his agricultural land. According to the writ applicant, the part of the land on which the Corporation proposes to erect the pole would diminish the market value of the land in terms of money.

The expression "do little damage to property", in our opinion, should be construed as to ensure that while laying the pole at the place allocated, minimal damage is caused at the time of erection. It is always open for the writ applicant to raise dispute with respect to the sufficiency of compensation under Section 16(4) of the Telegraph Act before the District Judge in accordance with law.

(2016) 04 P&H CK 0205

In The High Court Of Punjab And Haryana At Chandigarh

Case No : R.S.A No. 1664 of 2015 (O&M)

**Parminder Kaur @ Satinder Kaur Vs Punjab State Power Corporation Ltd. and others
dated 22.04.2016**

3. Appellant-plaintiff has filed the suit for mandatory injunction directing the respondent-defendants to remove the electricity poles and electric wires installed in the land owned by the plaintiff comprised of khasra no. 140//18, 19, 20 situated adjoining to Nathana-Bhagta road situated in revenue estate of village Dialpura Mirza, Tehsil Phul, District Bathinda.

7. On appreciating the material on record and the contentions raised by learned counsel for the parties, the learned trial Court dismissed the suit filed by the plaintiff-appellant, vide impugned judgment and decree dated 07.11.2013.

8. Aggrieved with the aforesaid judgment and decree, appellant-plaintiff has preferred the appeal and the same was also dismissed by the learned First Appellate Court, vide impugned judgment and decree dated 09.12.2014. Hence this Regular Second Appeal.

13. In case *Dr. Mohan Lal v. Haryana State Electricity Board, Chandigarh and ors.* 1989(2) PLR 380, this Court has laid down that the notice to the individual persons affected by scheme is not required. However, the person interested whose rights in the property have been adversely affected has a right to receive compensation by making necessary application under Section 42 of the Indian Telegraph Act before the District Judge within whose jurisdiction the property is situated.

14. In case *Power Grid Corporation of India v. Rajbir Singh and others* 2009(5) R.C.R (Civil) 742, this Court has laid down that Section 145 of the Electricity Act mandates that no Court shall grant any injunction in respect of any action taken or to be taken in pursuance of any power conferred by or under the Electricity Act. In the instant case also the electricity poles and line has been erected by the defendants by exercising the powers under the Electricity Act. In case *Sukhmander Singh v. Punjab State Electricity Board & Ors.* 2010(7) R.C.R. (Civil) 583 also this Court has laid down that the electricity board is empowered under the relevant provision of law to erect the poles and lay lines in fields of the private person. **The only remedy available to the aggrieved person is to claim compensation.**

15. In view of the aforesaid legal position, no mandatory injunction can be issued directing the defendants to remove the electricity poles and electric lines in dispute. Thus, no case is made out to interfere with the concurrent findings recorded by the learned Courts below.

16. Consequently, the present appeal being devoid of merits, is hereby dismissed with no orders as to costs.



Bar to Civil Suit (Section 145 of The Electricity Act, 2003)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR.
CIVIL REVISION APPLICATION NO. 122/2022**

The Additional Executive Engineer & Another Vs Shri Kishor S/o Mohanlal Paliwal, & Others

(2) The present Revision Application is filed by the Maharashtra State Electricity Parashan Company Limited, being aggrieved by the order passed by the learned Joint Civil Judge Junior Division, Nagpur below Exhibit No. 9 in Regular Civil Suit No. 574/2022. The Applicants/Defendant Nos. 1 and 2 filed Application under Section 9 read with Order VII Rule 11 of the Civil Procedure Code for rejection of the Plaint.

(3) It is the contention of the Defendants specifically that the jurisdiction of the Civil Court is expressly barred under the provisions of Section 145 of the Electricity Act, 2003 (hereinafter referred to as "the said Act"). The Suit is filed against the Defendant – Company for Declaration and Permanent Injunction. The Plaintiffs have also preferred an Application for grant of temporary injunction. The contention of the present Defendants was that in view of the bar under Section 145 of the said Act, the Civil Court has no jurisdiction to entertain any Suit or Proceedings in respect of any matter of which Assessing Officer referred to in Section 126 or the Appellate Authority referred to in Section 127 or the Adjudicating Officer appointed under the said Act is empowered to determine and no injunction shall be granted by any Court in respect of any action taken in pursuance of any power conferred by or under the said Act.

(4) Thus, the jurisdiction of the Civil Court is expressly barred to that extent. The Plaintiffs are challenging the action of erecting and installing of electric tower for supplying the electricity from the generation plant to specified destination. The Plaintiffs have also sought relief of temporary injunction against the Defendants with the prayer that the Defendants may be restrained from creating any third party interest in the Suit Property. The work undertaken by the Authority of the Company falls within the purview of Section 40 of the said Act.

(5) Learned Counsel for the Applicants relied on the judgment of the Madras High Court in the case of A. Kaleur Rahman vs. P. Kanna reported in AIR OnLine 2019 Mad. 1751 and also the judgment of the Punjab and Haryana High Court in the case of Parminder Kaur @ Satinder Kaur vs. Punjab State Power Corporation Ltd. & another in R.S.A. No. 1664/2015 decided on 22/04/2016.

(6) On consideration of these judgments cited by the learned Counsel for the Applicants, it is clear that Section 145 of the said Act clearly bars the jurisdiction of the Civil Court from granting any injunction in respect of an action to be taken by the Authority under the said Act. The bar contemplated under Section 145 of the said Act is two fold: (a) The first part of the Section deals with Suits or Proceedings being filed in respect of any matter which an Assessing Officer is required under Section 126 or an Appellate Authority under Section 127 or the Adjudicating Officer under the said Act is empowered by or under this Act to determine. (b) The second limb of the Section deals with any action being instituted in any Court or before any Authority with reference to any action taken or proposed to be taken in pursuance to any powers conferred under the said Act.

Therefore, on reading of the above Section makes it clear that not only is the Suit or Proceedings before the Civil Court barred in respect of the matters under Section 126 or Section 127 or before the Adjudicating Officer under the Act, but the Suit or Proceedings before the Civil Court is also barred if an injunction is sought for to prevent or to direct any action to be taken by any Authority under the Act. The installation of towers for supply of electricity is the act which is done by the Authorities or Authorized Licensee under the said Act. Therefore, the Suit for injunction restraining them from erecting any fresh tower for supply of electricity falls within the bar of Section 145 of the said Act.

(7) In my considered opinion, the learned Trial Court totally misinterpreted the provisions of Section 145 of the said Act. As such, the impugned order passed by the learned Joint Civil Judge Junior Division is required to be quashed and set aside.



Whether the Landlord of the premises is entitled for disconnection of electricity of the premises in which the Tenant is a Consumer?

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
CR-1153-2022, dated 19.12.2022, Om Parkash Vs Balkar Singh
and others**

Admittedly, respondent No.1 has filed a suit for possession of the suit property along with recovery of mesne profits, which is still pending adjudication, therefore, the question as to whether the petitioner is an illegal occupant of the suit property or not, or as to whether he is liable to be evicted or not, would be a matter of trial. The fact of the matter is that the petitioner is in possession of the suit property and still further his eviction has not yet been ordered by a competent Court of law.

It cannot be over-emphasized that electricity being a basic necessity, is an integral part of right to life as enshrined under Article 21 of the Constitution of India. Therefore, as long as the petitioner is in possession of the suit property, he cannot be deprived of electricity.

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
WRIT APPEAL No.999/2021 (GM- KEB), DATED 25.10.2021
BESCOM & Another Vs Sri Ashwin Joshua D'Souza & Others**

9. The material on record does not indicate that respondent No.1 has committed default in paying the electricity bills. If there is no default on the part of the Respondent No.1 who is in occupation of the premises, the present Appellants cannot disconnect the electricity supply at the instance of the respondent No.3/landlady.



Compounding the offences under Electricity Act with protest – Not maintainable

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
W.P(MD)No.113 of 2012 and M.P(MD)No.1 of 2012, DATED: 09.02.2018
V.Swaminathan Vs The Superintending Engineer & Another**

Held: - 66. In the light of the above discussion, as compounding under protest is not acceptable, the respondents are at liberty to proceed further in accordance with law. However, this Court is inclined to direct the respondents to initiate proceedings, as contemplated under Regulation 23-AA of the Tamil Nadu Electricity Supply Code, 2004, pursuant to the proceedings of the 3rd respondent, dated 25.09.2012 and 26.09.2012 and pass orders, after affording opportunity to the petitioner, within a period of two months, from the date of receipt of a copy of this order."

Maintainability of the Complaints under Electricity Act before Consumer Redressal Forum

**IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5466 OF 2012 (arising out of SLP(C)No.35906 of 2011) U.P. POWER
CORPORATION LTD. Vs ANIS AHMAD, dated 01.07.2013**

47. In view of the observation made above, we hold that:

(i) In case of inconsistency between the Electricity Act, 2003 and the Consumer Protection Act, 1986, the provisions of Consumer Protection Act will prevail, but ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matters which do not come within the meaning of “service” as defined under Section 2(1)(o) or “complaint” as defined under Section 2(1)(c) of the Consumer Protection Act, 1986.

(ii) A “complaint” against the assessment made by assessing officer under Section 126 or against the offences committed under Sections 135 to 140 of the Electricity Act, 2003 is not maintainable before a Consumer Forum.

(iii) The Electricity Act, 2003 and the Consumer Protection Act, 1986 runs parallel for giving redressal to any person who falls within the meaning of “consumer” under Section 2(1)(d) of the Consumer Protection Act, 1986 or the Central Government or the State Government or association of consumers but it is limited to the dispute relating to “unfair trade practice” or a “restrictive trade practice adopted by the service provider”; or “if the consumer suffers from deficiency in service”; or “hazardous service”; or “the service provider has charged a price in excess of the price fixed by or under any law”.

Fine imposed on the first conviction under Section 135 of The Electricity Act, 2003

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU,
CRIMINAL APPEAL NO. 1128 OF 2011, DATED 04.08.2023**

9. As per the proviso (i) of Section 135(1) of the Act, the fine imposed on the first conviction shall not be less than three times the financial gain on account of such theft of electricity. Then, what is the financial gain by this respondent – accused by theft of electricity is required to be ascertained from the evidence on record.

10. PW3 is a Junior Engineer working in Talluru MESCOM Section and he has deposed that, on the basis of average use, he has calculated the back billing as per Ex. P4 and given notice of the back billing and the back billing amount as Rs.36,063/-. There is no cross examination with regard to back billing amount of Rs.36,063/-. This back billing amount has been arrived on the basis of the average consumption by the respondent – accused and the consumption of units recorded in the meter. Therefore, the back billing amount is a financial gain by the respondent – accused by commission of theft of electricity. Therefore, the financial gain by the respondent – accused is of Rs.36,063/-. Even, the Special Court, based on the evidence on record has held that the back billing amount is Rs.36,063/- and it is required to be paid by the respondent – accused to the MESCOM.

11. The minimum sentence for the theft of electricity under Section 135 of the Act for the first conviction is, if the load used is less than 10 kilowatt, shall not be less than three times the financial gain. The financial gain by this respondent – accused by the said offence of theft of electricity is Rs.36,063/-. Therefore, the minimum fine is three times the said amount of Rs.36,063/- which comes to Rs.1,08,189/-. 12. The sentence imposed by the Special Court is Rs.5,000/- for the offence under Section 135 of the Act. Therefore, the sentence imposed by the Special Court for the offence under Section 135 of the Act is less than the minimum sentence and it is not proper. Therefore, the sentence imposed by the Special Court for the offence under Section 135 of the Act requires to be enhanced which is three times the financial gain of Rs.36,063/- which comes to Rs.1,08,189/-

Unauthorized use of electricity & theft of electricity (Under Section 126 & 135 of Electricity Act, 2003)

Unauthorized use of electricity under Section 126 of Electricity Act, 2003

- Section 126 defines unauthorized use of electricity.
- Means usage of electricity by a means not authorized by the Authority or Licensee or through a tampered meter or for purpose other than for which the usage of electricity was authorized.
- Assessment Officer must be a member of the inspection team at the time of detecting the pilferage or unauthorized use of electricity, so that he can pass order of assessment after visiting the site at the time of detection of illegality.
- The Assessing Officer shall serve provisional assessment upon the person in occupation or possession or in charge of the place or premises.

- ❑ When provisional assessment order is served, inference can be drawn that it is falling within the scope of Section 126 of Electricity Act but not under Section 135 of Electricity Act, 2003

AIR 2007 AP 265, Thirumala Modern Rice Mills Vs Transmission Corporation of AP

- ❑ The person on whom the Provisional Assessment Order has been served, shall be entitled to file objections.
- ❑ The person served with the order of provisional assessment may accept such assessment and deposit the assessed amount within 7 days of service of Provisional Assessment Order upon him.
- ❑ Upon depositing the assessed amount the matter ends thereby, and the person/ Consumer shall not be subjected to any further liability or action.
- ❑ Assessing Officer do not compel the Consumer to pay any amount if the Consumer wants to file objection and invite a final order of assessment

- ❑ In case the person/Consumer filing objection against the Provisional Assessment order, the Assessing Officer will hear his objection and pass final order of assessment.
- ❑ Assessing Officer has to observe consumption pattern before personal hearing to Consumer following the principles of natural justice and reasonable hearing.
AIR 2007 DEL 85 Harvinder Motors Vs BSES Rajadhani Powers Limited
- ❑ Prayer to cross-examine the concerned officer making final assessment was made by the Consumer as he would be highly prejudiced if the right to cross-examine and opportunity of hearing were denied to him.
AIR 2006 SUPREME COURT Page 1445, Transmission Corporation of AP Limited Vs Ramakrishna Rice Mill
- ❑ Assessing Officer shall afford a reasonable opportunity of hearing to such person, pass a final order of Assessment within 30 days from the date of service of such order of provisional assessment of electricity charges payable by such person.

- ❑ If Assessing Officer reaches to the conclusion that unauthorized use of electricity has taken place the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place.
- ❑ In case the period during which such unauthorized use of electricity has taken place cannot be ascertained such period shall be limited to a period of 12 months immediately preceding the date of inspection.
- ❑ If the Person/Consumer does not accept the final Assessment Order he can approach Forum of appeal under Section 127 of Electricity Act, 2003
- ❑ The provision of Assessment under Section 126 of Electricity Act, 2003 is meant to ensure quick recovery of sums without the requirement of criminal proceeding.
- ❑ Officers of the Electricity Company or Licensee cannot directly compound offences, procedure prescribed under Section 126 has to be followed.

Theft of electricity under Section 135 of Electricity Act, 2003

- ❑ Section 135 defines Assessment for theft of electricity.
- ❑ Theft of electricity is dishonest tapping of electricity from overhead or underground cables or facilities of distribution or transmission licensee, tampering the meters and damaging and destroying electrical meters.
- ❑ Under Section 135 of the Electricity Act, 2003, only the Officer authorized by the State Government of the inspection team can lodge complaint under Cr.P.C.
- ❑ Do not contemplate provisional assessment of energy pilfered in case of theft.
- ❑ Section 135 of Electricity Act, 2003 covers act committed dishonestly and provides for punishment of fine and/or imprisonment for such offenses.
- ❑ The word 'Dishonestly' is not mentioned in the definition of unauthorized use in Section 126 of Electricity Act, 2003 implying thereby, that such acts call for deterrent action they do not warrant criminal proceedings in a Court of law.

- ❑ There will be no violation of principle of natural justice because the Assessing officer is also the Complainant in the criminal case.
- ❑ Dishonest abstraction of electrical energy is deemed to be theft within the meaning of the Indian Penal Code and must be deemed for all purposes a theft including the purposes of imposing punishment.
1996 SCC (CRI) 71, Sathyanarayana Prasad Vs Bhagawan Ramdas
- ❑ The judgement as to whether the act has been committed dishonestly or not would decide its treatment and consequential action.
- ❑ The rule that no body can judge of his own cause is moulded in the interest of justice.
- ❑ Any Officer of the Licensee or supplier authorized by the State Government may enter, inspect, break open and search of any place or premises in which he has reason to believe that electricity has been or is being used unauthorizedly.
- ❑ For the purpose of investigation of an offence punishable under Electricity Act, the Police Officer shall have all the powers as provided in chapter XII of the Code of the Criminal Procedure 1973 (Information to the Police and their powers to investigate).

- ❑ The Offences under Section 135 & 138 of Electricity Act are cognizable and non bailable and punishable upto 3 years of imprisonment.
- ❑ On complaint filed by the Officer authorized in this behalf to a Court, in such case the Magistrate can take cognizance of the offence even under IPC.
- ❑ The Police Officer could investigate the crime, register and file report under Section 173 Cr.P.C.
- ❑ Authorization of Officers by the State Government to take necessary action to detect theft of electricity will in no way affect powers of police in this regard.
AIR 2007 NOC KERALA PAGE 600 M. Paramashivam Vs Union of India
- ❑ The special courts are constituted for trial of theft related offences under Electricity Act. The special court having powers of a court of session.
- ❑ Under Chapters XXIX & XXX of the Code of Criminal Procedure, the High Court shall exercise the jurisdiction of appeal and revision against the orders/judgement passed by the special court.

- ❑ As per section 135(2) and 135(3) gives specific power to Authorized Officer to search and seizure of offending articles even in absence of such warrant issued by the Magistrate. Police Authorities act in aid of exercise of powers by the Authorized Officer.
- ❑ The provisions of Cr.P.C. relating to search and seizure shall apply as far as to search and seizer under Electricity Act, 2003.
- ❑ The occupant of the place of such or any person on his behalf is required to be present during the search and shall signed the list of things seized. No inspection or search or seizure of any domestic place or premises shall be carried out between the sunset and sunrise except in the presence of an adult male member occupying the premises.
- ❑ The onus which lies on the prosecution for proving an offence is discharged by merely proving the existence of an artificial means for dishonest abstraction or user of electrical energy. The onus then shift to the accused that the artificial means was not for the purpose of dishonest abstraction of energy.
- ❑ Under Section 320 of Cr.P.C only offences under IPC can be compounded.

**Executive Engineer KPTCL now GESCOM, Bidar Vs Ishwaramma
AIR 2006 Karnataka Page 23**

On inspection the Vigilance squad found the Consumer Rice mill was committed theft of electricity bypassing the meter and connecting directly to the mains by 2 way switch and was making unauthorized use of electricity. Inspecting Officer disconnected supply and sent notice demanding the loss and compounding fees. But the Consumer instead of making payment preferred appeal under Section 12A of Consumer Protection Act 1986, to the Forum challenging the demand.

Held: that Forum has no jurisdiction to entertain the complaint under Section 145 of Electricity Act, 2003, jurisdiction of Civil Court is ousted.

**High Court of Judicature at Allahabad
Sandeep Kesarwani Vs State Of U.P. & 3 Others
Case Writ C. No. 69101 of 2013 dated 11.02.2014**

Search at: - <https://indiankanoon.org/doc.162776314/>

**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH,
WRIT PETITION NO. 101220 Of 2022 (GM-KEB), dated 30.03.2022,
Between SRISHAIL CHANDRAPPA VARJI S/O MR. CHANDRAPPA Vs HESCOM & Others**

2. He submits that the petitioner has alternative efficacious remedy in terms of the petitioner being provided a remedy before the Electricity Ombudsman under Regulation No.9.3 of the CGRF Regulation.

3. In view thereof, the petition is dismissed reserving liberty to the petitioner to approach the Ombudsman.

4. The respondents are directed not to disconnect the electricity supply, subject to the petitioner making payment of the due amounts as also subject to the petitioner filing necessary proceedings before the Ombudsman within the said period of 30 days.

5. In the event of no proceeding being filed before the Ombudsman within a period of 30 days, the petitioner would not be entitled to the benefit of the interim order passed.

**WP No. 9271/2008, Radhakrishna R Vs the General Manager,
The AEE (Ele) and the SE (Ele), Karnataka Law
Journal 516 (2009) 1.**

“Electricity Act, 2003 – Sections 126, 126 (3), 127 – Unauthorized use of electricity” means the usage of electricity – Assessment of the electricity charges – Final assessment order – The statute expressly stipulates an opportunity of hearing to a person on whom is served a provisional assessment order which in this case can be taken to be the back billing demand and to provide an opportunity not only to file objections but also to participate in the personal hearing to be accorded by the authority which has passed the provisional order and who has to pass the final order on examination and after hearing.”

*“10) The statute expressly stipulates an opportunity of hearing to a person on whom is served a provisional assessment order which in this case can be taken to be the back billing demand and **to provide an opportunity not only to file objections but also to participate in the personal hearing to be accorded by the Authority which has passed the provisional order and who has to pass the final order on examination and after hearing.**”*

*“12) An opportunity of hearing is not an empty formality but one which is an **enabling provision in favour of a Consumer**, particularly in the wake of back billing demand which is quasi criminal in nature in the sense that there is a misuse or theft of electricity supplied by the Company and in the manner of use of the power supplied by the Company. Therefore, before a demand of this nature is confirmed in the terms of the final assessment order after the provisional assessment order an opportunity which is contemplated under the statute should necessarily be accorded and if not the order automatically suffers from this defect.”*

CIVIL APPEAL No. 2029 of 1980

V. SASIDHARAN Vs PETER & KARUNAKAR & ORS., dated 23.08.1984

AIR 1984 (4) SCC 230

The question which arises in this appeal is basically different, namely, whether a lawyer's office or the office of a firm of lawyers is commercial establishment. Considerations which were germane to the determination of the question in the Bangalore Water Supply case are foreign to the decision of the question before us.

We agree with their reasoning and hold that the office of a lawyer or of a firm of lawyers is not a 'commercial establishment' within the meaning of section 2(4) of the Act.

The Bar Council of Kerala and Clerks Association of the Supreme Court Bar had intervened in this matter. We must express our thankfulness to them for the assistance rendered by them.

Similar judgements: -

Writ C No. 6115 of 2019, Tehsil Bar Association and 12 Others Vs State of UP and 6 Others, dated 22.02.2019

AIR 1969 SC 63 (Dr D.M. Surti Vs State of Gujurath)

The meters installed in the advocates' chamber comes under domestic category.

The legal profession is non-commercial in nature and Commercial tariff rates cannot be charged for lawyers.

Non-Compliance of the Orders

The relevant provisions under the Electricity Act 2003

As per Section 142 & 146 of The Electricity Act, 2003, in case any person violates the provisions of Regulations framed by the Commission, then the Commission is competent to take necessary action against the said person.

Exception: - If the Contemner can prove that the order for compliance is impossible to comply with due to may reasons he will not be liable for contempt of court. It can be stated that order is not practically possible to be executed due to parity of time or circumstances beyond the control.

SECTION 142. (PUNISHMENT FOR NON-COMPLIANCE OF DIRECTIONS BY APPROPRIATE COMMISSION): In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or **regulations made thereunder**, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of **penalty, which shall not exceed one lakh rupees for each contravention** and in case of a continuing failure with an **additional penalty** which may extend to **six thousand rupees for every day** during which the failure continues after contravention of the first such direction.

SECTION 143. (POWER TO ADJUDICATE): — (1) For the purpose of adjudging under this Act, the Appropriate Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government ,after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 29 or section 33 or section 43, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

SECTION 144. (FACTORS TO BE TAKEN INTO ACCOUNT BY ADJUDICATING OFFICER): While adjudicating the quantum of penalty under section 29 or section 33 or section 43, the adjudicating officer shall have due regard to the following factors, namely:- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; (b) the repetitive nature of the default.

SECTION 145. (CIVIL COURTS NOT TO HAVE JURISDICTION): No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

SECTION 146. (PUNISHMENT FOR NON-COMPLIANCE OF ORDERS OR DIRECTIONS): Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to **three months or with fine**, which may extend to **one lakh rupees**, or **with both** in respect of each offence and in the case of a **continuing failure**, with an **additional fine** which may extend to **five thousand rupees for every day** during which the failure continues after conviction of the first such offence: 1[Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.]

Non-Compliance of the Orders Karnataka Electricity Reform Act, 1999

PART – IX COMMISSION’S POWER TO PASS ORDERS AND ENFORCE DECISIONS

29. ORDERS FOR SECURING COMPLIANCE:-

- (1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any relevant condition or requirement of its license, it shall by final order under Section 30 and, if it thinks it appropriate in accordance with sub-section by interim order under this section, issue such directions as it deems proper for securing compliance.
- (2) In determining whether it is appropriate that interim order be made, the Commission shall have regard, in particular to:

31. EFFECT AND ENFORCEMENT OF INTERIM AND FINAL ORDERS AND EMERGENCY PROVISIONS

- (1) Without prejudice to Section 47 of this Act, all orders and directions, interim or final, passed by the Commission shall be enforceable in law as if it were a decree passed by a Civil Court.
- (2) The Commission shall be entitled to take such assistance of the police and other authorities in the State required to effectively enforce the orders and directions given by the Commission.
- (3) The Commission shall be entitled to give directions for vesting of the management and control of any of the undertaking of the licensee with the assets, interests and rights of the undertaking pending any inquiry and passing of interim or final order in the matter, if the Commission considers, taking into account the object and purposes of this Act and the need to maintain continued supply of electricity in an efficient and safe manner to the consumer, it is imminent to pass such order or directions. Such directions or orders shall not be questioned on the ground that no prior notice of or hearing on the intention to pass the order or direction was given to the licensee. The Commission shall however give opportunity to the licensee and hear the licensee before passing further orders in terms of sections 29 and 30.

32. FINES AND CHARGES – (1) The Commission shall be entitled to impose such fines and charges as may be specified by the Commission in the regulations for noncompliance or violation on the part of the generating companies, licensees or other persons, of the provisions or requirements of this Act or rules and regulations framed thereunder and directions or orders of the Commission made from time to time. The fines, which the Commission shall be entitled to impose, may extend upto Rupees Five lakhs for an act of non compliance or violation and a further amount not exceeding Rupees Twenty thousand for every day during which the non-compliance or violation continues.

(2) The Commission shall, while making an interim or final order under this Part, be entitled to direct compensation to be paid by the person guilty of violation or noncompliance as provided in sub-section(1) to the person or persons affected by such violation or non-compliance.

(3) The fines, charges and compensation which may be imposed by the Commission under this Section shall be in addition to, and not in derogation of, any other liability, which the person guilty of violation or non compliance, may have incurred.

33. GENERAL CONTROL OF THE COMMISSION- (1) The licensees, the generating companies and other persons shall comply with the regulations framed by the Commission and the directions issued by the Commission from time to time governing the terms and conditions for the operation and maintenance of the integrated power system and its safety.

(2) The licensees shall be subject to such regulations made by the Commission in regard to assets, properties, interests in property and other facilities forming an integral part of, or used in connection with, the licensed activity in the State and the licensees shall not dispose off or disconnect such assets in violation of such regulations.

42. PENALTY FOR CONTRAVENTION OF SECTION 18 –Whoever in contravention of the provisions of this Act or the regulations made under this Act or of the provisions of the Indian Electricity Act 1910 or the Electricity (Supply) Act 1948 or the rules framed under the said Acts, engages in the business of transmission or supply or use of energy, shall be punishable with imprisonment which may extend to **one year** or with fine which may extend to **Rupees Five lakhs** or with **both** and a **further fine** which may extend to **Rupees Twenty thousand for each day** after the first during which the offence continues.

43. PENALTY FOR CONTRAVENTION OF OTHER PROVISIONS – If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to, any direction, order or requirement made under any of the provisions of this Act he shall be punishable with imprisonment which may extend to **Six months** or **with fine** which may extend to **Rupees Five lakhs** or **with both** and a **further fine** which may extend to **Rupees Twenty thousand for each day** after the first during which the offence continues.

54. PROCEEDINGS BEFORE THE COMMISSION TO BE JUDICIAL PROCEEDINGS – All proceedings before the Commission shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 Of 1860) and the Commission shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure 1973 (Act 2 of 1974).



Form – ‘A’ Format for filing Complaint with the Forum

FORM-A

APPLICATION FOR FILING COMPLAINT WITH THE
CONSUMER GRIEVANCE REDRESSAL FORUM

(See Regulation 6.2)

Name of the Complainant	
Full address of the Complainant	
R.R Number	
Name of the Licensee	
Details of complaint/grievance	
Details of intimation of grievance by the consumer to the Licensee	
Whether any reply has been received from the Licensee (if yes, a copy of the reply to be attached)	
Nature of relief sought	
List of documents enclosed	

DECLARATION:

I/we, the complainant/s herein declare that:

The information furnished herein above is true to the best of my/our knowledge, information and belief;

- (a) I/we have not brought the subject matter of the present complaint before this Forum earlier;
- (b) The subject matter of the present complaint has not decided by any forum/court/arbitrator or any other authority.

Place: _____

Date: _____

Signature of the Complainant

NOMINATION

(If the Consumer wants to nominate his/her representative to appear and make submissions on his/her behalf before the Forum, the following declaration should be submitted)

I/We, the above named Consumer hereby nominate Shri/Smt_____and whose address is _____

_____ as my/our representative in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

ACCEPTED

(Signature of Representative)

Signature of Consumer

Form – ‘B’ FORMAT FOR FILING COMPLAINT WITH THE OMBUDSMAN

FORM-B

APPLICATION FOR FILING COMPLAINT WITH THE OMBUDSMAN

(See Regulation 21.3)

To:
The Ombudsman,
Karnataka Electricity Regulatory Commission,
No.16 C-1, Miller Tank Bed Area,
(Behind Jain Hospital), Vasanthanagar,
Bengaluru-560052.

Sir,

Sub: Representation.

Being aggrieved the complainant named herein had submitted a complaint with the Consumer Grievance Redressal Forum established by (Name of the Licensee). The details of the complaint are as under:

Name of the Complainant	
Full address of the Complainant	
Details of complaint submitted to the CGRF/Authority (A copy of the complaint and the order should be attached)	
Details of the Complaint	
Details of intimation of grievance by the consumer to the Licensee	
Whether any reply has been received from the ESCOM? (if yes, a copy of the reply to be attached)	
Nature of relief sought from the Ombudsman (Documentary evidence to be attached)	
List of documents enclosed	

DECLARATION:

I/we, the complainant/s herein declare that:

The information furnished herein above is true and correct and

- (a) I/We have not concealed or misrepresented any fact stated in aforesaid columns and the documents submitted herewith.

The complaint is filed before the expiry of one year reckoned in accordance with the provisions of Clause 11.3 (a) and (b) of the Ombudsman Regulation.

The undersigned or any of us or by any of the parties concerned has not brought the subject matter of the present complaint before the Ombudsman to the best of my knowledge and belief.

The subject matter of the present complaint has not been decided by any forum/court/arbitrator or any other authority.

Yours Sincerely,

(Name & Signature of the Complainant)

Place: _____

Date: _____

NOMINATION OF REPRESENTATIVE

(If the Complainant wants to nominate his/her representative to appear and make submissions on his/her behalf before the Ombudsman, the following declaration should be submitted)

I/We, the above named Complainant/s hereby nominate Shri/Smt _____
and whose address is _____

_____ as my/our
representative in the proceedings and confirm that any statement, acceptance or rejection
made by him/her shall be binding on me/us. He/She has signed below in my presence.

ACCEPTED

(Signature of Representative)

Signature of Complainant

Thank you

*R. Sharada,
Electricity Ombudsman
KERC, Bengaluru
& Staff*

