

A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.

-Mahatma Gandhi



TAMIL NADU ELECTRICITY OMBUDSMAN

4th Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806, 044-2953 5816 Fax : ++91-044-2953 5893

Email : tneochennai@gmail.com Web site : www.tnerc.gov.in

Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 41 of 2024

The Deputy Finance Controller,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO,
TATABAD, Coimbatore-12.

. Petitioner (Appellant as claimed)
(Thiru Senthil Kumar, DFC, Coimbatore/Metro and
Thiru Sathish Kumar, SE/Coimbatore/Metro)

Vs.

1. The Chairman,
Consumer Grievance Redressal Forum,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO, Tatabad,
Coimbatore – 641 012.

2. M/s. CRI Pumps P Ltd.,
Unit – Meltech Castings,
8/116-C, Athipalayam, Chinnavedampatti,
Ganapathi Post – Coimbatore – 641 006.

. Respondent
(Rep. by Thiru S.P. Parthasarathy, Advocate)

A.P.No. 42 of 2024

The Deputy Finance Controller,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO,
TATABAD, Coimbatore-12.

. Petitioner (Appellant as claimed)
(Thiru Senthil Kumar, DFC, Coimbatore/Metro and
Thiru Sathish Kumar, SE/Coimbatore/Metro)

Vs.

1. The Chairman,
Consumer Grievance Redressal Forum,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO, Tatabad,
Coimbatore – 641 012.

2. M/s. Sri Karthikeya Spinning and Weaving Mills Pvt. Ltd.
P.B. No. 3301, Uppilipalayam,
Coimbatore – 641 015.

. Respondents
(Rep. by Thiru Jeyasankar)

Petition Received on: 23-05-2024

Scheduled Date: 19-07-2024

Postponed Date of Hearing: 25-07-2024

Date of order: 02-08-2024

The Appeal Petition dt. 23.05.2024 filed by The Deputy Finance Controller, Coimbatore Electricity Distribution Circle/Metro, TANGEDCO, TATABAD, Coimbatore-12 was registered as Appeal Petition No. 41 of 2024 and 42 of 2024 respectively. The above appeal petitions scheduled for hearing on 19.07.2024. As per the request of the counsel of Respondent.2, the schedule hearing was postponed and came up for hearing before the Electricity Ombudsman on 25.07.2024. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order. As the appeal petition was filed by the DFC, Coimbatore/Metro, but the SE/Coimbatore/Metro is the Respondent in the WP No. 33240 of 2023 has appeared in this hearing along with the DFC, Coimbatore/Metro and narrated the prayer.

COMMON ORDER FOR A.P.No. 41 AND 42 OF 2024

1. **Prayer of the Petitioner:**

(The prayer is same in all the two petitions)

The Petitioners in all the appeal petitions requested to set aside the CGRF order issued by the Coimbatore EDC/Metro.

(a) Appeal Petition No. 41 of 2024:

The Petitioner requested to set aside the CGRF order dated 04.06.2016 on Petition No.05/2015.

(b) Appeal Petition No. 42 of 2024:

The Petitioner requested to set aside the CGRF order dated 04.04.2016 on Petition No.03/2015.

2.0 Brief History of the case:

2.1 The Petitioner insists the Respondent to pay the incorrect adjustment amount of then power purchase unit in the monthly bills as against the 15min ToD time slot of purchase.

2.2 The Petitioner approached The Hon'ble High Court of Madras in WP No. 25104 of 2017 and W.M.P Nos. 26546 & 26547 of 2017 issued order dt. 19.11.2021 "*the Electricity Ombudsman shall entertain the Appeal, without rejecting it on the ground of limitation.*" The Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Order of the CGRF:

As the CGRF have issued similar orders, the order issued in the case of AP No. 41 of 2024 and A.P.No.42 of 2024 alone are extracted below:-

(a) CGRF Order No.05 dt.04.06.2016 for Appeal Petition No. 41 of 2024:

"As per TNERC regulation 7 sub regulation & for Consumer Grievance Redressal Forum and Electricity Ombudsman that all the decision shall be taken by a Majority of views by the members present Here, the Majority of views le member I and member -II are in favour of petitioner and hence this forum has passed an order that the demand of Rs. 29,30,838/-, raised by the Licensee vide letter No; SE/CEDC/M/Cbe/DFC/AO/R/ HTSC.49/ D.No.34/15, dt:29.05.15 is set aside."

(b) CGRF Order No.03 dt.04.04.2016 for Appeal Petition No. 42 of 2024:

“I conclude that in the absence of any specific clause / rule for the Licensee’s claim and at no point the petitioner could be found fault. Therefore I allow the petition and accordingly the demand of the Licensee for Rs.11,89,722/- from the petitioner vide his letter dated 29.05.2015 is set aside.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Petitioner and the Respondent to put forth their arguments, a hearing was scheduled on 19.07.2024. As per the request of the Respondent counsel to postpone the hearing, scheduled hearing was postponed and conducted on 25.07.2024 through video conferencing.

4.2 The Petitioner Thiru Senthil Kumar, DFC, of Coimbatore EDC/Metro attended the hearing and put forth his arguments.

4.3 The Respondents were represented by the following persons:

(a) AP No. 41 of 2024 – Rep by Thiru S.P. Parthasarathy, Advocate on behalf of the Respondent

(b) AP No. 42 of 2024 – Rep by Thiru Jeyasankar on behalf of the Respondent

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

4.5 The appeal petitions were taken up as a common subject based on the order of the Hon’ble High Court of Madras in WP No. 25104 of 2017 between M/s. Sri Karthikeya Spinning and Weaving Mills Pvt. Ltd. Vs DFC of Coimbatore EDC/Metro. Subsequently, in another case of the same nature in W.P. No. 33240 of 2023 between DFC of Coimbatore EDC/Metro and M/s. CRI Pumps Private Limited filed before the Hon’ble High Court. The Hon’ble High Court cited the previous W.P.No.25104 of 2017 and directed the petitioner to approach the Electricity Ombudsman for adjudication.

4.6 On perusal it is noted that both the Writ Petitions ie WP No. 25104 of 2017 and W.P. No. 33240 of 2023 were filed by the DFC of Coimbatore EDC Metro (the licensee - as per the Electricity Act) against the orders of CGRF of Coimbatore EDC Metro. Further on scrutiny it is noted that CGRF of Coimbatore EDC Metro had issued orders in favour of (1) M/s.Sri Karthikeya Spinning & Weaving Mills Pvt. Ltd. and (2) M/s. CRI Pumps Private Limited (the consumers – as per Electricity Act) who have filed grievance petitions before the CGRF as per regulations against the respondent Tangedco (the licensee).

4.7 In the present appeals, the respondent in the CGRF petitions (the licensee) had filed appeal against the orders of CGRF as per court direction. In this context, I would like to discuss in detail whether I am eligible to take up the appeal petition. Therefore before going into the merits of the case, I would like to refer Section 42 of the Electricity Act, 2003 and relevant regulations to address the grievance of the consumer which is given below:

“ Section 42 of Electricity Act

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of license, 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.”

Regulation 8 of TNERC Regulation for CGRF and Electricity Ombudsman 2004

“8 Any Consumer aggrieved by an order made by the forum may prefer an appeal against such order to the Electricity Ombudsman within a period of 30 days from the date of the order, in the form as prescribed in Annexure III.”

4.8 From the above, it is noted that the above provisions have been enacted to protect the consumer of the Electricity and hence the consumer alone has the

right to petition before the CGRF in case of non-redressal of his grievances under sub-section (5) and may make further representation for the redressal of his grievance to the Electricity Ombudsman as per sub-section (6) of Section 42 of Electricity Act.

4.9 In the present case, it appears that the petitioner, DFC/Coimbatore/Metro, who is the respondent of TANGEDCO in CGRF petition and also a licensee as per Act, is appealing to the Electricity Ombudsman as a consumer. Further, it is necessary to refer to the definition of "consumer" as per the TNERC Regulations for Consumer Redressal Forum and Electricity Ombudsman which is enacted in line with Section 2 of the Electricity Act. The definition is provided in Regulation 2(g):

"2(g) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person as the case may be."

Based on this definition, the term "consumer" typically refers to individuals or entities receiving electricity for their own use, not necessarily entities providing electricity. The DFC/Coimbatore/Metro, the appellant herein is a licensee and not a recipient of electricity.

4.10 In view of the above, the appellant DFC/Coimbatore/Metro i.e. the licensee as per the Electricity Act, is not a consumer and hence not eligible to file an appeal petition since they do not fit into the definition of a "consumer". Therefore, it is concluded that both appeal petitions cannot be entertained by the Electricity Ombudsman and hence rejected.

5.0 Observation:

5.1 During the hearing, it was confirmed that both the respondents are OA consumer, and this was also agreed upon by the respondents as well as the appellant (the licensee). In this connection, a definition for OA consumer as per

the TNERC Grid Connectivity and Intra- State Open Access Regulations, 2014, is reproduced below for reference:

“3. Definitions.

(q) "open access customer" means a consumer, trader, distribution licensee or a generator who has been granted open access under these Regulations;”

5.2 Further, I would like to mention the Regulation 44 of TNERC Grid Connectivity and Intra-State Open Access Regulations, 2014 vide Notification No. TNERC/GC&ISOA/11/2, Dated 13-03-2014 is reproduced below;

“44. Redressal Mechanism

(1) All disputes and complaints relating to open access shall be made to the respective Nodal agency, which may investigate and endeavour to resolve the grievance within thirty days; and

(2) Whenever the Nodal agency is unable to resolve a grievance, the matter may be referred to the Commission.”

5.3 In view of this, it is informed that the subject matter pertains to Open Access covered under TNERC Grid Connectivity and Intra-State Open Access Regulations, 2014, and hence it is advised to approach appropriate forum to resolve the grievance since the subject matter is out of jurisdiction of the Ombudsman.

6.0 Conclusion:

6.1 In view of the findings in para 4 above, the Electricity ombudsman is not the appellate authority and hence the appeal petitions are rejected.

6.2 With the above findings A.P.No.41 of 2024 and 42 of 2024 are disposed of by the Electricity Ombudsman.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. The Deputy Finance Controller,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO,
TATABAD, Coimbatore-12.

- By RPAD

2. The Chairman,
Consumer Grievance Redressal Forum,
Coimbatore Electricity Distribution Circle/Metro,
TANGEDCO, Tatabad,
Coimbatore – 641 012.

3. M/s. CRI Pumps P Ltd., - By RPAD
Unit – Meltech Castings,
8/116-C, Athipalayam, Chinnavedampatti,
Ganapathi Post – Coimbatore – 641 006.

4. M/s. Sri Karthikeya Spinning and Weaving Mills Pvt. Ltd. - By RPAD
P.B. No. 3301, Uppilipalayam,
Coimbatore – 641 015.

5. The Chairman & Managing Director, - By Email
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002.

6. The Secretary, - By Email
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032.

7. The Assistant Director (Computer) – **For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032.