



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

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Before The Tamil Nadu Electricity Ombudsman, Chennai
Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 94 of 2022

Dr. K.S.Babai, Secretary,
M/s. Meenakshi Sundararajan
Engineering College,
363, Arcot Road,
Kodambakkam, Chennai – 24.

- BY RPAD

..... Appellant
(Rep. by Thiru SB Sivasubramaniyan, Assistant Professor &
Tmt. K. Rajeswari, Associate Professor)

Vs.

The Executive Engineer/O&M/KK Nagar,
Chennai Electricity Distribution Circle/South-I,
TANGEDCO,
110KV Complex, K.K.Nagar,
Chennai - 600 078.

.... Respondent
(Rep. by Tmt. S. Subasri, DFC(i/c))

Petition Received on: 31-10-2022

Date of hearing: 20-01-2023

Date of order: 31-01-2023

The Appeal Petition received on 31.10.2022 filed by Dr. K.S.Babai, Secretary, M/s. Meenakshi Sundararajan Engineering College, 363, Arcot Road, Kodambakkam, Chennai - 24 was registered as Appeal Petition No. 94 of 2022. The above appeal petition came up for hearing before the Electricity Ombudsman on 20.01.2023. 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.

Order

1. Prayer of the Appellant:

The Appellant has prayed to waive of the BPSC in HT SC No.511 which was paid by them and render justice.

2.0 Brief History of the case:

2.1 The Appellant Dr. K.S.Babai, Secretary, M/s. Meenakshi Sundararajan Engineering College has stated that a disconnection notice was received from TANGEDCO for non-payment of BPSC charges for the delayed payment of CC bill for the month 04/2020 and 05/2020 CC for their HT SC No.09-909-400-0511 in time.

2.2 The Appellant has stated that the entire campus was not working due to lockdown during 04/2020 & 05/2020 and they have not received CC bill through mail and hence they have not paid the CC bills in time.

2.3 The Respondent has stated that the bills were sent through email id and the BPSC was levied due to non-payment of CC charges in time and the request of waiver of BPSC by the Appellant is not feasible of compliance.

2.4 The Appellant filed a petition before CGRF of Chennai Electricity Distribution Circle/South-I on 03.08.2022. The CGRF of Chennai Electricity Distribution Circle/South-I issued an order dated 26.09.2022. Aggrieved over the CGRF order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/South-I issued its order on 26.09.2022. The relevant portion of the order is extracted below:-

"Order

From the above findings, it is found that

1. *As per TNE Supply code, Regulation (13), "For the HT services xxxxxxxx The consumer should notify the concerned office of the Licensee, if no bill or*

assessment is received. Non-receipt of the bills / assessments will not entitle the consumer to delay payment of the charges beyond the due date xxxxxx"

2. "As per Regulation (5) (4) (i), "All bills are to be paid in the case of HT consumers, within the due date specified in the bill.
 - a) Where any HT consumer neglects to pay any bill by the due date, he shall be liable to pay belated payment surcharge from the day following the due date for payment.

Therefore, the HT consumer is liable to pay the BPSC for the belated payment and the request for waiver of BPSC is not feasible of compliance. The petition is treated as closed."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted in person on 20.01.2023

4.2 On behalf of the Appellant, Thiru S.B.Sivasubramaniam, Assistant Professor & Tmt. K. Rajeswari, Associate Professor attended the hearing and put forth their arguments.

4.3 On behalf of the Respondent, Tmt. S. Subasri, DFC(i/c), Chennai Electricity Distribution/South-I attended the hearing and put forth her arguments.

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

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that they are running an engineering college on the KRS campus and their high-tension service no.511, Kodambakkam Chennai. They have given the initial representation and attended the CGRF hearing on 29.08.2022 and got the final orders dt. 26.09.22 on 01.10.2022 . The Appellant claimed that they were not satisfied with the findings and pointed out that the Respondent TANGEDCO had not at all considered their genuine grievance and filed the appeal. During covid pandemic, entire Chennai city was under fear and a lot of people dead. TANGEDCO did not send the bill for April 2020 and May 2020 by Email.

5.2 The Appellant has stated that they were not permitted to enter the campus during the covid period by the government of Tamil Nadu and they came to the office on 07.12.2020, after the Government permitted them to enter their campus.

5.3 The Appellant has stated that under this situation, they did not have the opportunity to find out whether they had received the hard copy at their office. However they were checking all their emails every day from work at home. Hence it was not possible for any email could not be gone unnoticed.

5.4 The Appellant has stated that moreover, looking at this seriousness Government itself gave instructions.

1. The Appellant has stated that "To waive - demand charges of 20% only need to be paid"- a copy of the order not traceable-TNERC. How can we know the bill amount without proper bill intimation?
2. The government of Tamil Nadu has issued instructions not to insist on payment of CC charges due to covid conditions- this was informed in the grievance meeting when such is the case how could our payment was not considered and how BPSC was levied?

5.5 The Appellant has prayed to drop the BPSC amount of Rs.51,000/- (Rupees fifty-one thousand only) levied and paid by them due to threatening and render justice.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the HT Service connection bearing No.09-909-400-511, M/s. Indian Institute of Engineering Technology, No.363, Arcot Road, Kodambakkam, Chennai-600 024, was effected on 26.03.2003 with a demand of 450 KVA.

6.2 The Respondent has submitted that on 27.10.2020, the disconnection notice was sent to the HT consumer, after the COVID-19 pandemic situation, for non-payment of 04/2020 and 05/2020 CC bills, in respect of the above HT Service

connection. There was a general instruction during the above COVID'19 period that no disconnection to be carried out in any HT S/c for non-payment of CC charges. Hence there was no pressure for the disconnection of HT Service by TANGEDCO. Based on the above notice, the HT consumer represented vide letter dated 30.10.2020 and stated that the entire campus was not working due to lockdown during 04/2020 & 05/2020 and they have paid all the bills for which they have received the CC bills, except 04/2020 & 05/2020 on 02.11.2020.

6.3 The Respondent further stated that the Appellant has again represented in their letter dated 06.11.2020, that they have not received the 04/2020 and 05/2020 CC bills through mail and hence they have not paid the CC bills. Since they have not received the bills for which they stated that the BPSC has been levied which is not at all correct. Moreover, they requested evidence for having sent such emails in 04/2020 & 05/2020 and they paid only CC charges on 13.11.2020 for the month of 04/2020, for Rs.2,68,836/- & 05/2020 for Rs.2,21,954/- without BPSC.

6.4 The Respondent has stated that on 02.12.2020, the letter was sent to the HT consumer which stated that all the CC bills are sent through the principal@msec.edu.in mail id only, and once the CC bills are finalized, it will be sent through mail automatically every month on or before 4th. Further, if they have not received the bills through mail id, they can approach this office / send some in person to collect the bill copy. Moreover, all the HT consumers are very well known that the HT bills are being prepared for every monthly only. At the time of COVID'19 also, the TANGEDCO office was functioning and all the payments were collected from the consumers. Further, the service connection has not been disconnected, due to COVID'19.

6.5 The Respondent has stated that on 24.08.2021, the Board Office Audit Branch had raised an Audit slip No.60, dated 24.08.2021 for nonpayment of BPSC amount Rs.51,148/- (Rs 27,552/- 04/2020 + 19,596/- 05/2020 & DCRC Fees Rs.4,000/-) and the same was intimated to the HT consumer on 03.11.2021 to pay the BPSC amount.

6.6 The Respondent has stated that on 16.12.2021, the CFC/Revenue instructed and stated that due to the outbreak of the second wave of COVID-19 and after the lockdown orders issued by the Government of Tamil Nadu, disconnection was not effected against the defaulted LT/HT service connections. Accordingly, several LT/HT consumers are availing of supply without making payment of regular bimonthly/monthly CC charges.

6.7 The Respondent has stated that during the meeting held on 26.11.2021, The CMD/TANGEDCO has instructed to start disconnecting the service connections other than domestic due to nonpayment of CC charges, and to arrange to issue notices to defaulted HT Service connections, to pay the pending arrears immediately and if payment is not received within the notice period, necessary action may be taken to disconnect the HT service connections on expiry of the notice period.

6.8 The Respondent has stated that on 18.12.2021, 08.03.2022, 24.03.2022 & 31.03.2022, the HT consumer again represented to provide evidence for having sent the bills for 04/2020 & 05/2020. Also, there is no court order produced by the HT consumer for considering 20% demand for the COVID'19 period.

6.9 The Respondent has stated that on 31.03.2022, the mail has been sent to the Computer centre of Headquarters to get proof of sending CC bills. But, the Computer center had informed us that normally all the information will be available on the HT server for up to 3 months only and the information will automatically be deleted and hence proof of evidence could not be retrieved. The same has been informed to the HT consumer.

6.10 The Respondent has stated that in the meantime, the BPSC amount Rs.51,148/- along with GST Rs.9,207/- was included in the 02/2022 CC bill and collected the same on 07.04.2022, and intimated to the BOAB for dropping Audit slip No.60, dated 24.08.2021. The Respondent has stated that on 04.05.2022, based on the collection report, the Audit slip was dropped by the BOAB.

6.11 The Respondent has stated that on 20.05.2022, based on the consumer's letter dated 07.04.2022 (addressed to the Chairman/TANGEDCO & copy to SE/CEDC/South I this office), the reply sent by Financial Controller/ Revenue on 20-09-2022 to the Appellant which was reproduced below.

"Lr.No.FC/REV/AO/REV/D.671/22, dt. 20.9.2022

Sir,

Sub: TANGEDCO – Revenue Division – HTSC No.511 of The Secretary, Indian Institute of Engineering Technology, Chennai – HT bill for the month of 4/2020 & 5/2020 – BPSC levied – Waiver of BPSC requested by the consumer – reg.

*Ref: 1. Letter dated 07.04.2022
2. Letter dated 08.09.2022*

In the letter cited under reference (1), the Secretary, Indian Institute of Engineering Technology, Chennai, HT No.511 has requested to waive the BPSC for the months of 4/2020 & 5/2020 due to non-receipt of mail during the pandemic period.

2.0 In this connection, relevant provisions of TNE Supply Code is extracted below:

"As per Regulation (13)

"For the HT services xxxxxxx The consumer should notify the concerned office of the Licensee, if no bill or assessment is received. Non-receipt of the bills/ assessments will not entitle the consumer to delay payment of the charges beyond the due date. xxxxxx"

As per Regulation (5) (4) (I)

All bills are to be paid in the case of HT consumers, within the due date specified in the bill and in the case of LT consumers, within the due date and notice period specified in the consumer meter card.

ii (a) Where any HT consumer neglects to pay any bill by the due date, he shall be liable to pay belated payment surcharge from the day following the due date for payment. Where any LT consumer (except services relating to Public lighting and water supply and other services belonging to Local Bodies) neglects to pay any bill by the last day of the notice period, he shall be liable to pay belated payment surcharge from the day following the last day of the notice period".

6.12 The Respondent has stated that in view of the above provisions, waiver of BPSC is not feasible of compliance.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion has arrived.

7.2 The Appellant has prayed that as they have not received the CC bill for the months of 4/2020 and 5/2020 through their Email id principal@msec.edu.in and were not in a position to check the hard copy due to Covid'19 because they were not permitted to enter campus till 07.12.2020, they have not paid their CC bill on time. The Appellant insists on proof from the Respondent for having sent the CC bill by email.

7.3 The Respondent argued that during the COVID period, no disconnection had been done for any consumers for not making payments on time. Though the disconnection notice was sent to the HT consumer on 27.10.2020, no disconnection was carried out on HT S/c 511 for non-payment of CC charges and the Appellant paid the CC charges for the month of 04/2020 and 05/2020 respectively only on 13.11.2020 without BPSC.

7.4 From the above, it is established that there had been no pressure from the Respondent for disconnection of HT Service.

7.5 Now the other issue of non receipt of CC bill for the month of 4/2020 & 5/2020, the Respondent has stated that on 24.08.2021, the Board Office Audit Branch had raised an Audit slip No.60, dated 24.08.2021 for the nonpayment of BPSC amount of Rs.51,148/- (Rs 27,552/- 04/2020 + 19,596/- 05/2020 & DCRC Fees Rs.4,000/-) and the same was intimated to the HT consumer on 03.11.2021 to pay the BPSC amount .

7.6 The Respondent has stated that on 31.03.2022, a mail has been sent to the Computer Centre of Headquarters to get proof of sending CC bills. But, the Computer center had informed that normally all the information will be available on the HT server for up to 3 months only, and the information will get deleted automatically and hence proof of evidence could not be obtained. The same has been informed to the HT consumer.

7.7 During the hearing, the Appellant was asked by the E.O. whether the Email Id given by Appellant was correct with every character of the email ID. The Appellant accepted that their mail id is correct. Further, the Appellant accepted that prior to 04/2020 and subsequent period after 05/2020, CC bill correspondences have been received in the same mail id without any issues.

7.8 From the above, it is established that there is no error in the mail id of the Appellant available with the Respondent server. Further, it was also understood from the Respondent that the bills automatically migrate to every HT consumer and there was no left out or undelivered. Further 04/2020 & 05/2020 had automatically deleted from the HT server which was maintained at the Headquarters server after three months period i.e. the bill details of 05/2020 month automatically got deleted at the end of 08/2020. But the Appellant paid the CC bill for 04/2020 & 05/2020 during 13.11.2020 without BPSC even after the issue of disconnection notice by the Respondent on 27.10.2020.

7.9 Though the Appellant insist that the Respondent has to establish the proof for having sent the 04/2020 & 05/2020 CC bill thro e-mail, it is an equal responsibility of the Appellant also to establish the proof that they have not received any email bills for the month of 04/2020 & 05/2020.

7.10 Under these circumstances, I would like to discuss Regulation 13 in Tamil Nadu Electricity Supply Code which is given below;

“13. Servicing of Bills

(1) For the HT services, bills shall normally be sent by post or by hand delivery or e-mail. Two e-mails ids shall be furnished by the consumer for this

*purpose. For the purpose of reckoning the due date of payment, the date of sending the e-mail alone will be the reference. The Licensee takes no responsibility for loss in transit. The consumer should notify the concerned office of the Licensee, if no bill or assessment is received. Non-receipt of the bills/ assessments will not entitle the consumer to delay payment of the charges beyond the due date. ****"*

7.11 From a plain reading of the above it is understood that the consumer should notify the concerned licensee if no CC bill has been received by them. During the hearing, it was confirmed that the Appellant had not sent any intimation of non-receipt of the bill for the months of 04/2020 & 05/2020. In the absence of evidence, the Appellant's claim that they did not receive the CC bill in time did not find Merit.

7.12 The Appellant's final appeal is to waive the BPSC amount for the delayed payment of the CC bills of the months of 04/2020 & 05/2020 during 13.11.2020.

7.13 In this regard, I would like refer to the Regulation 5 in Tamil Nadu Electricity Supply Code Regulations.

"5. Miscellaneous Charges

(4) Belated payment surcharge (BPSC)

(i) All bills are to be paid in the case of HT consumers, within the due date specified in the bill and in the case of LT consumers, within the due date and notice period specified in the consumer meter card.

ii(a) Where any HT consumer neglects to pay any bill by the due date, he shall be liable to pay belated payment surcharge from the day following the due date for payment. Where any LT consumer (except services relating to Public lighting and water supply and other services belonging to Local Bodies) neglects to pay any bill by the last day of the notice period, he shall be liable to pay belated payment surcharge from the day following the last day of the notice period".

7.14 Based on the above information, it is understood that any HT consumer who does not pay their bill within the due date may be subject to penalties from BPSC. In this case, the Appellant had paid the CC charges for the months of 04/2020 & 05/2020 by 13.11.2020. Hence the claim of the Appellant to waive BPSC has no merit. Hence the Appellant's claim to waive BPSC is rejected.

8.0 Conclusion:

8.1 From the foregoing findings, the claim of the Appellant to waive BPSC is rejected.

8.2 With the above findings the A.P. No. 94 of 2022 is finally disposed of by the Electricity Ombudsman. No costs.

(N.Kannan)
Electricity Ombudsman

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

To

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4. The Chairman & Managing Director,
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5. The Secretary,
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