

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 135 of 2008**

In the matter of  
**Complaint of M/s. Teleflo Instrument Co. Pvt Ltd., raising grievance against  
Electricity Ombudsman's Order dated 15.9.2008 and against RInfra**

**Shri V. P. Raja, Chairman  
Shri A. Velayutham, Member  
Shri S. B. Kulkarni, Member**

M/s. Teleflo Instrument Co. Pvt Ltd.  
Pokar Mansion, Chembur  
NG Acharya Marg, Mumbai 400071

.... Complainant

Vs.

Reliance Infrastructure Ltd  
Reliance Energy Centre  
Santa Cruz (E)  
Mumbai 400 055

..... Opponent

**ORDER**

**Dated: May 25, 2009**

M/s. Teleflo Instrument Co. Pvt Ltd., an electricity consumer of Reliance Infrastructure Ltd., filed a complaint on 16.10.2008. The Complainant has stated that it is aggrieved with an Order passed by the Electricity Ombudsman dated 15.9.2008 passed in Representation No. 45 of 2008 in the matter of *M/s. Teleflo Instrument Co. Pvt Ltd., vs. Reliance Infrastructure Ltd.* Complainant has alleged that the Ombudsman's order is totally biased, arbitrary and passed without application of mind and it is biased in favour



of the Opponent herein. It is alleged that the said order is illegal, unjust, unreasoned and contrary to the provisions of the Electricity Act, 2003 (“EA 2003”), Regulations made thereunder and other electricity laws. The Complainant further says that the Opponent has fixed the contract demand of 13 KW arbitrarily for billing. The same is not applicable to the Complainant since there is no written agreement between the consumer and the Opponent to this effect. It has also been alleged that the Opponent installed sub standard meter at the Complainant’s premises and failed to produce calibration certificate for the meter. The Opponent is illegally installing fast electronic meter to record 25% more than actual consumption and excessively charging the customers.

2. It has been alleged that the Ombudsman has failed to penalize the Opponent for this lapse and has passed a biased order. It has been alleged that the Consumer Grievance Redressal Forum (“CGRF”) is also biased towards the Opponent and the Ombudsman failed to rectify the Order passed by the CGRF. The Complainant states that the Ombudsman failed to understand that consumer is to be classified on consumption basis and its classification is LTP 1 category since, its load is less than 15 HP. Instead, the Opponent classified him under LTP 2 category. On the issue of billing, the Complainant submits that charges like Reliability charge, standby and expensive power charge, etc. not applicable to consumers in terms of Section 15.2.4 of the Supply Code Regulations. The Complainant further states that on 17th July, 2007, the Opponent’s officials and staff illegally entered and trespassed its factory premises and caused extensive damage to electrical cables and installations. The Complainant always objected to permit the Opponent to enter the premises and to remove the fuse / fittings and never permitted the Opponent to disconnect its supply on 17 July, 2007. The Opponent has not served 24 hours notice as contemplated under Section 163 (1), (2), (3) of the EA 2003. It has been alleged that Opponent also threatened the Petitioner’s staff. In view of this, the Complainant prays that stern action needs to be taken against the Opponent as also against the Ombudsman. The Complainant has alleged that the Opponent also does not have any distribution licence for supply of electricity. However, the Commission has permitted it to operate without licence by just noting that there is a change of name from the earlier distribution licensee to Reliance Energy Ltd. Complainant has prayed that the Opponent should be restrained by a permanent order and injunction from disconnecting its electricity supply till disposal of this complaint. It also prays for directions to the Opponent for correcting bills considering its tariff category as LTP-1 from October 2006 and LT-3 from 24th April, 2007 and to remove contract demand, power factor penalty, reliability and other charges from the bills. In addition, the Complainant prays for directions to the Opponent to pay compensation of Rs. 3 Lakhs for causing loss of production, mental agony, harassment and damage to its machinery and equipment due to high voltage supply.



3. The Opponent filed its reply on 16.2.2009 objecting to the admission of the complaint on the ground that there is no provision under law to prefer an appeal before this Commission that arising from an Order passed by the Electricity Ombudsman. The Opponent also stated that the present complaint is nothing but a repetition of the contentions taken by the same Complainant before the Electricity Ombudsman which has been disposed of by the impugned order. The Opponent has stated that the present complaint is liable to be dismissed with costs. Subsequently, written arguments were filed by the Complainant essentially reiterating the submissions made in the complaint. Shri. N. Ponrathnam, one consumer, filed an application to intervene in this matter. In the said application, Shri. Ponrathnam has supported the complaint and repeated the issue of licence being not in the name of the Respondent.

4. An admissibility hearing was held on 17.2.2009. Shri. K. Sampath, MD, appeared for the Complainant. Shri. S. Balakrishnan, Sr. Manager, appeared for the Opponent. The Commission directed that a copy of the letter dated 9.12.2008 submitted by the Complainant be served on the Opponent. The Commission further directed the Opponent to file its reply with a copy to the Complainant.

5. The Opponent filed its affidavit in reply on 24.2.2009 wherein it has objected on the maintainability of the present complaint stating therein that there is no appeal before this Commission from an order passed by the Ombudsman. The Complainant filed its rejoinder on 18.3.2009 essentially raising the same issues as raised under its complaint.

6. In the further hearing held on admissibility on 19.3.2009, the Commission observed that as per the judgments of the Supreme Court and subsequent judgements passed by the Appellate Tribunal for Electricity, grievances of the consumers can be redressed only by the Grievance Cell, CGRF and the Ombudsman, and there is no further Appeal. The Complainant submitted that the present complaint not only related to the impugned order of the Ombudsman but also the misconduct on the part of the Ombudsman. Complainant alleged that the Ombudsman is influenced by the Opponent and therefore the impugned order which has been passed is biased and fraught with irregularities. It is the Complainant's contention that the Commission being the appointing authority of the Ombudsman, the Commission will have the administrative jurisdiction to take remedial action in relation to the allegations made against the Ombudsman.

7. In reply to complainant's rejoinder dated 18.3.2009, an affidavit was filed by the opponent vide letter dated 3.4.2009, explaining their stand on the various issues raised by the Complainant.



8. Having heard the parties and after considering the materials placed on record, the Commission is of the view that the issues raised in the present complaint and rejoinder dated 18.3.2009 is the same which was raised before the Electricity Ombudsman in Representation No. 45 of 2008. This is nothing other than an appeal from the Order passed by the Electricity Ombudsman dated 15.9.2008 in Representation No. 45 of 2008. In the judgment dated 30th March, 2009 in Appeal No. 180 of 2008 the point raised by the Appellant was that as against the order of the Ombudsman which is final, no Appeal is provided before any forum either under the EA 2003 or under the Regulations. Therefore, the order of the State Commission invoking the powers of Appeal to redress the Grievance of the consumer would amount to usurpation of the powers of the Grievance Cell and Ombudsman. In light of the said issues, the question that fell for the consideration of the Appellate tribunal was “*when there is a remedy available to the consumers for approaching the Grievance Cell and Ombudsman under Sections 42(5) and 42(6) of the Act for getting their grievances redressed and when there is no Appeal provided against these orders, can the State Commission impose the punishment of compensation by usurping the jurisdiction of the said authorities, namely the Grievance Cell and Ombudsman*”. The Appellate Tribunal considered the following judgments:-

- (i) 2007 Aptel 356, Dakshin Haryana Bijli Vitaran Nigam Ltd. Vs. DLF Services Ltd.;
- (ii) 2007 Aptel 764, Dakshin Haryana Bijli Vitaran Nigam Ltd. Vs. Princeton Park Condominium
- (iii) AIR 2008 SC 1042, MSEDCL Vs. Lloyd Steel Industries Ltd.

The Appellate Tribunal held as under:

*“14. On going through the Judgments referred to above and also the provisions under Sections 42(5) and 42(6) of the Act, it is clear that there cannot be any controversy with regard to the position of law which has already been settled to the effect that the consumer has got the remedy to get the grievance redressed by filing a complaint before the Grievance Cell and thereafter by filing the Appeal before the Ombudsman which is final and no Appeal could be filed before the State Commission.”*

In its judgment dated 30th March, 2009 in Appeal No. 181/08, the Appellate Tribunal held as under:-



*“Even when there is no appeal is provided as against the above order passed by the Ombudsman, the State Commission cannot usurp the jurisdiction of the Grievance Redressal Forum or the Ombudsman by going through the validity of the order passed by the Ombudsman.”*

...

*This contention cannot be countenanced in view of the decision taken by this Tribunal as well as Supreme Court wherein it has specifically been held that the Consumer cannot approach the Commission for Redressal of his grievances as there is specific remedy available for the Consumer to approach the concerned authorities like the Grievance Cell and the Ombudsman whose award is final and against which no appeal will lie with the Commission.”*

9. In view of the above, the present complaint raising a grievance against the impugned order passed by the Ombudsman cannot be admitted as the Ombudsman’s award is final against which no appeal will lie with the Commission. By making allegations of “bias” against Ombudsman, the Petitioner is attempting to seek a review of Ombudsman order passed against him. The Commission denigrates such an action on the part of the Petitioner.

10. In view of the above, the Commission holds that the present complaint is not maintainable and is hereby dismissed.

Sd/-  
(S. B. Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(V. P. Raja)  
Chairman



(P.B. Patil)  
Secretary, MERC