

Before The J&K State Electricity Regulatory Commission Jammu

Suo-moto Petition No. JKSERC/48/SM of 2014

In the matter of:

Implementation of the provisions of Sub-Section (5) of Section 36 of Jammu & Kashmir Electricity Act, 2010 regarding establishment of forum for redressal of grievances of the consumers in accordance with the guidelines specified by the Commission.

And

In the matter of:-

1. Principal Secretary, Power Development Department, J&K Govt. Jammu.
2. Development Commissioner (Power), PDD, Jammu.
3. Chief Engineer, Maintenance & RE Wing, PDD, Jammu
4. Chief Engineer, Maintenance & RE Wing, PDD, Srinagar.

(Respondents)

Coram:

Sh. Basharat Ahmad Dhar, Chairperson.

Sh. G.M.Khan, Member (F)

ORDER

(Passed on this 25th Day of November, 2014)

1. Sub-Section (5) of Section 36 of Jammu & Kashmir Electricity Act, 2010 reads as follows:-

“Every distribution licensee shall, within six months from the commencement of the Act 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 Commission.”

2. J&K Electricity Act, 2010 was notified on 29th April, 2010. In terms of clause (q) of Sub-section (2) of Section 138 of the Act Commission notified Jammu & Kashmir State Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers) Regulations, 2010 vide Notification No.:04/JKSERC/2010 dated 06.10.2010.
3. It was the duty of the Distribution Licensee viz. Power Development Department to establish the forum within the stipulated time lines so as to develop efficient distribution system and to protect the interests of the consumer. The Utility failed to do so.
4. As the Utility failed to comply with the provisions of Sub-Section (5) of Section 36 of Jammu & Kashmir Electricity Act, 2010, the Commission continuously agitated the issue and repeatedly reminded the Commissioner/Secretary to Govt. Power Development Department. Vide letter No.:JKSERC/Secy/121/722-23 dated 21.10.2011 Commissioner Secretary PDD was reminded about this statutory requirement to establish one or more forum in the State for redressal of grievances of consumers in accordance with the provisions of the Act and Commission’s Regulations of 2010.
5. The Chairman, Jammu & Kashmir State Electricity Regulatory Commission in his D.O. letter dated 30.03.2011 addressed to

Commissioner/Secretary to Govt. Power Development Department, Jammu again highlighted the significance and need for immediate establishment of the Forum as the same would be an independent body to entertain those complaints where the complainant has already approached the appropriate authority of the Distribution Utility but his grievances have not been redressed.

6. As the protection of the interest of electricity consumers is a fundamental aspect of power reforms programme envisioned in the Act, the performance of the Consumer Grievances Redressal Forums (CGRF) is closely watched by the Ministry of Power (MoP), Govt. of India (GoI), Central Electricity Regulatory Commission (CERC), Forum of Regulators (FOR) and the Hon'ble Appellate Tribunal for Electricity (APTEL). Even review meetings are held periodically at apex level.
7. APTEL in R.P No. 5 of 2009, in appeal No. 81 of 2008, has emphasized on quick redressal of consumer grievances and directed that:

“ All the State Commissions/Joint Commissions and Licensees shall send quarterly written status report regarding the functioning and performances in the approved format (complaints received/adjudicated or settled) to the Secretary Forum of Regulators who will compile and post the said information online. He should also file a status report in this Tribunal once in 03 months in the format already approved through our order dated 15.04.2010.”

8. Parliamentary Standing Committee on energy reviewed the role of CERC & SERCs in the protection of the interests of the consumers and insisted on establishment of CGRF in all the States. The Committee while appreciating the steps taken by various State Commissions in having CGRF established by most of the Distribution Utilities, specially appreciated Karnataka State Electricity Regulatory Commission for constituting an office of Consumer Advocacy also and Maharashtra State Electricity Distribution Company Ltd. for establishing CGRF at each zone.
9. In view of paramount importance of the subject the matter in paras 7 & 8 above was communicated to the Principal Secretary Power, with a copy to Development Commissioner (Power) PDD vide Commission's letter No.:JKSERC/Secy/1593-94 dated 26.03.2012 and it was again reminded to take immediate action towards establishment of atleast two CGRFs, one each for Jammu & Kashmir Regions.
10. Further, in order to put Regulations on Consumer Advocacy in place, in accordance with the statutory requirements as stipulated in Sub-Section (6) of Section 36 of J&K State Electricity Act, 2010, Jammu & Kashmir State Electricity Regulatory Commission notified the JKSERC (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers) Regulations, 2010 and JKSERC (Electricity Ombudsman) Regulations, 2010 which were subsequently updated/replaced by a Consolidated Regulations on the subject viz. JKSERC (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2012 vide Notification

No.:JKSERC/20 of 2012 dated 27.08.2012 and copies of the same were also sent to the Utility and sufficient copies were send to Administrative Department to be laid before State Legislature. Despite the Regulations being in place, the Commission could not appoint Ombudsman who is empowered by the Act to receive and redress the grievances of the consumers who are aggrieved by non redressal of their grievances by CGRF, primarily for the reason that CGRF has not been established by the Utility. Moreover, requisite budgetary support is also awaited.

11. As is evident it has been impressed upon the Utility/power Development Department by the Commission from time to time, through various reminders to establish the CGRF but without any response from the Utility. Sixth reminder on the issue was sent to the Principal Secretary, PDD with copies to Development Commissioner (Power), Chief Engineer (EM&RE) Srinagar and Chief Engineer (EM&RE) Jammu vide letter No.:JKSERC/Secy/669-672 dated 01.10.2013.
12. As explained in para 7 above, the Commission is supposed to submit information on the functioning and progress of the CGRF and Ombudsman to Appellate Tribunal of Electricity (APPTTEL) on quarterly basis. However, in absence of these institutions, the Commission feels embarrassed as every time 'NIL' progress is reported.
13. The J&K Power Development Department vide Govt. Order No.:25-PDD of 2012 dated 25.01.2012 constituted Bijli Adalalts in all the PDD Circles as an in-house mechanism to address the Consumer Grievances but this arrangement cannot be a

substitute for the statutory Consumer Grievances Redressal Forums (CGRFs) as envisaged under the provision of the Act. These Adalats too have been non-starter and have not been made effectively functional. Even if any of these is functional, the working may not be neutral/unbiased as these are headed by the same officers of the Utility against whom the consumers have the grievances. Besides, the Utility has failed to submit Progress Reports on the functioning of these Adalats despite repeated reminders.

14. The Commission vide No.:JKSERC/Secy/05/2014/383 dated 10.06.2014 referred the matter to the Principal Secretary, PDD along with other issues, of statutory nature, requiring immediate attention of the Govt. followed by another letter bearing No.:JKSERC/Secy/92/2011/118-121 dated 20.10.2014 addressed to the Principal Secretary, PDD, with copies to Development Commissioner (Power) and Chief Engineers, EM&RE Jammu/Kashmir, reiterating the need for establishment of CGRF requested for an immediate action towards establishment of one or more Forums in the State failing which the Commission may be constrained to initiate Suo-moto proceedings against the Utility. This communication too has not been responded to.
15. The Utility despite a chain of reminders from the Commission from time to time and despite lapse of four and a half years from the enactment of J&K Electricity Act, has failed to establish the statutory institution of CGRF.

16. In view of the above facts, the Commission, taking note of seriousness of the issue and keeping in view the consumer interests, has decided to initiate Suo-moto proceedings to seek compliance of the respondents to the provisions of Sub-Section (5) of Section 36 of the J&K Electricity Act, 2010. The respondents are accordingly given four (4) week time to respond and to report compliance to the Commission failing which the Commission shall initiate penal action against the respondents under the provisions of the Act and the relevant Regulations of the JKSERC.
17. The matter shall be listed before the Commission in the 2nd week of January, 2015 at Jammu for further directions.

Dated:-25.11.2014
Jammu

Sd/-
(G.M.Khan)
Member

Sd/-
(Basharat Ahmad Dhar)
Chairman

No. JKSERC/Secy/1291-94
Dated: 09.12.2014

Sd/-
(Abdul Hamid) KAS
Secretary,
J&K State Electricity Regulatory Commission

Copy to the:-

1. Principal Secretary, Power Development Department, J&K Govt. Jammu.
2. Development Commissioner (Power), PDD, Jammu.
3. Chief Engineer, Maintenance & RE Wing, PDD, Jammu
4. Chief Engineer, Maintenance & RE Wing, PDD, Srinagar.