HC-KAR
CNR: KAHC010501562025

NC: 2026:KHC:62734
RP No. 312 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

REVIEW PETITION NO. 312 OF 2025

BETWEEN:

1. M/S. ORIENT BELL LTD
A COMPANY REGISTERED UNDER
THE PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT
CHOKKAHALLI VILLAGE,
HOSKOTE TALUK,
BENGALURU-562 114,
(REPRESENTED BY ITS AUTHORIZED SIGNATORY,
MR. NARAYANA. G. K.)

…PETITIONER

(BY SRI. SHRIDHAR PRABHU.,ADVOCATE)

AND:

1. BANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED
A COMPANY REGISTERED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT
KAVERI BHAVAN,
K.R. CIRCLE,
BENGALURU-560 001.
(REPRESENTED BY ITS GENERAL MANAGER
HR AND ADMIN)

2. ASSISTANT EXECUTIVE ENGINEER ELECTRICAL
O AND M SUB DIVISION,
BESCOM, HOSAKOTE SUB DIVISION,

BENGALURU-562 114.

3. ELECTRICITY OMBUDSMAN,
NO. 16, MILLERS TANK BED AREA,
VASANTH NAGAR,
BENGALURU-560052.

…RESPONDENTS

(BY SRI. SRIRANGA SUBBANNA, SENIOR COUNSEL FOR
SMT. SUMANA NAGANAND.,ADVOCATE FOR R1 & R2
R3 NOTICE SERVED)

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 OF CPC 1908, PRAYING TO REVIEW THE IMPUGNED JUDGMENT DATED 25.11.2022 PASSED IN WP NO.8009/2020 (GM-KEB) AND DISMISS THE SAME HEREIN PRODUCED AT ANNEXURE A AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

CAV ORDER

The present Review Petition is filed seeking review of the order dated 25.11.2022 passed in W.P.No.8009/2020 (GM-KEB).

2. Before considering the contentions put forth by the respective parties in the present review petition, it is relevant to notice the factual matrix in brief.

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3. The review petitioner is a High Tension[1] consumer of respondent Nos.1 and 2 - Bangalore Electricity Supply Company Limited[2]. The petitioner entered into an agreement dated 08.12.2008 with BESCOM, which is a distribution licensee as per the Electricity Act, 2003[3]. The petitioner paid a sum of Rs.1,12,09,680/- (Rupees One Crore Twelve Lakhs Nine Thousand Six Hundred and Eighty only) towards the security deposit to the BESCOM. The petitioner was required to deposit an equivalent of 2 months of consumption charges as per Regulation 4 of the Karnataka Electricity Regulatory Commission (Security Deposit) Regulations, 2007[4]. It is the contention of the petitioner that it has to pay the additional security deposit as and when demand is raised by BESCOM in that regard in addition to the previous security deposit. The petitioner was also buying power as an "open access consumer".

4. It is the case of the petitioner that since it was also buying power through open access, its consumption of power

[1] Hereinafter referred to as 'HT'
[2] Hereinafter referred to as 'BESCOM'
[3] Hereinafter referred to as 'Act'
[4] Hereinafter referred to as 'Security Deposit Regulations'

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from BESCOM had reduced. That the security deposit of two months charges as per the actual consumption charges was a sum of Rs.28,88,816/- (Rupees Twenty Eight Lakhs Eighty Eight Thousand Eight Hundred and Sixteen only). Hence, the petitioner sought for a refund from BESCOM of the excess additional security deposit charges that it had deposited with BESCOM. Accordingly, the petitioner sought for a refund of Rs.54,52,048/- (Rupees Fifty Four Lakhs Fifty Two Thousand and Forty Eight only) from BESCOM, contending, *inter alia*, that the power consumption from BESCOM had reduced and that it had deposited an excess amount than what was prescribed under the Security Deposit Regulations.

5. Since the request of the petitioner was not acceded to by BESCOM, the petitioner filed a complaint (Case No.CGRF/02/2018/3438) before the Consumer Grievance Redressal Forum, Bengaluru Rural[5]. The CGRF vide its order dated 02.11.2018 dismissed the complaint. Being aggrieved, the petitioner preferred an appeal/application under Regulation 21.3 of the Karnataka Electricity Regulatory Commission

[5] Hereinafter referred to as 'CGRF'

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(Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004[6] read with Section 42(6) of the Act, before the Electricity Ombudsman, Bengaluru[7] in case No.OMB/B/G-309/2018/D-1201. The Ombudsman vide order dated 21.02.2019 directed BESCOM to process the petitioner's application for refund in accordance with Regulation 6.2 of the Security Deposit Regulations. Being aggrieved, BESCOM preferred W.P.No.8009/2020.

6. In the said writ petition, the review petitioners were arrayed as respondent Nos.1 and 2. Despite service of notice, the petitioners did not enter appearance in the writ proceedings. This Court vide its order dated 25.11.2022 allowed the said writ petition and set aside the order dated 21.02.2019 passed by the Ombudsman. Vide the present petition, the review petitioner has sought review of the said order dated 25.11.2022 passed in the writ proceedings.

[6] Hereinafter referred to as 'Grievance Regulations'
[7] Hereinafter referred to as 'Ombudsman'

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7. Along with the review petition, IA.No.1/2026 was filed for condonation of delay, which was allowed by this Court vide order dated 09.03.2026.

8. The submissions of the learned counsel Sri. Shridhar Prabhu, for the petitioner and the learned Senior Counsel Sri. S. Sriranga, along with learned counsel Smt. Sumana Naganand, for BESCOM have been heard at length.

9. It is the contention of the learned counsel for the petitioner that since it did not have an adequate opportunity to enter appearance in the writ petition and contest the same, an opportunity ought to be afforded to the petitioner to contest the writ petition filed by BESCOM.

10. In addition, it is pointed out that the order dated 25.11.2022 is liable to be reviewed having regard to the fact that the entitlement of the petitioner for seeking refund of the security deposit amount in terms of the Security Deposit Regulations has not been properly noticed. Elaborate reference has been made by the learned counsel for the petitioner to the Security Deposit Regulations as also the Grievance Regulations.

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11. *Per contra*, learned Senior Counsel appearing for BESCOM opposes the review petition and contends that the writ proceedings are sought to be re-adjudicated by the review petitioner, who did not contest the writ petition despite the notice having been served on it.

12. Before noticing the contentions put forth by both the parties, it is necessary to notice the requisite statutory stipulations.

13. Regulations 4 and 5 of the Security Deposit Regulations stipulate as to the security deposit to be paid when a consumer commences receiving the supply of electricity from the concerned service provider. The same are extracted hereunder for ready reference:

> ***"4. Security Deposit for the electricity supplied / to be supplied***
>
> *4.1 All the Consumers shall at all times maintain with the Licensee an amount equivalent to fixed charges/demand charges plus energy charges corresponding to consumption for two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bi-monthly billing as Security Deposit towards the electricity supplied / to be supplied to them against any default in payment during the period the Agreement for supply of energy is in force.*

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4.2 If any person requiring supply opts to take the supply through a pre-payment meter, the Distribution Licensee shall not be entitled to collect the Security Deposit from such a person and the existing security deposit, if any, shall be refunded.

5. Initial Security Deposit (ISD)

5.1 All applicants for electricity shall pay Security Deposit to cover estimated power consumption charges for two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bi-monthly billing. The estimated power consumption charges shall include fixed charges for LT installations and demand charges on 100% contract demand for HT installations, fuel surcharges, if any. The fixed charges / demand charges shall be as per the Tariff schedule in force from time to time. The energy charges shall be on the basis of estimated consumption as per the table given below by applying the tariff schedule in force from time to time. The Distribution Licensee shall prepare and publish a ready reckoner regarding the ISD to be paid in respect of the new connections based on the above, and provide it to each applicant at the time of issue of application.

5.2 In the case of Consumers who seek sanction of additional demand / load, the ISD shall be collected only for additional demand / load."

14. In the event of additional supply, Regulation 6 of the Security Deposit Regulations contemplates deposit of additional security deposit. The said Regulation 6 reads as under:

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"6.Additional Security Deposit (ASD)

6.1 General Review

The Licensee shall review the adequacy of the amount of Security Deposit in respect of all Consumers in the first quarter of every year based on the average consumption for the preceding year.

6.2 Demand notice for Additional Security Deposit

Based on such a review, demand for shortfall in Security Deposit or refund of excess Security Deposit shall be made by the Licensee. However, the Licensee can hold Security Deposit up to Rs.3000/- at the credit of any Consumer and refund the excess Security Deposit when it is over and above Rs.3000/-.

a) In the case of existing Consumers, from whom 3 MMD had been collected by the Licensee where the monthly billing cycle is in vogue:

(i) Additional Security Deposit shall not be collected till deposit held at credit falls short of the average bill amount corresponding to two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bi-monthly billing calculated based on the consumption in the preceding year.

(ii) If the deposit held is more than 120% of the average bill amount corresponding to two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bi-monthly billing of the preceding year, the Licensee shall refund excess deposit held over and above 120% of

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the average bill amount corresponding to two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bimonthly billing of the preceding year, with in 12 months of the notification of these Regulations in the first instance and during the first quarter in the subsequent years, through adjustments in the energy bill of the Consumer. However, the limit of Rs.3000/- for refund of the excess Security Deposit as per clause 6.2 shall be adhered to.

b) In case the Licensee fails to refund the excess Security Deposit as per Clause 6.2(a)(ii) of these Regulations, penal interest at 1 % per month on the amount of excess Security Deposit for actual days of delay shall be payable to the Consumer for the delay beyond the specified period.

c) The bill amount for the purpose of these Regulations shall include only FC/DC plus EC and not any other charges like the Electricity Tax, arrears, audit short claim, interest, back billing charges, penal charges for excess consumption / demand.

d) Additional security deposit shall be demanded when the deposit held falls short of the average bill amount corresponding to two months (2 MMD) in case of monthly billing and three months (3 MMD) in case of bi-monthly billing calculated based on the consumption in the preceding year. However, if the shortfall is less than Rs.200/- in case of LT categories and Rs.1000/- in respect of HT installations, the same need not be demanded.

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e) Where the Consumer is required to pay Additional Security Deposit, the Licensee shall serve a minimum 30 days' notice containing necessary particulars effective from 1st day of April of that year. The notice shall indicate that in case the ASD is not paid within 30 days, the installation shall be liable for disconnection. In case the Consumer has no objections on the amount demanded, the additional Security Deposit shall be paid within 30 days of the date of demand. In case the Consumer has any objections for the said demand, he may file his objections within 7 days from the date of receipt of such demand notice. The amount of ASD demanded may be revised based on the information, if any, furnished by the Consumer. The Licensee shall furnish all the necessary details to justify the claim of ASD within 7 days of the receipt of objections. In case of revised demand, the payment shall be made within 15 days of the date of revised demand.

f) The refund / recovery amount shall be rounded off to nearest Rs.10/-.

6.3 Disconnection for non-payment of Security Deposit for the electricity supplied.

If a Consumer fails to pay the Security Deposit demanded by the Licensee in terms of clause 6.2 (d), the Licensee shall disconnect the power supply to the installation without further notice. Any arrears due on this account shall be deemed to be arrears of electricity charges."

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15. The petitioner in the present petition, in addition to being a HT consumer of electricity, is also an "open access consumer". In that regard, it is the case of the petitioner that he has entered into a agreement for purchasing power, as a result of which, consumption of the petitioner from BESCOM from its initial contracted capacity has reduced.

16. Section 49 of the Act permits consumption of power as an open access consumer. The purchase of power by open access is regulated by the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004[8].

17. Regulation 3 of the Open Access Regulations stipulates the criteria for allowing open access. Regulation 4 stipulates the eligibility for open access and phasing. Regulation 5 stipulates the provision for existing entities i.e., existing distribution licensees as well as existing customers excluding existing distribution licensees. Regulation 6 stipulates the categorization of open access customers into short term open access customers who intend on availing open access for a

[8] Hereinafter referred to as 'Open Access Regulations'

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period of less than 5 years and long term open access customers who intend on availing open access for more than 5 years.

18. Regulation 8(1) of the Open Access Regulations stipulates that the nodal agency for arranging long-term open access shall be the State Transmission Utility and Regulation 8(2) stipulates that the nodal agency for short-term open access shall be the State Load Dispatch Centre. Regulation 9 of the Open Access Regulation stipulates the procedure for applying for open access and Regulation 10 stipulates the non-utilization of open access service by an open access customer. Regulation 11 stipulates the open access charges.

19. It is the contention of the petitioner that the Open Access Regulations operates independent of the Security Deposit Regulations, inasmuch as, while availing electricity through open access, it is also required to pay a security deposit [in terms of sub-regulation (xii) of Regulation 11 of the Open Access Regulations] apart from open access charges as contemplated under sub-regulations (i) and (ii) of Regulation 11 of the said Regulations. It is further contented that the said

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security deposit and open access charges are to be paid to the nodal agency, which could either be the State Transmission Utility [in terms of Regulation 8(1)] or the State Load Dispatch Centre [in terms of Regulation 8(2)].

20. It is the further contention of the petitioner that the respondent [writ petitioner - BESCOM] has to levy consumption charges in terms of the Electricity Tariff, 2019 (Karnataka Electricity Regulatory Commission Tariff Order dated 14.05.2018)[9]. It is also stipulated that the rate of Tariff as notified by the Electricity Tariff is liable to be reviewed from time to time.

21. It is in the present backdrop that the review petitioner had filed a complaint before CGRF since its request for refund of the security deposit charges was not acceded to by BESCOM. Pursuant to the dismissal of the complaint by CGRF, the petitioner had filed an appeal before the Ombudsman, which was allowed by order dated 21.02.2019, which was impugned by BESCOM in the writ petition [WP No.8009/2020].

[9]hereinafter referred to as the 'Electricity Tariff'

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22. It is the contention of the review petitioner that the Ombudsman had adequately appreciated the relevant aspect of the matter and had rightly concluded that BESCOM was liable to refund the security deposit charges.

23. In this context, it is pertinent to notice that while considering the complaint made by the review petitioner, the CGRF vide its order dated 02.11.2018 concluded as under:

"Conclusion:

1. The consumption has reduced since the consumer has opted for OPEN ACCESS SUPPLY.

2. At the time of framing clauses under KERC notification No: D/07/7 dated 1.10.2007 on KERC (Security Deposit) and gazette dated 11.10.2017, the OPEN ACCESS SYSTEM was not existing

3. Clause No.9 which states: "The Licensee, on termination of the agreement by either party shall refund ISD,ASD & Meter Security Deposit (if any) after adjustments of dues, if any, within two months from the date of termination failing which interest at 1% per month shall be payable on the ISD, ASD & Meter Security Deposit for the actual days of delay. But it does not give any guide lines or policies when the consumption reduces due to the consumer availing power through OPEN ACCESS SYSYEM.

4. The present connected power of 2500 KVA is retained by the consumer, even after availing additional power through OPEN ACCESS SYSTEM.

5. The statement of the Counsel for the complainant that, the present connected power is required and that they may even apply for additional power implies

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the possibilities of the consumer coming back to the system always remains.

6. At present, there are no fixed policies or guide lines framed or laid out in writing on the usage of the OPEN ACCESS system and that whether this system will continue for ever.

7. The consumption means all the units consumed through the supply point and the total MD recorded.

8. The KERC regulation Order No. Y/03/4 dated 31-05-2006 wherein The KERC Regulation on Terms and conditions for Open Access Regulation 2004 on 12-11-2004 published in the Karnataka Gazette on 16-12-2004 is, considered along with Its amendments,
Clause 11(xii). On the open access system-"An open access consumer shall pay 2 Months charges as security deposit to the appropriate licensee as applicable to secure the licensee against default in payments".

and

Clause 18- "Collection, and disbursement of charges"- the charges may be collected either by the distribution licensee, the transmission licensee or the STU, depending on whose facilities are used by the consumer for availing open access. In all cases the amounts collected from a particular consumer should be given to the distribution licensee in whose area the consumer is located. In case of two licensees supplying in the same area the licensee from whom the consumer was availing supply shall be pald the amounts collected. Provided further that transmission charges shall be payable to the concerned transmission licensee."

The Forum based on the above conclusions pass the following order.

THE ORDER

1. The prayer for refund claim is rejected.

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2. The prayer of the complainant is dismissed."

24. The Ombudsman, while considering the appeal filed by the review petitioner, upon noticing the rival contentions of the parties, allowed the appeal of the review petitioner and quashed the order passed by the CGRF. The relevant portion of the order of Ombudsman is as under:

> *"7. Heard oral submissions made by both the parties and also perused the written submissions made by them. The Respondent has submitted alongwith his parawise replies, copy of the Circular bearing No. CYS/10 dated 04/05/2009 issued by the Chief General Manager (Tech.) BESCOM, regarding uniform procedure for arranging Refund of Deposits. As per this Circular, the Consumer is expected to submit certain documents alongwith his Application. The Respondent says that the procedure for refund of deposit, as per the Circular dated 04/05/2009 was orally explained to the Representative of the Appellant. The arguments of the AEE and also the stand, taken by the CGRF that the Appellant is availing the power from Open Access System and hence, there is no reduction in the consumption pattern, the Security Deposit related to energy supplied by the BESCOM and Security towards energy units procured under Open Access System, are one and the same, the question of refund of Security Deposit will arise only at the time of surrender of power and hence the Consumer is not entitled to claim any refund of excess amounts placed with BESCOM, cannot be accepted.*
>
> *8. The procedure for determining the adequacy of the amount of Security Deposit paid by the Consumer is clearly laid down in clause 6 of KERC (Security Deposit) Regulations, 2007. This clause does not make any differentiation between the Consumers availing power*

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from BESCOM and consumer availing power through Open Access System. It is incorrect on the part of CGRF to have clubbed the fact that Appellant is a consumer availing power supply through BESCOM. The Appellant has produced alongwith his Appeal Memo, copies of letters written to AEE for refund of Additional Security Deposits. In not even single letter is it mentioned that the Application submitted alongwith all the required documents.

69. In view of the foregoing paras, I proceed to pass the following:

No.OMB/B/G-309/2018/D-1201 Dated 21/02/2019

ORDER

a) The order of CGRF, Bangalore (Rural) bearing No. CGRF/02/2018/3438 dated 02/11/2018 is quashed;

b) The Respondent is directed to process the Application of the Appellant strictly in accordance with Clause 6.2 of KERC (Security Deposit) Regulations, 2007, if and when submitted alongwith all the required documents as per the Circular of BESCOM dated 04/05/2009 and getting clarification from the Respondent with regard to change in the name of the Company;

c) The Respondent is directed to refund the additional Security Deposit of the Appellant if any, within 30 days of submission of all the documents required;

d) The demand of the Appellant for refund of excess amount with the Respondent, with interest, and award of compensation as per SOP and award of Rs 30,000/- as exemplary cost is rejected, in view of the fact that the Appellant has never submitted his application alongwith all the required documents and he has not clarified the doubt of the Respondent No.1, regarding change in the name of the Company."

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25. In the writ petition filed by the respondent, this Court noticing Regulation 4.1 of the Security Deposit Regulations as well as Clause (xii) of Regulation 11 of the Open Access Regulations, allowed the writ petition, the relevant portion of the said order under review is as under:

> *"9. It is to be noticed that despite the first Respondent buying power through an open access, as long as, it has contracted with the Petitioners with a particular demand, the Petitioners will be required to be ready to supply the power as per the contracted demand as and when the first Respondent requires the same.*
>
> *10. Admittedly, it is not the case of the first Respondent that it has surrendered the power availed from the Petitioners. Hence, it is clear that the first Respondent has continued to remain contracted with the Petitioners to supply the requisite demand of 2500 KVA of power."*

26. This Court noticing that the review petitioner, who was respondent No.1 in the writ petition, had not surrendered the power availed from BESCOM, allowed the writ petition. However, it was the case of the review petitioner before the CGRF as well as the Ombudsman that the review petitioner having availed power through Open Access Regulations, its consumption of power pursuant to the initial supply that was being availed having been reduced, it was not required to

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maintain the security deposit in terms of Regulations 4 and 5 of the Security Deposit Regulations.

27. This Court, while considering the writ petition filed by the respondent, had merely noticed that the review petitioner had not surrendered its power. The contention of the review petitioner before the CGRF and the Ombudsman as to its requirement/necessity to maintain/retain the security deposit in terms of Regulations 4 and 5 of the Security Deposit Regulations was not considered.

28. Although it is the vehement contention of the learned Senior Counsel for BESCOM, that vide the present review petition, the review petitioner is seeking to re-agitate the writ petition on its merits which is impermissible in law and various citations are sought to be relied upon in support of the said contentions as noticed above, while adjudicating upon the writ petition filed by BESCOM, the contention put forth by the review petitioner before the CGRF and the Ombudsman as to its entitlement to seek for refund of deposit which is made pursuant to the Security Deposit Regulations, since it has also

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purchased power as an open access customer in terms of the Open Access Regulations was not considered.

29. Accordingly, the review petition filed by the petitioner merits consideration.

30. Hence, the following:

ORDER

i. The review petition is ***allowed***;

ii. The order dated 25.11.2022 passed in WP.No.8009/2020 (GM-KEB) is reviewed/recalled.

iii. The review petitioner shall be permitted to file statement of objections in WP.No.8009/2020 within two weeks.

iv. List WP.No.8009/2020 (GM-KEB) before the concerned Court on 09.12.2026.

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(C.M. POONACHA)
JUDGE

PNV - List No.: 1 Sl No.: 81