

UNIT 16

OMBUDSMEN AND CONSUMER PROTECTION

*“Solos populi est suprema lex”
(Regard for public welfare is the highest law)
Latin Maxim*

16.1 Background

Empirical evidence suggests that competition is the best regulator and is in keeping with the interest of the consumer. Where monopoly elements are present as is the case in the Electricity industry, Independent regulators have done commendably well. However we need a strong institution at the consumer level for the protection of individual consumer. This is where the role of Ombudsmen and consumer courts come in. Electricity suppliers have repeatedly failed the customers with confusing bills, estimated meter readings and mismanaging customer expectations. This is essentially difficult market for most consumers to comprehend.

16.2 Rights of a Consumers, Applicant of Electricity Connection and other Citizens

Section 2(15) defines “Consumer” to “*mean 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.*”

This definition is very wide to includes all kinds of consumers. Even unauthorized consumers have been included in the definition by incorporating the words person who’s premises is connected with the works of the licensee. The last line of the definition makes the definition more inclusive . It specifies that “such other person as the case may be” shall also be considered as a consumer.

The issue is whether an applicant is a consumer or not?

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No the applicant is not a consumer. The rights of an applicant who is an owner or a holder of a premises has separate set of rights then the consumer. After the applicant receives the Electricity connection whether authorized or unauthorized he is deemed to be a consumer for all practical purposes.

16.3 Rights of a Consumer

(1) Right to redressal of grievance

Section 42 (5) provides that *“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”*.

In case of deemed licensee the appointed date is 10th June 2003. for all other distribution licensee the date of grant of license is the date from which the period of six months shall begin.

(2) Right to representation before Ombudsmen

Section 42(6) provides that Any consumer, who is aggrieved by non-redressal of his grievances by the forum established by the distribution licensee under the Act, may make a representation for the redressal of his grievance to an authority to be known as Ombudsman. The Ombudsman shall be appointed by or designated by the state Commission.

The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

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Concept of Ombudsmen

The Ombudsmen is an Scandinavian concept, created for redressal of citizens grievances. The office of Ombudsmen originated in Sweden(1809).Several countries have since adopted the system as a bulwark against the impropriety of bureaucrats. The Swedish meaning of the word is – An officer appointed by the legislature to handle complaints against the administrative and judicial action.

As an impartial investigator the ombudsmen makes investigation, collects the facts objectively and reports back to the authority appointing it. The complainant has to simply write to him or the Ombudsmen can also take sue motto cognizance of a matter whether through news papers or other means. The right to investigate dose not empower him to quash or reverse a decision, he dose not have a direct control over the institution he is investigating.

The Ombudsmen only reports back and publishes its findings. This has made it a very popular institution. Its strength lies in the wide publicity that is given to its working in the mass media. The World wide acceptance of the system has led to its introduction in many public oriented organizations. The concept of Ombudsmen is somewhat similar to Parliamentary Commissioner of UK, Procurator of USSR and the lokayuktas of India.

The Lokpal Bill pending in the parliament also envisages creation of a similar institution at the Central level.

(3) Right of Non Discrimination

By virtue of Section 45(4) all consumers are to be treated with equity and the licensee can not show undue preference to any person or class of persons or discriminate against any person or class of persons.

(4) Right not to pay security in case of prepaid meters

The consumer is not required to pay security in case of a prepaid meter. This right flows by virtue of Section 47(5).

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16.4 Consumer grievance redressal hierarchy

16.5 Rights of an Applicant

Section 43 provides that *“Every distribution licensee, shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply”*

The right to receive supply is not an absolute right, In fact it is a limited right .Under following circumstances there can be delay in supply –

1. that where such supply require connection of distribution mains, or commissioning of new sub-station, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:
2. In case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

However it is the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in the area where the entity holds a license

Section 43(3) provides that the distribution licensee who fails to supply electricity with in the period of one month shall be liable for a penalty which may extend to Rs 1000.However the act is silent on the issue of who shall determine the amount of penalty to be paid and in every case who will determine the duration of default.

However the law recognizes the exigencies beyond the control of a distribution licensee and excludes the licensee from its obligations incase of force majeure.

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16.6 Rights of Non Electrified Citizens residing in Rural Areas

The Act (Section 6) states that the Appropriate Government shall endeavor to supply electricity to all areas including villages and hamlets.