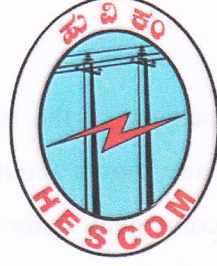


ಹುಬ್ಬಳ್ಳಿ ವಿದ್ಯುತ್ ಸರಬರಾಜು
ಕಂಪನಿ ನಿಯಮಿತ

[ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಂಪೂರ್ಣ ಸ್ವಾಮ್ಯಕ್ಕೆ ಒಳಪಟ್ಟಿದೆ.]

ಕಂಪನಿ ಕಾರ್ಯಾಲಯ, ನವನಗರ, ಪು.ಬಿ. ರಸ್ತೆ,

ಹುಬ್ಬಳ್ಳಿ-580 025.



HUBLI ELECTRICITY
SUPPLY COMPANY LIMITED

[Wholly owned Govt. of Karnataka undertaking]

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No.: HESCOM/LAW/217/2014-15/CYS- 1736

DATE: 8 SEP 2014

CIRCULAR

It is brought to the notice of corporate office that large number of false cases are being filed before Hon'ble PLAs (Adalat in short), Consumer Redressal Fora and civil courts by claimants against HESCOM claiming compensation, alleging that sugar cane crop raised by them is burnt due to electrocution. Though, the claims made by the claimants are false, HESCOM is incapable of proving the falsity of the case on account of inaction and lethargic attitude on the part of it's divisional and sub-divisional officers/officials towards those cases. Proper defenses are not raised in objection statements and proper evidence is not adduced leading to proving of the falsity of the cases. The officers and officials in the divisions and sub-divisions have not been keeping track of these cases. The panel advocates are not properly briefed, so as to enable them to conduct the defense effectively. On account of all these anomalies, HESCOM has been paying huge amount to the claimants as compensation. It is needless to point out that the amount which is being paid by HESCOM is a public money and HESCOM is financially overburdened on account of all these things. In view of the above, to it is genuinely felt that necessary guidelines be issued to divisional and sub-divisional officers/ officials in respect of the said cases pending before Adalats, Consumer Fora and courts with a direction that the guidelines hereinafter referred to be strictly and scrupulously followed and complied with. Hence, I am directed to issue following guidelines;

Guidelines in respect of cases pending before Adalats, Consumer Fora and Courts:

- The claimants produce panchanamas drawn by the police and revenue authorities before the Adalat and Forum to substantiate their case that their crop stood burnt due to electrocution.

There is no objection so far as competence of the revenue authorities and police to draw panchanamas of the spot, if they are made known about any mishap having taken place due to fire. However, they are not the competent authorities to say that mishap is due to electrocution. The only authority who is competent to speak about loss due to electrocution under the Electricity Act is Electrical Inspector or Deputy Electrical Inspector appointed by government. No other authority has any competence to speak about the electrocution. Therefore, it is impressed upon our officers/officials that when such a document is tendered in evidence before Adalat and Forum, an objection be raised with regard to admissibility of the said document in so far as its recital with regard to electrocution is concerned. Even if such document is marked as exhibit by Adalats or Fora an argument should be advanced to the effect that the recital in the panchanama with regard burning due to electrocution should not be relied on in support of the case of claimant. Above guidelines hold good even about the report submitted by revenue authorities stating that loss of crop is due to electrocution.

- ii. It is a common knowledge that the claimants file false cases of crop burning only to see that their sugar cane crop is transported to sugar factory by the authorities of the latter, out of turn. This attitude of the claimants in raising false claims, for the reason aforesaid should be pointed out in the objection statement filed on behalf of HESCOM. If such objection is not taken HESCOM, will be estopped from relying on said fact at the time of advancing argument.
- iii. If the mishap has really taken place due to electrocution and same is made known to HESCOM authorities, latter should immediately inform Electrical Inspector about the same and get report from him about the cause of mishap.
- iv. If HESCOM authorities have no knowledge about the mishap and claimants move the police and the revenue authorities and get the panchanamas drawn behind the back of HESCOM authorities, latter should examine the concerned lineman before Adalat or court about no such incident having taken place on the alleged date.
- v. HESCOM authorities should request the jurisdictional police and revenue authorities to secure their presence to the spot while drawing panchanamas. If such information is given, it is incumbent upon the concerned AEE(Ele) or Section Officer to keep himself present at the spot at the time of panchanama and point out to the police and revenue authorities the facts favourable to HESCOM available at the spot.

- vi. The HESCOM authorities should collect the copies of record of rights pertaining to the alleged lands of claimants in order to show that during the relevant year claimants had not raised sugar cane crop in the lands in question.
- vii. It is a common knowledge that sugar factories purchase the sugar cane raised by the claimants. The possibility of claimants supplying sugar cane raised by them to sugar factory and getting amount from the sugar factory despite filing a false cases before Adalat, Fora and courts cannot be ruled out. In order to show that the case of the claimant is false, our divisional/sub-divisional officers/officials should collect relevant documents from the concerned sugar factories showing the survey number of land, quantity of sugar cane supplied and amount received by the claimant. If the said document issued by the sugar factory is produced before Adalat or Forum or court, the contents of the said document would falsify the case of the claimant. It is needless to point out that the said document also shows the amount paid in respect of the burnt sugar cane purchased by the sugar factory by giving some reduction in the price. All these contents of the document issued by sugar factory will inure to the benefit of HESCOM. Therefore, it is impressed upon our officers/officials to collect the relevant documents from the sugar factory and to produce the same before the court etc.
- viii. So far as court cases are concerned it is brought to the notice of the corporate office that panchanamas drawn by the revenue authorities and police are let in evidence before the court without the concerned pancha being examined. It is cardinal principle of Indian Evidence Act, the provisions of which are strictly adhered to by civil courts, that the contents of the documents cannot be proved before the court without the author of documents concerned is examined. So far as panchanamas are concerned the panchas are the authors of the panchanama and as such no panchanama can be let in evidence without any one of the panchas being examined before the court in proof of panchanama. Therefore, it is impressed upon officers/officials that when panchanama is sought to be marked by the court, an objection be raised for it's marking when document in question is sought to be let in evidence without pancha being examined.
- ix. So far as injury to human being, due to electrocution is concerned, it is noticed that the injury certificate issued by the doctor is being let in evidence without latter being examined before the court in proof of the contents of the certificate. Percentage of disability suffered by an individual on account of injury is an important factor in order to decide the quantum of compensation.

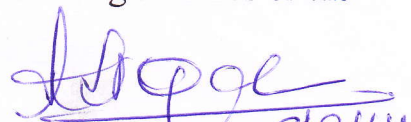
The injury certificate contains recital with regard to percentage of disability. If the injury certificate is marked in evidence without doctor being examined, HESCOM will be deprived of an opportunity to attack the nature of injuries specified in the certificate as also the falsity of percentage of disability stated in the certificate by cross examining the doctor. Therefore, it is impressed upon our officers/officials that no injury certificate should be allowed to be marked in evidence before the court without doctor being examined.

- x. It is brought to the notice of corporate office that false cases of sugar cane burning are filed despite there being no electric supply on particular day to particular village. Under such circumstances, it is incumbent upon our officers/officials to inform our panel advocate about there being 11 KV feeder from, sub-station being open and not charged, so that our panel advocate can take contention in objection statement about there being no electric supply to the village concerned on the alleged date. Our officers are also duty bound to inform our panel advocate about the concerned transformer being charged condition or not, so as to enable him to take objection about the same. Mere instructing our panel advocate as aforesaid is not sufficient and our officers/officials should produce the documents like log book etc. before the court to show that the case filed by the claimant is false one
- xi. It is also brought to the notice of corporate office that despite electric wires being properly maintained and intact, false contentions are taken by the claimants to the effect that wires were sagging resulting in emission of sparks due to mingling of wires. It is impressed upon our officers/officials to adduce evidence with documents to show that the wires drawn by HESCOM were intact and not sagging and were properly maintained.
- xii. It is brought to the notice of corporate office that after the disposal of the cases by Adalat, Forum and court the division and sub-division officers have been making long delay in seeking the opinion of corporate office regarding feasibility of preferring writ or appeal against the orders passed by said Fora. Indian Limitation Act prescribes stipulated period within which first appeal or second appeal can be filed. If the appeals are not preferred within the time stipulated by the Limitation Act we have to file an appeal with an applicant seeking condonation of delay. It is needless to point out that in order to get the delay condoned HESCOM has to assign sufficient reasons for each day delay. It is our common knowledge that most of our appeals have been rejected by appellate courts on the point of limitation at the threshold of inquiry before the appellate authority. Though in some of the appeals HESCOM had strong grounds to be urged, same could not be achieved on account of our appeals having been rejected on technical ground namely limitation.

Therefore it is impressed upon our officers/officials to send the certified copies of the orders to corporate office immediately after the pronouncement of orders and seek opinion regarding feasibility of preferring appeal. Though there is no time limit for preferring writ, the Hon'ble Supreme Court and Hon'ble High Court have held time and again that the writs should be filed within reasonable time.

- xiii. The forum usually prescribes time limit to make payment of compensation awarded by it. If the compensation is not paid within the time so stipulated the claimant will have right to file a complaint against HESCOM authorities arraigning them as accused and latter would be made to face prosecution before forum, which is clothed with power of JMFC. Our officers/officials will have to appear as accused before Forum and get themselves released on bail. In order to avoid all these unhappy eventualities it is impressed upon our officers/officials to prefer appeals to state commission as early as possible if need be or else, make payment of compensation as ordered within stipulated period with prior approval of corporate office.
- xiv. Every division office of HESCOM is directed to maintain register of cases showing the pendency of cases before various Fora, in the division. The register should show number of pending cases, fresh cases received during the month, number of cases disposed off etc. The division officers are further directed to send monthly statements to corporate office showing the number of cases pending at the beginning of each month, fresh cases filed during the month, cases disposed-off during the month as also number of cases pending as on the last date of the month.

The above guidelines should be followed scrupulously and meticulously by all concerned and any inaction in this regard will be considered as dereliction of duty and will be viewed seriously and the concerned officer/official will be held liable for departmental inquiry. It is further impressed on all the officers/officials that in the event of HESCOM being made liable to pay compensation to any claimant on account of the non-observance of any of the above guidelines, compensation so paid will be recovered personally from the officer/official concerned apart from holding departmental inquiry against him or her for dereliction of duty namely, non-observance of above guidelines. The guidelines of the circular comes into force with immediate effect.


General Manager, 8/9/14
(Admin & HRD)

Copy:

1. Director(Tech), Corporate Office, HESCOM, Hubli.
2. Financial Advisor, Corporate Office, HESCOM, Hubli.
3. All Chief Engineer(Ele), Zonal Office, HESCOM, Hubli/ Belgaum.
4. All Superintending Engineer(Ele), O&M Circle, HESCOM, Hubli/ Sirsi/ Haveri/ Belgaum/ Bijapur/ Bagalkot/ Chikkodi.
5. Controller(Revenue & Accounts)/ (Internal Audit), Corporate Office, HESCOM, Hubli.
6. All Executive Engineer(Ele)/ Deputy Controller of Accounts, Corporate Office, HESCOM, Hubli.
7. Executive Engineer(Ele)(Information Technology), Corporate Office, HESCOM, Hubli - Information and to publishing website.
8. All Executive Engineer(Ele), O&M Division, HESCOM.
9. All Assistant Executive Engineer(Ele), O&M Sub-Division, HESCOM.
10. All Accounts Officer(Internal Audit), O&M Division, HESCOM.
11. Office Copy/ Master File.