

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/015/2021
(Present: A.S. Dasappan)
Dated: 23rd July 2021

Appellant : Smt. Kowsalya. K.,
K.K. Bhavanam,
Chavancode, Parippally. P.O.,
Kollam Dist. – 691574.

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Varkala, Thiruvananthapuram Dist.

ORDER

The appellant is a consumer of Electrical Section, Kedakulam with consumer number 5278 under LT IA tariff and now having a connected load of 9689 watts in three-phase category. On 05-07-2007, the APTS of KSE Board inspected the premises, disconnected the electric supply and prepared a site mahazar and later issued a provisional assessment bill for Rs.136047/- to the appellant. The reason furnished in the site mahazar for the disconnection was some meter tampering evidences found by the inspection team. On 09-07-2007, the appellant filed a petition before the Consumer Dispute Redressal Forum (CDRF), Thiruvananthapuram vide OP No.168/2007 claiming compensation and cost for the losses to the appellant with the action of the inspection team of KSE Board. Further, on 16-07-2007 the appellant filed a writ petition vide WP(C)21903/2007 before the Hon'ble High Court of Kerala, praying to restore the electric supply by giving reconnection and quashing the proceedings. The Hon'ble High Court of Kerala issued order for reconnection on 20-07-2007 and the respondent reconnected electric supply on 21-07-2007 with a new meter and after remitting Rs.25,000/- by the appellant as ordered by the Hon'ble Court. On

09-07-2014, the writ petition vide WP(C)21903/2007 was dismissed by the Hon'ble Court since there was no representation from the appellant's side. On 16-11-2015, the CDRF, Thiruvananthapuram issued order awarding Rs.50,000/- towards compensation and Rs.2,000/- towards cost to the appellant and which is to be given by KSE Board. As such the subject case was taken up with the Hon'ble Consumer Disputes Redressal Commission (CDRC), Thiruvananthapuram vide appeal No.292/2016 by the respondent against the order of CDRF, Thiruvananthapuram. The first hearing of the case was conducted on 14-11-2019 and the respondent is waiting for the next hearing.

On 22-05-2019, a disconnection notice was issued to the appellant for remitting the balance disputed bill amount of Rs.1,11,047/- along with the surcharge for Rs.1,68,123/- till the date of 22-05-2019. Against the disconnection notice, the appellant approached Consumer Grievance Redressal Forum (CGRF), Southern Region vide OP No.82/2020 for the requirement of quashing the above bill amount and refunding Rs.25,000/- remitted by the appellant as ordered by the Hon'ble High Court of Kerala in WP(C)21903/2007 dated 20-07-2007. The CGRF, Southern Region, after hearing, rejected the request of the appellant on 02-02-2021 and observed that the appellant is free to file appeal before the Kerala State Electricity Appellate Authority, Ernakulam with a finding that the Forum has no jurisdiction to entertain the complaint regarding the penal assessment bill under Section 126 of the Electricity Act 2003.

As per appellant, the theft case in the premises is a fabricated one and which was enquired by various agencies of KSE Board including KSE Board Vigilance. The Vigilance of KSE Board had found out the foul play by the officials of KSE Board. The appellant had not requested the CDRF, Thiruvananthapuram for the cancellation of the disputed bill amount, but requested only for the compensation and cost from KSE Board. The arguments of APTS of KSE Board that they planned inspection in the premises because of variation of meter reading is baseless. Moreover, there was no variation of meter reading before and after the installation of new meter. The old meter was in perfectly running condition. The officials who devised the whole drama intentionally put the appellant under

theft section as they were very much aware that they could strangle the appellant by forcing a false theft case whereby the case would get protection of the strong law too. The request of the appellant is to quash the illegal demand note issued by the respondent in the year 2007 and refund the amount of Rs.25,000/- deposited as per the direction from the Hon'ble High Court of Kerala.

As per respondent, the meter has been tampered while the inspection conducted by APTS of KSEB Ltd. and hence, action was taken under Section 126 of the Electricity Act 2003. The appellant had neither approached Appellate Authority nor to challenge the penal bill.

An online hearing of the case was conducted at 11-30 AM on 20-05-2021 with prior intimation to both the appellant and the respondent. Sri. Biju. S. attended for the appellant and Sri. Riju. V., Assistant Executive Engineer, Electrical Subdivision, Varkala from the respondent's side attended the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

Following the inspection of APTS of KSEB Ltd. in the premises of the appellant, the electric supply was disconnected after preparing a site mahazar by the respondent. The respondent issued a penal bill for Rs. 136,047/- stating the reason of "meter tampering" in accordance with Section 126 of the Electricity Act 2003. The appellant approached CDRF, Thiruvanthapuram for compensation and cost, which were allowed by the Forum. The electric supply was reconnected as ordered by the Hon'ble High Court of Kerala. Against the order of CDRF, Thiruvananthapuram the respondent filed appeal petition before Hon'ble SCDC, Thiruvananthapuram, which is under the consideration of Hon'ble Commission.

As per Clause 22 (1) (d) of the Kerala State Electricity Regulatory Commission (CGRF & Electricity Ombudsman) Regulations 2005, no representation to the Ombudsman shall lie, in case where a representation for the same grievance by the complainant is pending in any proceedings before any court, tribunal or arbitrator or any other authority or a decree or award or a final

order has already been passed by any such court, tribunal, arbitrator or authority.

Now the subject case is before the Hon'ble CDRC, Thiruvananthapuram.

As per Clause 2 (1) (f) (vii) of KSERC (CGRF & Electricity Ombudsman) Regulations 2005 restricts CGRF and Electricity Ombudsman to entertain a complaint pertains to the assessment made under Section 126 of Electricity Act 2003. This was also observed by the CGRF.

Decision: -

For the reasons detailed above, the appeal petition No.P-015/2021 filed by the appellant stands dismissed as it is found not maintainable before this Authority. The order dated 02-02-2021 in OP No. 82/2020 of CGRF, Southern Region is upheld.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/015/2021/ _____ dated _____ .

Delivered to:

1. Smt. Kowsalya. K., K.K. Bhavanam, Chavarcodes, Parippally. P.O., Kollam Dist. – 691574.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Varkala, Thiruvananthapuram Dist.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.