

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/028/2024
(Present A. Chandrakumaran Nair)
Dated: 15th-July-2024**

Appellant : Shamsudheen A.M
Arangath House
Kongad, Palakkad Dist.,

Respondent : The Assistant Executive Engineer,
Electrical Sub Division
KSE Board Limited
Perinthalmanna, Malappuram Dist.,

ORDER

Background of the case

The appellant Shri. Shamsudheen is a prosumer with the Licensee(KSEBL)having two connections one in Electrical Section Kongad and another in Electrical Section Angadippuram. The appellant had installed solar plant of 3.32 kW at Kongad and 4.3 KW at Angadippuram. The appellant has applied to the Licensee to wheel the excess energy produced in the Angadippuram plant to use in the Kongad Service connection. The Licensee had delayed the sanctioning of the same stating that there is no provision in the 'Oruma Net' to wheel the energy from a prosumer to another premises of the same consumer who is registered as a prosumer.The electrical section officials had taken up to higher level to get approval for permitting the wheeling of prosumer to prosumer. This process got cleared only after 5 months.The application submitted on 17/05/2023 and it had cleared on 27/10/2023. The Licensee has corrected the bill allowing the wheeling with effect from 08/2023. The appellant was aggrieved by the delayed action of the Licensee and demanded compensation as per regulation. The petition filed CGRF and CGRF issued order on 20/03/2024 after completing the procedures. Aggrieved by the decision of CGRF, the appeal petition is filed to this Authority.

Arguments of the Appellant Submitted by Statements

The Petitioner was aggrieved by the in action of the Respondent Licensee (KSEB) on the complaint filed before them. The complaint was relating to the wheeling of excess units of Solar power generated at the Petitioner's own residential house at Kongad, Palakkad Dist. No decisions was taken on the Request of the Petitioner until the Petitioner approached the CGRF. Non compliance of the Regulation 17 of the KSEERC (Renewable Energy & Net metering) Regulation, 2020 dated 07.02.2020, by the competent authorities of Licensee, caused wastage of time, money and effort to the Petitioner. The Licensee KSEB neither acted upon the request of the Petitioner nor shown minimum courtesy to resolve the issue until the petitioner filed complaint before the Hon'ble CGRF. The above inaction of the respondent caused immense humiliation, harassment and loss of money to the Petitioner compelling to run to the different levels of offices ie, from Section Office, Division Offices, Circle Offices and at last HQ and all the efforts were ended up in Vein. Hence Petitioner approached the Hon'ble CGRF.

The Hon'ble CGRF in it's orders under appeal rightly ratified all the contentions raised by the Petitioner except the demand for compensation to the Petitions. The Hon'ble CGRF rightly pointed out the laxity of the Licensee KSEB and the sufferings by the Petitioner, but failed to appreciate the claim for compensation of the petitioner merely on technical grounds. The findings of the Hon'ble CGRF that there is no provision in the Regulation to provide compensation to the consumers is not true and correct.

Penalty or compensation for non compliance by the distribution licensee:-(1) In case of failure to meet timelines prescribed under these Regulations. Penalty of Rs. 500 per day for each day of delay shall be levied on the distribution licensee. The Licensee has not complied the provisions of Section 17 above and not adhered the time limit prescribed for the disposal of the Petitioner's Application for Wheeling the excess energy. The application was submitted on 17/05/2023 and the wheeling process effected only 27/10/2023 and so there is a delay of 163 days eligible for a compensation of Rs.81500/- Further the petitioner has lost valuable time, effort and suffered irreparable mental agony by running behind this process. The denial of compensation by the Hon'ble CGRF is against the above said Regulation 62 which specifically stipulates for Penalty/Compensation for non compliance by the distribution licensee. Here this case, the KSEB Licensee has failed to meet timeline fixed under regulation 17 (as rightly pointed out by the Hon'ble CGRF) and thereby is liable to pay compensation to the petitioner under regulation 62.

The petitioner had to seek legal consultation in the subject loss of money, time & effort, by way of running to various offices of the KSEB and at the end forced to approach this Hon'ble CGRF to resolve the issue losing lot of time, money & efforts addition to the Mental trauma and irreparable humiliation. This should be compensated by way of financial compensation. Hence, the necessary orders may be passed in favour of the petitioner to indemnify the

financial loss, time loss, mental agony and humiliation suffered by the petitioner by way of compensation amounting to Rs.81500/- (Rupees Eight One Thousand Five Hundred only) towards the expenses met by the Petitioner, time loss, mental agony and humiliation suffered in the regard. Though the Hon'ble CGRF has found correct all the contentions raised by the Petitioner, but not Honored the legitimate claim of compensation of the Petitioner/Consumer by not taking in to consideration of value of time, value of money, value of mental agony and the right of a consumer to get things done within the time. This is against natural justice and the rights of consumer.

Statement Of Facts submitted by Respondent

The petitioner is a prosumer with KSEBL having two connections vide Consumer No 1165232026044 under ES Kongad (ESD Kongad) and Consumer No 1167483023023 under ES Angadippuram (ESD Perinthalmanna). The prosumer had installed solar plant of capacity 3.32 KW at Kingad premises and 4.3 KW at Angadippuram premises. The petitioner had submitted a request to AE, ES Angadippuram for wheeling the excess energy generated from solar plant at Angadippuram attached to Con. No.1167483023023 to the premises with Consumer No 1165232026044 under ES Kongad. There was no provision in the billing software ORUM NET to wheel excess energy of a prosumer to any premises in the name of the very same person, if that premises to was registered as a prosumer. The provision in the billing software was for wheeling by a prosumer to any other consumer number/numbers in the name of the very same person, if that premises was not registered as a prosumer. In the mean time Assistant Engineer, Electrical Section Angadippuram sought clarification/direction from higher ups to wheel the excess energy of one prosumer to other premises in the name of the very same prosumer and got permission from higher officers to wheel the excess energy manually till software updated in this regard.

The above process took 5 months time and the prosumer have already availed the entire benefit of wheeling and previous bills with effect from the date of request had already been revised and entire financial benefits granted to the valued prosumer. The delay was not deliberate and not caused due to any dilly dallying by any officials of the Licensee. The spirit of wheeling provision for a prosumer is to make use of the excess energy produced in the prosumer's premises, to be considered for use in some other premises of the same prosumer. Accordingly KSEBL's billing software had provision consumer number/numbers in his own name. In the subject case, the consumer number intended to be wheeled was also a prosumer and that caused the delay. The billing software had no such provision to allow wheeling from prosumer to prosumer and hence the matter had to be taken up with higher authorities and the software team. Based on direction received from higher ups, billing was done manually and the entire excess units after consumption from the prosumer's Angadippuram premises (Con No 1167483023) was allowed to wheel at the Kongad premises (Con No

1165232026044)

The prosumer had not lost even a single unit of energy and no any financial loss incurred. The entire unit of excess energy from day one was allowed to wheel and the whole benefit of wheeling facility was extended to the valued prosumer and all financial benefits already granted. The prosumer concept, wheeling of energy by an LT consumer etc are relatively new in the domain of LT distribution system and regulations in this regard are still in an evolving stage. Honourable KSERC has brought in many amendments in RE regulations and the subject is still in an evolving states. Such amendments and additions were necessitated due to the continuously evolving nature of the sector. The software snag of KSEBL, by which wheeling for an LT Prosumer from prosumer to prosumer was not allowed, was a case attributable to the evolving nature of the prosumer concept and the subsequent billing systems.

Whenever a new system is introduced, it is natural to arise some teething issues and the transition to GST system in our country had created many such issues. There was no case of dilly dallying and any deliberate attempt from the part of Licensee. The claim of the valued prosumer having under gone mental trauma in this regard is totally baseless since he had not incurred any financial loss. Further, the valued prosumer was informed of the real scenario and the matter being taken up with REES was fully convinced to the prosumer. Regulation 62 of the Re regulations 2022 of KSERC pertains to compensation for non compliance of timelines in renewable energy integration from prosumers and the compensation is not specified as to be distributed to the affected prosumer. Regulation 62 says. **Penalty or compensation for non compliance by the distribution licensee-**

- 1) In case of failure to meet timelines prescribed under these regulations, penalty of rs.500 per day for each day of delay shall be levied on the distribution licensee.
2. The penalty accrued during the year under these Regulations will be deducted from the return on Equity of the distribution licensee for that year.

Unlike the Kerala State Electricity Regulatory Commission(Standards of performance of Distribution Licensees) Regulation 2015 time limits and the right of consumer to be compensated individually, here in RE regulation 2022 (amendment) 62(1). It is a penalty clause on distribution licensee, not a compensation is not specified for distribution to the affected consumer, but it is the penalty which is to be deducted by respective Regulatory Authorities from the Return on Equity during a financial year. In the light of the above facts in the subject case, I may humbly request the Honorable Ombudsman to dispose the case without any penalty/compensation.

Counter Arguments of the Appellant

As rightly pointed by the Hon'ble CGRF, had the Officials of KSEB acted upon timely on the application request of the petitioner, a lot time, money and effort could have been saved. The authorities of KSEB failed to dispose the petitioner's application in time by passing over the application to higher ups. A Process which could have been done within two or three days took more than 5 months putting the petitioner in trouble mentally, physically and financially.

The denial of compensation for the proved laxity on the part of the KSEB, is a shock treatment to the consumer/petitioner and also an insult. Non-consideration of the consumer's rights, self esteem, his time, money etc., by the Hon'ble CGRF while deciding the issue of compensation is nothing but a message to those who failed to discharge their liability that nothing could happen even if their dereliction of duty is proved. In the instant case, though the petitioner got resolved his grievance after approaching the CGRF, but did not receive the JUSTICE. The Justice is said to be delivered only making the petitioner indemnify for the loses he suffered any conveying the strict messages to the culprits that such incidents should not repeat in future. The worst form of injustices is pretended justice.

Hence, it is the prayer of the petitioner that a reasonable compensation may please be ordered to meet the ends of justice.

Analysis and findings

Sub :- Correction in the order of P/028/2024. The first paragraph of Analysis and findings may read as below.

Hearing of this petition was conducted on 25/06/2024 at 02:00pm at KSE Board Limited, IB, Sulthan Pet, Palakkad. The hearing is attended by the respondent Sri. Muhammed Rafeek, Assistant Executive Engineer, Electrical Sub Division, Perinthalmanna.

The appellant had availed two connections with Consumer No:1165232026044 in Kongad Electrical Section and another with consumer No:1167483023023 in Angadippuram Section. The appellant had become prosumer in both the connections by installing solar plants of 3.32 KW and 4.3 KW respectively. Then he found that the production is more in Angadippuram premises than the consumption and that in Kongad is not meeting the requirement. So the application submitted to AE, Angadippuram to wheel the power to Kongad from Angadippuram on 17/05/2023. There was 5 months delay in sanctioning the wheeling facility that is on 27/10/2023. The Licensee has adjusted the bills considering the wheeling with effect from August 2023. Even then there was two months delay in permitting the wheeling facility. The reasons pointed out for the delay by the respondent to are

1. The regulation is not clear about the wheeling of energy from prosumer to prosumer and it is only for a prosumer to consumer.

2. The 'ORUMA NET' is not having provision to enter the data for a prosumer to prosumer.

3. Higher level permission is required for correcting the data manually.

The section officials have taken up the matter to higher level for the approval which results the delay in permitting the wheeling facility. Though the clearance obtained on 27/10/2023, the bills was corrected considering the wheeling effect from 08/2023 onwards. Then also there was a delay of around two months for getting the service for the consumer from the Licensee.

The KSERC (Renewable Energy and Net metering) Regulation 2020, the regulation 17(1) states as

“The prosumer shall have the right for wheeling the excess electricity during a billing period to another premises owned by him within the area of supply of the distribution Licensee”

This is very clear that a prosumer can wheel the energy to his another premises. It is not mentioned that the connection in the other premises is as a consumer or prosumer. It can be for a prosumer to consumer or prosumer to prosumer. There is no reason for a confusion.

Then the regulation 17(3) of above regulation 2020 states on

“ The Licensee shall after due verification of the application submitted after satisfying about its grievances, grant the permission to use excess electricity in such other premises owned by the prosumer within 7 calender days of receipt of application”.

The application is submitted on 17/05/2024, then the permission would have granted within 24/05/2024. Then the wheeling was effective to the appellant only on 01/08/2023 onwards. Then the delay happened is 68 days.

The regulations issued by the KSERC are mandatory and are bound to be complied by the licensee as well as the consumers. The Licensee have to equip their system to fully comply with regulations from time to time. Here it is pertinent to note that the software is not modified to accommodate the provisions of wheeling. The power for permitting the wheeling of such cases was not properly delegated, so that the time line as per the regulation could be met.

The regulation 62 of the KSERC (RE and Net metering) Regulation 2020 and first amendment 2022 states on

1) “In case of failure to meet timelines prescribed under there Regulations, penalty of Rs.500/- per day for each day of delay shall be levied on the distribution Licensee”.

2) *“The penalty accrued during the year under these Regulations will be deducted from the Return on Equity of the distribution Licensee for that year”*

For the delay in metering the time line, the penalty is applicable to the Licensee and it will be levied by KSERC on deducting from the Return on Equity. This is only a penalty and not a compensation.

The appellant is demanding for the compensation for the delay happened from the Licensee in getting the service and also to compensate his effort and time for filing petitions, attending hearing etc,. The regulation is not specifying about the compensation and hence the appellant is not eligible for the same. The penalty applicable to the Licensee is $68 \times 500 = 34000/-$ This is to be levied on the Licensee.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The Licensee has make necessary changes in the software to accommodate date the regulatory requirements.
2. Till the happening of software updations, the officers of the Licensee(Section or Sub division) are to be delegated with the authority for manual correction.
3. The Licensee is liable to bear the penalty of Rs.34,000/-as per the order on Appeal petition P/27/2024.
4. No other costs ordered

ELECTRICITY OMBUDSMAN

No. P/028/2024/_____ dated:_____.

Delivered to:

1. Sri. Shamsudheen A.M., Arangath House, Kongad, Palakkad Dist-678631.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Perinthalmanna, Malappuram Dist.,

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Gandhi Road Kozhikode- 673011.