

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/079/2018
(Present: A.S. Dasappan)
Dated: 16th November 2018

Appellant : Sri. Gangadharan Nair
Thekkevayappurath,
Madavoor P.O.,
Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Kunnamangalam,
Kozhikode

ORDER

Background of the case:

The service connection bearing consumer No. 6653, under KSEBL Kunnamangalam Section, was originally stand registered in favour of Sri Gangadharan Nair under domestic tariff. The connection was disconnected on 16-09-2017 due to non payment of electricity bill and later reconnected on 22-09-2017 on the strength of balance CD amount at his credit. The appellant again made default in payments and hence disconnected on 16-10-2017 and later dismantled on 02-06-2018. The grievance of the appellant is that he was not issued a notice either through post or in person before dismantling the connection. The appellant aggrieved by this, approached the CGRF, Kozhikode praying for re-effecting the connection. The Forum dismissed the petition vide Order OP No. 49/2018-19 dated 23-08-2018 and directed the respondent to refund Rs.100/-, the reconnection fee realized from the appellant. Aggrieved by the decision of the CGRF, the consumer has filed the Appeal Petition before this Authority.

Arguments of the appellant:

The Appellant is a domestic consumer of KSEB. The appellant usually makes advance payment towards the bills to be generated by the KSEB office, Kunnamangalam. The respondent is also adjusting the bills from the advance payments made by the appellant. But, in 2016 the appellant inadvertently became to omit the advance payment as he was an old aged man and who was laid up. Then as his mind set is that an advance payment is there to adjust the

ensuing bills. But actually no advance payment is there to adjust the bill. This realized very late. But on 27/03/2018, the respondent has issued notice for dismantling the connection. But this was not properly served to the appellant. It came to the knowledge of the appellant only on 18/06/2018 at the time when the appellant visited the premise. Then immediately on 20/06/2018, the appellant approached the section office and upon the instruction received from the section office the appellant cleared all the dues and paid Rs.100 towards the reconnection fee as instructed from the electricity section office. But the service connection had been dismantled on 02/06/2018. The appellant got the notice at the premise of his house only on 18/06/2018 and immediately he made the payment of arrears along with RF by getting sanction from the section office. However, the respondents are reluctant to give reconnection to the consumer.

The findings of the CGRF that while remitting the balance amount on 20/06/2018, the petitioner has not requested for reinstating the service connection is false. As the appellant consumer has paid RF with the sanction of the section office, there is no need for special request for reinstating the service connection. The findings of the CGRF that “by remitting the dues and RF, the petitioner had accepted dismantling of the service connection” is also false and against the truth.

The respondent had not served proper notice to the appellant and not given sufficient time in the notice to be given under the statute. Hence the respondent has committed severe default. This was not upheld by the CGRF.

The respondents had not given the appellant time as stipulated in the Electricity Supply Code 2014. The respondents not complied with the conditions laid on under section 139(6) of the Supply Code 2014.

Arguments of the respondent:

The appellant who was a domestic consumer made an advance payment of Rs 500/- on 12-11-15. Since then the appellant did not make any payment till dismantling of service connection that was effected on 2-06-18. Nearly three years elapsed since the appellant made any contact with the section office. After the payment of advance current charge as above an amount of Rs 40/- was credited to the consumer on 28-05-16 and 2-06-17 towards interest on security deposit. Later on another amount of Rs 43/- was also credited to the consumer on 8-01-17 this time towards refund of excess CD. The total amount in the credit of the consumer was Rs 583/- and this was adjusted towards current charge of Rs 637/- for the period from 8-02-17 to 8-08-17. After the adjustment of the above CC an amount of Rs. 54/- was due to KSEB Ltd from the appellant and the DC date for the remittance of the said amount was 15-08-17. Since the appellant did not turn up to clear the due, disconnection was effected on 16-09-17. However

since the appellant in the habit of making advance payment of CC the connection was reconnected on 22-09-17 on the strength of remaining CD amount of Rs 207/- in his credit. The appellant again made default in payments and the connection was disconnected again in 16-10-17. Afterwards dismantle notice was served on the appellant on 27-03-18. Since the appellant did not bother to remit the balance CC the service connection was dismantled on 2-06-18. The said dismantling was effected as per regulation 139 (1) of Electricity Supply Code 2014. Since the appellant was not available in person the notice of dismantling was affixed on the wall of the residence as per Section 171(2) of Electricity Act 2003.

The reconnection fee does not pertain to any reconnection after dismantling is effected. The said reconnection fee was in connection with the reconnection effected on 22-09-17. Even though the amount which the appellant remitted on 20-06-18 included item of RF it was not a fee for reconnection of the dismantled connection on the other hand it was an amount which he should have cleared earlier. The argument of the appellant to the contrary was dismissed by the CGRF Kozhikode in its order dated 23.08.2018. Once a service connection was dismantled the same connection can't be re-effected. The respondents had informed the appellant that if he was particular in having an electric connection in the same, he could apply for a new connection and that everything possible would be done by the respondent to effect the new connection without any delay. However the appellant did not pay any heed to the advice tendered by the respondent.

Dismantling of service connection of the appellant was done as per Regulation 139(6) of Kerala Electricity Supply Code i.e. after waiting more than 180 days from the date of disconnection of the service. DC was effected on 16-10-17 and subsequently the service connection was dismantled on 2-06-18. Since the appellant was out of station the dismantle notice was affixed on building wall as per Section 171(2) of Electricity Act 2003.

The appellant had at this disposal more than 180 days (after DC date) for availing dismantling of this service connection. It is submitted that the notice of dismantling was issued on 27-03-18 and dismantling was effected on 2-06-18, i.e. more than 60days after the issue of notice.

The respondent was taking action in accordance with the provision of Electricity Supply Code 2014. There is no provision on the Supply Code to re-effect a dismantled service connection. It is submitted that earlier dismantling of service connection should have been effected 45 days after the date of DC. Later through an amendment by the Hon'ble Regulatory Commission the above 45 days period has been enhanced to 180days. It is a sufficient period for any consumer to clear his due if he is sincere in clearing the dues. The Appellant unfortunately was not in a mind to respect the provision of Supply Code and now he is up his arms against KSEBL raising frivolous charges. KSEB Ltd is ready to provide a

new service connection to the premises as early, as possible after submitting new application and observing all formalities as per prevailing rules and regulation of KSEBL.

Analysis and findings:

The hearing of the Case was conducted in my chamber at Edappally, Ernakulam, on 13-11-2018. The appellant, Sri Gangadharan Nair was present and Sri. Ajith T, Assistant Engineer, Electrical Section, Kunnamangalam, represented for the opposite side. Both sides have presented their arguments on the lines stated above. On examining the Petition of the appellant, the statement of facts filed by the Respondent, the arguments made in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

Regulation 138(a) of the Supply Code, 2014 grants the licensee to disconnect the supply of electricity” if the consumer defaults in the payment of the dues payable to the licensee as per the bill or demand notice or any order issued by a competent authority, within the period stipulated therein”.

Regulation 139 depicts the procedure for disconnection. – (1) “The licensee shall, in the case of disconnection proposed on the grounds mentioned in clauses (a) and (b) of sub regulation (1) of Regulation 138 above, issue a disconnection notice in writing, as per Section 56 of the Act, with a notice period of not less than fifteen clear days, intimating the consumer about the grounds for disconnection and directing him to pay the dues with penal charges within the notice period.”

(2) If the consumer fails to remit the dues within such notice period, the licensee may disconnect the service of the consumer on the expiry of said notice period, by cutting off the supply in the manner as the licensee may deem fit.

(6) The licensee shall, after disconnection on the grounds mentioned in sub regulation (1) of Regulation 138 give intimation to the consumer as per format given in Annexure 18 to the Supply Code, 2014, to remove the cause of disconnection within 45 days, failing which the supply may be dismantled.

Regulation 175 of the Electricity Supply Code, 2014 reads as:

Service of notice:- (1) Any order or notice issued on the consumer by the licensee, including the notice under Section 56 of the Act shall be deemed to be duly served if it is sent by registered post at the correct postal address of the addressee or delivered by hand, with signed acknowledgement to the person residing at the address notified to the consumer:

Provided that in the case of an individual, service of notice to the spouse of the consumer or his authorised representative, and in the case of a firm, company or corporation, service of notice on the Managing Director, Director or Principal

Officer or an authorised person of such an institution, shall be taken as sufficient service for the purpose of this Code.

2) If a consumer refuses to receive or avoids receiving the notice, the service may be effected by any of the following methods which shall be deemed as sufficient for service of notice:-

(a) Affixing the notice at a conspicuous place on the premises of the consumer in the presence of two witnesses and photographing the notice; or

(b) Publication of the notice in daily newspaper commonly read in the concerned locality to be kept on record the licensee.

(3) In addition to the methods described above, the licensee may resort to any of the following means also to serve the notice:-

- (i) through special messenger and obtaining signed acknowledgement; or*
- (i) by courier with proof of delivery; or*
- (ii) by fax; or*
- (iii) by e-mail:*
- (iv) Provided that in the case of notice sent by fax or e-mail, it shall be followed by a formal authenticated communication.”*

The evidence shows that there is deficiency on the side of respondent in complying with the statutory provisions before disconnecting a service. If the respondent adopted the mandatory procedures, the appellant ought to have been taken steps for not dismantling the service provided to his premises. The respondent has not issued a notice to the consumer as per format given in Annexure 18 to the Supply Code, 2014, to remove the cause of disconnection within 45 days, failing which the supply may be dismantled. The notice for dismantling affixed in the premises is only a notice of arrears.

The version of the respondent that they affixed the notice on the premises of the appellant cannot be admitted since the respondent failed to serve the notice as per Regulation 175 of Supply Code, 2014. While affixing the notice at a conspicuous place on the premises of the consumer should be in the presence of two witnesses and photographing the notice or publication of notice in daily newspaper commonly read in the concerned locality to be kept on record by the licensee as per Regulation 175 (2) of Supply Code, 2014.

The appellant had remitted an advance payment of Rs.500/- on 12-11-2015 and thereafter not remitted any payments towards the current bills till the dismantling of service connection on 02-06-2018. Being a responsible consumer, it is the liability of the appellant to abide the terms and conditions of the agreement and to remit the current charges regularly without fail. The excuses for failure to remit the electricity charges are not legally sustainable.

Decision:

From the analysis done above and the conclusions arrived at, I take the following decision.

The non-remittance of energy charge by the appellant in time is the reason for dismantling, but the dismantling of the service connection was effected without obeying the required procedures as per the Supply Code, 2014. As such both the respondent and the appellant are equally responsible for the present situation.

Hence it is decided that 50% of the ECSC charge for the fresh single phase service connection shall be met by the respondent and the remaining portion by the appellant. Application fee and CD for the connection shall also be collected from the appellant. The reconnection fee Rs.100/- realized by the respondent shall be refunded/adjusted. The respondent shall give a new connection within one month from the date of receipt of application from the appellant on complying with the above mentioned decision.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having some merits and is allowed to the extent ordered. No order on Costs.

ELECTRICITY OMBUDSMAN

P/079/2018/_____ /Dated:_____

Delivered to:

1. Sri. Gangadharan Nair, Thekkevayappurath, Madavoor P.O., Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kunnamangalam, Kozhikode

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