

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/056/2019
(Present: A.S. Dasappan)
Dated: 27th September 2019

Appellant : Sri. Abdussalam T
Maliyekkal House,
Cheruvadi P.O., Mavoor,
Kozhikode

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

ORDER

Background of the case:

The Appellant is running a saw mill bearing consumer No.5731 under LT-IV A Tariff with a connected load of 43000 watts and contract demand of 47778 kVA under Electrical Section, Kuunamangalam. The appellant requests to pay compensation to the loss occurred due to the disconnection of service connection without notice as per clause 139 (1) of the Kerala Electricity Supply Code 2014. Another grievance of the appellant is that the respondent illegally demanded security deposit equivalent to the current charge of three months instead of two months stipulated in the Code. The appellant had approached the CGRF (NR) Kozhikode by filing a petition No. 181/2018-19 and the Forum in its order dated 15/06/19 dismissed the petition. Aggrieved against this, the appellant has submitted this appeal petition before this Authority.

Arguments of the appellant:

The appellant is running an industry by name "Cherupuzha Wood Industries" near Cherupuzha, Kunnamanglamm Panchayat. The grievance of the appellant is as follows and requested for favourable orders.

1. The electric connection to the above premise with consumer no: 5731 was disconnected unlawfully.
2. The appellant was asked by the respondent to remit three months electricity charges towards additional security deposit against two months charge.
3. Disallowed the relief and concessions declared by Government and KSEBL for the consumers in the flood area.
4. Permission was not given by the respondent to enter his grievance regarding disconnection in the complaint register kept in the Section Office.
5. The CGRF has not taken a right decision on the loss of lakhs of rupees to the appellant by effecting disconnection of the premises by the respondent without giving disconnection notice under Section 139(1) of the Kerala Electricity Supply Code, 2014 and sufficient time for remittance.
6. The CGRF has not decided on the demand of security deposit for 3 months of the request against 2 months as per rules.
7. The CGRF has not taken a right decision on the realization of energy charge, demand charge, meter rent, duty, fuel surcharge etc. without observing rules.

Arguments of the respondent:

The respondent has not disconnected the premises of consumer no: 116674005731 unlawfully. The appellant was given the electricity bill for his consumption on 01-09-2018 and in the bill, due date for remittance without surcharge, date for remittance with surcharge, date of disconnection etc were clearly mentioned. In the bill, the last date of remittance for avoiding disconnection was 26-09-2018. The appellant had not remitted the amount till 26-09-2018 and hence the lineman reminded the appellant for remittance in person on 28-09-2018 for avoiding disconnection. Moreover message was sent to the registered telephone No 8129867236. Even after this, the appellant has not remitted the energy charge which led to the disconnection of the premises on 29-09-2018. Immediately after remitting the amount by the appellant the service was reconnected. The appellant has not remitted the next monthly bill also in time and the remittance made after the disconnection date on the request of the lineman on 29-11-2018.

The respondent had not taken any action against the law. Usually disconnections of the defaulted premises are effected only after informing /requesting them at least two times to make the remittance.

The consumer strength of Kunnamangalam Section is more than 25,000 and among 1700 Nos. are not remitting their electrical charges before the date of disconnection. All disconnections of such defaulted consumers are being done after informing / requesting for remittance,

There is no base in the complaint of the appellant that he was denied the concessions declared following the flood. The Cherupuzha area was not

included in the beneficiaries list published by Kerala State Electricity Board Limited in the flooded area and hence the appellant was not granted such a relief. Nevertheless, the appellant was given the concessions as per rules considering the defectiveness of the energy meter as follows during the flood period.

02-06-2018 to 18-06-2018	Unbilled
01-08-2018 to 01-09-2018	Meter Changed
01-08-2018 to 10-08-2018	Average bill for 125 units
11-08-2018 to 01-09-2018	20 days unbilled
01-09-2018 to 14-09-2018	14 days unbilled

The appellant was given a relief for Rs. 4,156/- as above.

The denial of registering complaint in the complaint register is baseless. Only the fact of their inability to reconnect the defaulted premises was informed the appellant and no other action were taken by them.

Regarding ACD, the appellant is bound to deposit two times the average monthly bill. The monthly bill from 04/2017 to 03/2018 is furnished below:

04-2017	Rs. 9,004.00
05-2017	Rs. 7,461.00
06-2017	Rs. 8,830.00
07-2017	Rs. 7,056.00
08-2017	Rs. 8,145.00
09-2017	Rs. 8,137.00
10-2017	Rs. 7,640.00
11-2017	Rs. 12,409.00
12-2017	Rs. 13,278.00
01-2018	Rs. 10,460.00
02-2018	Rs. 7,293.00
03-2018	Rs. 7,204.00
Total	Rs. 106,917.00
106917/12 ACD x 2	Rs. 8,909.75 x 2 = Rs.17819.50
ACD previously paid	Rs. 16,348.00
Balance to be paid	Rs. 1,472.00

As per 'Orumanet' the ACD figure is Rs. 1,568/- and which was remitted by the appellant. Interest at bank rate is being given to the appellant in each financial year for the ACD. On the above ground the

contention of the appellant that the respondent realized three months bill amount towards ACD is baseless.

The respondent is highly cautious to provide all eligible services as per rules to the consumers including the appellant. The request of the respondent is to dismiss the petition with cost.

Analysis and Findings:

The hearing of the case was conducted on 03-09-2019 in the chamber of Electricity Ombudsman at Edappally, Kochi. Sri Abdussalam T and Sri. P. Chathukutty, Advocate have represented for the appellant and Smt. Mollyja Lucy Xavier, Assistant Executive Engineer, Electrical Sub Division, Kunnamangalam has appeared for the respondent's side. 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 decisions thereof.

The main issue raised by the appellant before this Authority was whether there was deficiency on the part of the Electricity Board in disconnecting his electricity supply and the respondent illegally demanded excess security deposit .

The service connection of the appellant was disconnected on 29-09-2018 due to default of regular current charge bill dated 01-09-2018. The appellant's grievance is that the disconnection of the premises was done by the respondent without giving disconnection notice under Section 139(1) of the Kerala Electricity Supply Code, 2014 and sufficient time for remittance. According to the appellant, the service connection disconnected without serving any notice while the unit was functioning and the unexpected disconnection caused irrecoverable losses to the appellant by constraining to pay compensation amounting to Rs. 78,000/- to his clients as he could not fulfill the contract of sawing the logs as per their requests. Hence the appellant has requested in the petition filed before the CGRF to award Rs.5 lakhs as compensation for the loss sustained for the unruly behavior of the respondent and Rs. 78,000/- which was given to the clients towards compensation for breach of contract due to the illegal disconnection of supply.

In this regard, the respondent has averred that the regular monthly energy bill was issued to the appellant on 01-09-2018 and the due date of remittance without surcharge, with surcharge, the date of disconnection etc were specified in this demand cum disconnection bill. The date of disconnection specified in the bill is 27-09-2018. The respondent further stated that the appellant was properly intimated and a lineman deputed for disconnection had intimated two times that the appellant defaulted his energy charges.

Every consumer is expected to make the payment of his dues by the "due date". In case he fails to discharge the liability, his premises will be liable for disconnection under Section 56 of the Electricity Act, 2003 and Regulation 138 (1) (a) of the Supply Code 2014. Under the provisions of Section 56 of the Electricity Act, 2003 and Regulation 139 (1) of the Supply Code, 2014, a clear fifteen days notice in writing is required to be given to such consumer before disconnecting the supply. As per the respondent, the notice of disconnection of supply in the event of non-payment of bill is printed on the bill itself, as such, if the payment of bill is not received within 15 days after expiry of grace period (i.e. before expiry of notice period), the premises of consumer should be disconnected by the Licensee without further notice or loss of time. The consumer is bound to pay the energy bill within the period stipulated for the energy consumed. The regular electricity bill is seen as demand cum disconnection notice issued under Section 56 of the Electricity Act, 2003. Since the service is reconnected soon after the payment of the electricity charge, the subject is now in fructuous.

Secondly the appellant's complaint pertains that the respondent illegally demanded security deposit equivalent to the current charge of three months instead of two months stipulated in the Code. A consumer has to pay a security deposit in respect of electricity supplied and in respect of any electric line or electrical plant or electrical meter provided for supplying electricity. The security deposit is calculated on the basis of the bills of previous twelve months and it is re-estimated annually. Regulation 73 of the Supply Code 2014 deals with the provisions for the 'review of security deposit'. Regulation 73 reads as follows:

73. Review of security deposit.- (1) During the first quarter of the financial year, the licensee shall review the consumption pattern of the consumer from April to March of the previous year, for assessing the adequacy of the security deposit. (2) The consumer is required to maintain a security deposit as specified in sub regulation (6) of regulation 67 of the Code, where 'average monthly bill' shall be equal to the average of the demand raised in the previous financial year. (3) If on review, it is found that the security deposit available with the licensee is more than what is required, the excess amount shall be refunded to the consumer and such refund of security to the consumer by the licensee, as and when arises, shall be made without any other formalities, by way of adjustment in a maximum of two ensuing electricity bills.

(4) Based on the review, the licensee may demand for additional security deposit for making up the deficit if any, in the security deposit, by giving thirty days notice to the consumer (5) The consumer shall deposit the additional security deposit as per the demand raised by the licensee: Provided that for a consumer whose electricity connection is less than one year old, the security deposit shall not be revised at the beginning of the ensuing financial year and subsequently, the security deposit shall be revised annually as per the procedure laid down in sub regulation (1) above.

As per the respondent, regarding ACD, the appellant is bound to deposit two times the average monthly bill. The total bill amount for previous year of the appellant was Rs.1,06,917/-. The average of two months average amount is Rs. 17,819.50 and previously paid security deposit was Rs. 16,348/-. The balance amount has to be paid is Rs. 1,472/- . But the respondent claimed Rs. 1,568/- as security deposit and the appellant remitted the amount. Hence the excess amount collected from the appellant is Rs.96/-. The respondent shall refund this amount as per regulation 73 (3) of Supply Code, 2014.

Another complaint of the appellant is that the respondent disallowed the relief and concessions declared by Government and KSEBL for the consumers in the flood area. The premise of the appellant is located at Cherupuzha which comes under Kunnamangalam village included/ notified as flood/landslide affected area. The respondent has stated that the appellant was given the concessions as per rules to an amount of Rs.4,156/- considering the defectiveness of the energy meter as follows:

02-06-2018 to 18-06-2018	Unbilled
01-08-2018 to 10-08-2018	Average bill for 125 units
11-08-2018 to 14-09-2018	34 days unbilled

This Authority suggests that the respondent shall examine whether any reliefs/concessions eligible for the flood affected area is further applicable to the appellant.

The appellant has raised serious allegations against KSEB Section staff and requested to take appropriate action against them and also requested to allow compensation for the damages resulting from the alleged irregular action of the respondent. The appellant has not submitted any evidence to prove the loss caused to him. This Authority is not empowered with the jurisdiction of taking disciplinary action against the licensee's officials and is not competent to award compensation for the deficiency of services as stipulated in the Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensee) at the first instance and hence these are not considered and not admitted. Regarding the complaints against the KSEBL staff, the appellant can avail the opportunity to approach the higher ups of the KSEBL.

Decision

From the findings and conclusions arrived at as detailed above, I decide as follows:

1. The respondent shall refund the excess security amount collected from the appellant as per Regulation 73(3) of the Supply Code, 2014.

2. The respondent shall examine whether any reliefs/concessions eligible for the flood affected area is applicable to the appellant and allow the same to the appellant, if eligible.

Having concluded and decided as above, it is ordered accordingly and the Appeal Petition filed by the appellant, stands disposed of to the extent ordered. The order of CGRF, Kozhikode in 181/2018-19 dated 15-06-2019, is modified to this extent. No order on costs.

ELECTRICITY OMBUDSMAN

P/056/2019/ _____ /Dated: _____

Delivered to:

1. Sri. Abdussalam T., Maliyekkal House, Cheruvadi P.O., Mavoor, 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