

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/001/2020
(Present: A.S. Dasappan)
Dated: 12th March 2020

Appellant : The Administrator
Christhuraj Hospital,
Thokkilangadi,
Kuthuparamba, Kannur

Respondent : Assistant Executive Engineer
Electrical Sub Division, KSEBL,
Kuthuparamba, Kannur,

ORDER

Background of the Case:

The appellant's hospital was running with 13 Nos. of Electric connections and which were replaced with a HT connection on 24-10-2018. The appellant, on the same day of receiving HT connection, has requested the Assistant Engineer, Electrical Section, Kuthuparamba to dismantle the connection, electric poles, line etc. and to refund the security deposit. The appellant has submitted an application for award of compensation for the breach of guaranteed standards of performance by the licensee to the Executive Engineer, Electrical Division, Thalasseri for failure to dismantle and removal of meters, electric lines, posts which are not in use, within the prescribed period. Since the Executive Engineer, Electrical Division, Thalasseri has not released an order on his application, the appellant approached CGRF, Kozhikode by filing a petition in OP No. 80/2019-20. The Forum disposed of the petition as "the delay caused in refunding the security deposit on time the KSEBL shall pay interest at bank rate and it is up to the licensee to fix the responsibility and decide whose fault has caused the undue delay in processing the application of the petitioner and take suitable action against those officials", vide order dated 12-12-2019. Aggrieved against this, the appellant's request is to award compensation as per SOP 2015 for the delay in the service of the Licensee and submitted the appeal petition before this Authority on 06-01-2020.

Arguments of the appellant:

The appellant is the Administrator of Christhuraj Hospital, Thokkilangadi, Kuthuparamba. The hospital was running with 13 Nos. LT electric connections and which were replaced with a HT connection on 24-10-2018. On the same day, the appellant requested the Assistant Engineer, Kuthuparamba to dismantle the LT connections, electric poles, line etc. and to refund the security deposit. But both were not timely completed. The CGRF was aware of that the dismantling was not

done timely by the respondent and the Forum could not award compensation for the delay as per the provisions contained in the KSERC (SOP 2015). The appellant submitted this fact before the Ombudsman.

Procedure for awarding compensation.

16. Procedure for awarding compensation –(1) (a) An application for award of compensation for the breach of guaranteed standards of performance by the licensee at the rates specified in Schedule -1 shall be submitted in Form A to the officer, authorized by the licensee under regulation 15, within thirty days from the date of occurrence of such breach of guaranteed standards of performance.

Details of work	Date of submittal	Date of action taken	Time limit for the action as per SOP	Delay
Dismantling of unused LT connection, electric poles, line etc.	24-10-2018	06-03-2019 to 03-04-2019	3 months	40 days to 68 days
Refund of security deposit	24-10-2018	12-06-2019	1 month	201 days

A delay was occurred on the part of the licensee to remove the LT installations and refund of security deposit. The delay can be calculated only after the redressal of the grievance. The appellant has requested compensation on 02-04-2019, within one month from the date of redressal of the petition as per the standard of performance.

FAILURE TO ADHERE TO TIME SCHEDULE FOR REFUND OF SECURITY DEPOSIT

Date of HT Connection charged	24-10-18
Dale of Security Deposit Received	13-06-19
Standard, Time Schedule	1 Month
No. of days delayed	201
SOP Amount for 13 Nos. of LT Connection 201 x 13 x 50	130650

FAILURE TO DISMATLING AND REMOVAL OF METERS ELECTRIC LINE, POLES WHICH ARE NOT IN USE

Dale of HT Connection charged	24-10-18
Standard Time Schedule	3 Month
No. of day delayed	

Consumer No.	Deposit Amount Remitted	Dismantled	Delay in Days	Amount
4039	25-10-2018	06-03-2019	40	1000
3364	25-10-2018	06-03-2019	40	1000
12049	25-10-2018	06-03-2019	40	1000
8070	25-10-2018	06-03-2019	40	1000
8071	25-10-2018	06-03-2019	40	1000
11462	25-10-2018	06-03-2019	40	1000
11463	25-10-2018	06-03-2019	40	1000
11464	25-10-2018	06-03-2019	40	1000
11465	25-10-2018	06-03-2019	40	1000
162	25-10-2018	03-04-2019	68	1700
5123	25-10-2018	03-04-2019	68	1700
11109	25-10-2018	03-04-2019	68	1700
3328	25-10-2018	HC	0	0
Total				14100

The Executive Engineer, Electrical Division, Thalasseri had to issue order within 60 days from 02-04-2019, the date on which the appellant filed petition to the Executive Engineer. But no order was released so far. Also, the CGRF had to issue order within 60 days from 02-09-2019, the date on which the appellant filed petition before the CGRF. The CGRF issued order only on 12-12-2019.

The appellant's request is to award compensation as per SOP 2015 for the delay in the service of the Licensee.

Arguments of the respondent:

M/s. Christhuraj Hospital is an HT consumer under Electrical Section, Kuthuparamba from 24.10.2018 which had 13 Nos LT service connections under LT VI (G) tariff before availing HT connection. They had requested for dismantling their LT connections on 25.10.2018. The dismantling process was initiated from ES, Kuthuparamba and one connection was dismantled on 30.10.2018. Then it came to notice that, there is an arrear against short assessment outstanding on Consumer No:3328 which was under the consideration of CGRF at that time. As per the request of the consumer, LT lines and installations, which was feeding LT connections at their premises needs also to be dismantled. For that an amount of Rs. 6,700/- was to be remitted by the consumer. There was delay in remitting the amount from their side, which was remitted only on 20.02.2019. The dismantling process were continued thereon, except one service connection (Con. No. 3328) as an arrear of Rs. 13,69,207/- (Rupees Thirteen Lakhs Sixty-Nine Thousand Two Hundred and Seven Only) was outstanding (Case pending at High court).

As per the relevant provision in Kerala Electricity Supply Code, 2014 Clause 96 i.e., Dismantling and removal of electric line or electrical plant which are not in use: -

(1) The licensee shall dismantle and remove electric line or electrical plant constructed over, under, along, across, in or upon any land if the said electric line or electrical plant is not in use continuously for a period of one year or more.

(2) Such electric line or electrical plant shall be dismantled and removed by the officer in charge of the local office-of the licensee within a period of three months from the date of completion of one year as mentioned in sub regulation (1). (3) If the licensee has constructed alternate overhead electric line or underground cable or electrical plant to replace any existing electric line or electrical plant, such existing electric line or electrical plant which has consequently become redundant shall be removed by the officer in charge of the local office of the licensee within a period of three months from the date of commissioning of such alternate overhead electric line or underground cable or electrical plant.

As such it can be seen that the time limit specified in the Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations, 2015 is not violated since a period of three months was not elapsed after the remittance of deposit amount for dismantling the network,

The appellant has remitted the deposit amount only on 20.02.2019 and the connections were dismantled on the following date as detailed below.

Sl. No.	Consumer No.	Date of dismantling
1	162	03-01-2019
2	3364	06-03-2019
3	4039	30-10-2018
4	5123	03-01-2019
5	8070	06-03-2019
6	8071	06-03-2019
7	11109	03-04-2019
8	11462	06-03-2019
9	11463	06-03-2019
10	11464	06-03-2019
11	14465	06-03-2019
12	12049	06-03-2019
13	3328	Not dismantled till date due to arrears

In order to process an application for compensation, the appellant has to submit an application in Form A to the officer, authorized by the licensee under regulation 15, within thirty days from the occurrence of such breach of guaranteed standard of performance. In the instant case, the appellant has submitted application in Form A for compensation only for not dismantling the line and no application in Form A has been received for compensation against the delay in refund of security deposit to the concerned. Hence, there was no scope of awarding

compensation, for the dismantling service done in accordance with the KSERC regulations and delay of refunding security deposit, for which application in Form A (as per regulation 16 of KSERC, Standard of Performance of Distribution Licensee) has not been received from the appellant.

Accordingly, after considering all the grounds in this regard, the CGRF, Kozhikode vide order No.80/2019 dated 12.12.2019 has issued an order, directing the licensee to pay the interest at the bank rate for the delay caused in refunding the security deposit.

Analysis and Findings:

The hearing of the case was conducted on 25-02-2020 in my chamber at Edappally and Sri. Purushothaman P.K. represented the appellant's side and Sri Basheer P.K., Assistant Executive Engineer, Electrical Sub Division, Kuthuparamba represented the respondent's side. On examining the petition, the counter statement of the respondent, perusing the documents attached and the arguments in the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The appellant's contention in the appeal petition is that delay was occurred on the part of licensee to remove the LT installations and refund of security deposit. The delay can be calculated only after resolving the complaint and in this case the appellant has requested compensation on 02-04-2019, within one month from the date of redressal of the petition as per the standard of performance.

The respondent has averred that in order to process an application for compensation, the appellant has to submit an application in Form A to the officer, authorized by the licensee under regulation 15, within thirty days from the occurrence of such breach of guaranteed standard of performance. In the instant case, the appellant has submitted application in Form A for compensation only and not for dismantling the line and no application in Form A has been received for compensation against the delay in refund of security deposit to the concerned.

Another argument of the respondent for the delay occurred in dismantling the connections is that there is short assessment of Rs. 13,69,207/- outstanding on Consumer No: 3328 and a case is pending before Hon. High Court of Kerala. The pendency of a case on outstanding amount of one consumer is not a sufficient reason for the delay in dismantling the other twelve numbers of consumer numbers.

The respondent has also stated that the time limit specified in the Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations, 2015 is not violated since a period of three months was not elapsed after the remittance of deposit amount for dismantling the network, as the appellant has remitted the deposit amount only on 20.02.2019. But no proof has been produced by the respondent and the appellant has produced the receipts of the fees paid on 25-10-2018.

The appellant has availed an HT connection on 24-10-2018 and requested to dismantle 13 LT service connections and the same has not been removed within the

prescribed time limit specified in the Code. Regulation 96(3) of the Kerala Electricity Supply Code, 2014 says:

(3) If the licensee has constructed alternate overhead electric line or underground cable or electrical plant to replace any existing electric line or electrical plant, such existing electric line or electrical plant which has consequently become redundant shall be removed by the officer in charge of the local office of the licensee within a period of three months from the date of commissioning of such alternate overhead electric line or underground cable or electrical plant.

On going through the records, it is found that the appellant had submitted applications dated 02-04-2019 to the Executive Engineer, Electrical Division, Thalasseri, claiming compensation for failure to adhere to time schedule for dismantling and removal of electric line or electric plant which are not in use. The Executive Engineer obtained a report from the Assistant Engineer, Electrical Section, Kuthuparamba and addressed to Deputy Chief Engineer, Electrical Circle, Kannur vide his letter dated 30-08-2019, for obtaining a clarification from the Board as to which officer shall process applications for compensation and issue proceedings in this regard. But no reply is seen received.

The CGRF has made the following observations in its orders issued in OP No. 802019-20. "It is proved that the respondent failed to effect the dismantling of unused service connection as requested by the petitioner, within three months period from the date of application in complete form which falls due on 24-01-2019. The respondent also failed to refund the security deposit within 30 days from the date of dismantling of the above connections.

The petitioner on the other hand failed to submit the requisition for claiming compensation for breach of guaranteed standards of performance as mandated".

From the above observation of the CGRF, it is clear that the respondent has failed in dismantling and removal of electric line or electric plant which are not in use within three months period that is 24-01-2019 and also failed to refund the security deposit within 30 days from the date of dismantling of the above connections.

The CGRF has denied the compensation for the failure to dismantle and removal of electric line which are not in use on the ground that the appellant has not submitted an application for award of compensation within thirty days from the date of occurrence of such breach of guaranteed standards of performance. As per the opinion of the lower Forum, the appellant had to submit an application before 24-02-2019. But the appellant has submitted the application in Form A on 02-04-2019 i.e., after the dismantling occurred on 06-03-2019. As per column 10 in the form A, it is required to furnish the standard amount to be received as per Standards of Performance Regulations. Normally the delay can be calculated only after resolving the complaint and hence the date of occurrence shall be treated as on the date of resolving a complaint. Hence the appellant is eligible for compensation from 24-01-2019 to 06-03-2019.

The appellant has not submitted an application for compensation for the failure to adhere to time schedule for refund security deposit to the concerned officer

of the KSEBL within the time limit or later. Hence the request in this regard is not admitted.

Decision

Considering the above facts and legal provisions pertaining to the issue, it is proved that delay in dismantling the unused LT electric line and poles occurred in the case of consumer numbers except 162, 4039, 5123 and 3328 and hence the appellant is eligible for compensation from 24-01-2019 to the date of dismantling of each connection as per the rate fixed under Standards of Performance Regulations. So, the appeal petition stands allowed to this extent as it is found having merits.

The appellant's request for compensation for the failure to adhere to time schedule for refund security deposit is not admitted, since he has not submitted an application within the time limit.

The order of CGRF in No. 80/2019-20 dated 12-12-2019 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/001/2020/ _____ /Dated: _____

Delivered to:

1. The Administrator, Christhuraj Hospital, Thokkilangadi, Kuthuparamba, Kannur
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kuthuparamba, Kannur

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, Gandhi Road, Kozhikode