

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/014/2021

(Present: A.S. Dasappan)

Dated: 23rd July 2021

Appellant	:	Secretary Daya Rehabilitation Trust, Kakkavayal P.O., Vallithode, Wayanad Dist.
Respondent	:	Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kalpetta, Wayanad Dist.

ORDER

Background of the case:

The appellant is the Secretary of Daya Rehabilitation Trust in Wayanad District and the institution is intended to run as a Dialysis Centre for the poor patients of the district. The appellant had requested for 40 kW power for the Dialysis Centre for which KSEB Ltd. issued a demand note for Rs.15,61,231/- towards the network strengthening expense. The appellant filed a petition before Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode vide OP No.68/2019-20 and the Forum in its order dated 22-11-2019 directed the Licensee to strengthen the existing network and check the feasibility to provide the power requirement of the "Trust" giving due consideration to the intention behind the need for power. Accordingly, KSEB Ltd. prepared a revised estimate for Rs.62,832/- and the appellant remitted the amount. The connection was effected on 04-11-2020. Afterwards the appellant approached CGRF, Northern Region vide OP No.94/2020-21 with a request to direct KSEB Ltd. to refund the estimate amount realized by the respondent for the

construction of electric line along the public road. But the Forum rejected the request of the appellant in its order dated 27-01-2021. Aggrieved by the decision of the Forum, the appellant filed this appeal petition P014/2021 before this Authority on 05-03-2021.

Arguments of the appellant:

On 07-01-2019, the appellant had requested KSEB Ltd. to allocate a power requirement of 40 kW to the Dialysis Centre situated in Wayanad District. In reply to the request, KSEB Ltd. issued a demand note for Rs.15,61,231/- for strengthening the distribution network including the line construction expense in the premises. As such, the appellant filed a petition before Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode against the demand note and the Forum exempted the appellant from paying the amount vide order CGRF-NR/OP 68/2019-20/505 dated 23-11-2019. Since no action was taken by the licensee to provide power connection to the Dialysis Centre, the appellant requested the licensee on 23-09-2020 to change the tariff of the existing connection with consumer number 1167928010423, which was availed for the construction purpose. In continuation, on 5-10-2020 the Assistant Engineer of Electrical Section, Muttill issued a demand note comprising of the expense required for the construction of electric line in the public road and in the premises. The appellant remitted the amount on 15-10-2020 by online payment. While enquiring the status of work by the appellant, it was understood that the entire amount was not remitted and a balance of Rs.3/- to be remitted by the appellant. The appellant remitted Rs.3/- on 20-10-2020 and the connection was effected on 4-11-2020.

Though electric line constructed in the premises is 104 metres and in the public road is 204 metres, a total of 308 metres, KSEB Ltd.'s demand note was for 320 metres. The appellant is liable to remit the estimate amount for the construction of 104 metres in the premises only. The appellant approached CGRF, Northern Region for the excess amount remitted, but the Forum rejected the request treating the subject as a closed matter. The respondent misled the

Forum stating that the power requirement of the appellant was only 27kW. The request of the appellant is to refund the amount collected for the construction of line in the public road.

Arguments of the respondent:

The need of the appellant was to get an electric connection for its Dialysis Centre at Vallithode under Electrical Section, Muttill. The appellant approached the Licensee for the same. In pursuant to this, the Licensee served a demand note for giving connection. Aggrieved over the demand raised, the appellant approached CGRF in OP 68/2019-20 in which the Forum directed the Licensee to strengthen the distribution system in the area thus, lessening the burden of the appellant in bearing the cost for the connection. Accordingly, the Licensee completed the system improvement work in and around the area spending some amount from PMSU project. Eventually this had reduced the cost to be borne by the appellant considerably. On 23-09-2020, the appellant submitted an application for a three-phase electric connection to the premises by conversion of the existing connection with No.1167928010423. The Licensee accordingly issued a demand note for Rs.62,832/- and the appellant remitted the amount on 05-10-2020. Accordingly, the work was completed on 15-10-2020 and the connection was effected on 04-11-2020 after obtaining all necessary sanctions like AS & TS. Needless to say, all the actions from the respondent's side were done within the time set by the Hon'ble Commission. However, still having some reservations against the Licensee's approach, the appellant again approached the CGRF in OP 94/2020-21. The Forum upheld the stand taken by the Licensee as the appellant failed to establish his case.

The main contention put forward by the appellant throughout the litigation process was that the cost for line construction work along the public road has to be borne by the Licensee itself. It may be noted that Regulation 32 & 37 of the Kerala Electricity Supply Code 2014 bestow blanket powers to the Licensee to recover the expenditure of service line or plants exclusively provided to the appellant. This stand is further expressed by the fact that no other

service connections are being fed from this newly constructed line. Also, brought to the attention of the Authority that the respondent/Licensee had issued orders to follow the existing practice.

Hence, it is submitted that the appellant is trying to extract some undue advantages by going through various stages of litigation process. All the allegations which resolve around the core issues that who should bear the expense for the line which exclusively constructed for the appellant. The question raised is answered in favour of the respondent by the interim order of Hon'ble High Court in the matter.

Under the facts and circumstances, it is requested that the Authority may be pleased to dismiss the petition considering the facts submitted and points to be urged during hearing.

Analysis and findings:

An online hearing of the case was conducted at 11 AM on 20-05-2021 with prior intimation to the appellant and the respondent. Sri. K.V. Ashraf attended hearing for the appellant and Sri. M.U. James, Assistant Executive Engineer, Electrical Subdivision, Kalpetta attended from 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 decision thereof.

The argument of the appellant is that an amount of Rs.62,832/- was remitted towards the estimate cost for converting the existing single phase Low Tension (LT) line to three phase line for a length of 320 metres to receive the power to the extent of 27 kilowatts. In actual conversion work, the line converted along the public road is 204 metres and in the premises of the appellant is 104 metres, thereby a total length of 308 metres. The requirement of the appellant is to refund the cost of line converted along the public road and the appellant is ready to bear the expenditure of the line work in the premises.

The respondent argued that the estimate was prepared in accordance with Regulations 32 and 37 of Kerala Electricity Supply Code 2014 and for which Hon. Kerala State Electricity Regulatory Commission (KSERC) permitted the Licensee to realize actual expenditure. As such the entire line conversion charge of the line through the public road and premises is to be met by the appellant. Also, a short remittance of Rs.3/- was not reflected in the progress of work and in providing three phase electric connection.

On analyzing the case, it is observed as follows:-

The appellant approached the respondent for power requirement to the extent of 40 kilowatts to their Dialysis Centre in January 2019 and accordingly the respondent prepared an estimate for Rs.15,61,231/- comprising the cost of new distribution transformer and allied materials required for developing a new system. The appellant challenged the proposed estimate in the CGRF, Northern Region and the Forum directed the respondent to strengthen the existing network and check the feasibility to provide power giving due consideration to the intention behind the need of power. Accordingly, the respondent prepared an estimate for Rs.62,832/- for converting the existing single-phase line to three phase line and advised the appellant for remittance. The appellant remitted the amount. The work includes conversion of 320 metres electric line from single phase to three phase of which a portion through the public road and remaining through the premises. In the hearing, the respondent revealed that the actually converted line is 307 metres and excess amount of Rs.2,145/- can be refunded.

In this case, it is to be decided whether the estimate cost for the conversion of electric line through the public road is to be met by the appellant.

In the hearing both the appellant and the respondent revealed that no other electric connections were provided from the newly converted line through the public path or in the premises. That is, the conversion of the electric line is only intended to provide electric power to the extent of 27 kW to the appellant.

To decide the issue, it is necessary to notice the relevant provisions of the Kerala Electricity Supply Code 2014 as discussed hereunder.

Regulation 32 relates to “Recovery of expenditure.

Regulation 32 (1) : The licensee may recover from the owner or lawful occupier of any premises requiring supply, the expenditure reasonably incurred by the licensee for providing from the distributing main, any electric line or electrical plant required exclusively for the purpose of giving that supply.

The “distributing mains”: is defined in the Code as follows: -

“Distributing mains” means the portion of any main with which a service line is or is intended to be, immediately connected”.

Regulation 37: Expenditure for service line, plant etc., for providing supply - (1) The consumer shall bear the expenditure for the service line or of the plant or of both, provided exclusively for him by the licensee.

In a suo moto proceeding, the Hon’ble Kerala State Electricity Regulatory Commission has issued an order dated 03-05-2016 that “Expenditure reasonably incurred by the Licensee for conversion of a single-phase low-tension service line to a three-phase low tension service line on the specific request of the consumer, can be recovered from the consumer”.

The above provisions clearly show that the appellant has to bear the expense of the phase conversion of the low-tension line.

The CGRF has also observed the above.

Regulation 35 of the Kerala Electricity Supply Code 2014 relates to “Expenditure for extension or upgradation or both of the distribution system to be borne by the Licensee”.

Here the distribution licensee had strengthened the distribution network in the said area, so as to provide additional load to the appellant by converting the single-phase line to three-phase line.

Decision: -

From the analysis done, the findings and conclusions arrived at, I take the following decision: -

The appellant is liable to bear the expenditure for the conversion of his single-phase low tension electric line to three phase low tension electric line along the public road and the premises. The order of CGRF, Northern Region in OP No.94/2020-21 dated 27-01-2021 is upheld. The respondent shall prepare an evaluation statement of the work based on actual quantities and excess remittance shall be refunded by adjustment in the monthly energy charge/direct refund within a period of 30 days from the date of order.

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

ELECTRICITY OMBUDSMAN

P/014/2021/_____ dated _____.

Delivered to:

1. Secretary, Daya Rehabilitation Trust, Kakkavayal P.O., Vallithode, Wayanad Dist.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kalpetta, Wayanad 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, Gandhi Road, Kozhikode.