

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 109/09

Appellant : M/S Vital Links & Services Pvt Ltd
Thejaswini Building,
7th Floor, North Wing,
Technopark Campus, Karia Vattom ,
THIRUVANANTHAPURAM 695581

Respondent : The Chief Executive Officer
Technopark Campus ,
THIRUVANANTHAPURAM 695581

ORDER

M/S Vital Links & Services Pvt Ltd, Techno park Campus, Thiruvananthapuram submitted a representation on 28.10.2009 seeking certain reliefs and raising certain allegations against the Distribution Licensee Technopark.

The Appellant is running a Food Park by name 'Planet Yumm' in the 7th Floor of the Thejaswini building in Technopark Thiruvananthapuram. The Chief Executive Officer Technopark is the Distribution Licensee inside the technopark. The Appellant has 12 LT electric connections in the 7th Floor . Out of the above 10 connections are used by individual brand food shops and the remaining 2 are meant for common area/purposes. Relations between the Appellant and the Technopark are governed by a tripartite license agreement No 121/2007 dated 1.2.2007. Relations between the Appellant and the individual brand food shops are governed by separate license agreements and business support agreements . Separate power supply agreement has not been executed between the Appellant and Respondent.

Counter statement of the Respondent was obtained and hearing conducted on 12.01.2010 The Appellant has submitted the following allegations and sought related reliefs from the undersigned:

1. The Respondent demanded power deposit equivalent to 3 months probable current charges contrary to KSERC guidelines.

2. When the power supply to one of the client brand food shops (namely Venoos Mothers Kitchen) was cut off by the Appellant due to non payment of dues, the officials of the Respondent restored the supply on two occasions thus blocking the possibility of the client paying the dues to the Appellant
3. The Respondent disconnected all the service connections in the name of the Appellant on 15.7.2009 at 5.30 PM even though the Appellant had paid all the dues to the Respondent as per the Disconnection Notice.

The complaint was submitted to the CGRF of the techno park, but the CGRF did not provide the reliefs sought. The representation is submitted to the under signed in the above back ground.

The issues raised by the Appellant are examined below:

1. As per the Supply Code of the KSERC the Licensees are to collect two months probable current charges only as Deposit from consumers having monthly billing cycle. But the Respondent had demanded 3 months charges as deposit as per their communication dated 16.6.2008 to the Appellant. This was against the Supply Code regulations. However the Respondent had subsequently corrected their demand and the same has been paid by the Appellant. The issue is settled. The Appellant shall be eligible for interest on the deposit as per the provisions of the Supply Code. The demand for Connection Charges made in the above communication was against the directives of the KSERC which had also been withdrawn subsequently. However the fact that the Licensee had demanded amounts from the consumer with scant regard to the provisions of the Regulations is noted with regrets.

The service connection number VIII in the name of the Appellant was given to the shop sub let to M/s Venoos Mothers Kitchen with Connected load 24.8KW. The owner of this food shop had not paid current charges to the Appellant from August 2008 onwards. The Appellant had cut off the power supply to Mothers Kitchen on 10.4.2009 and informed the Respondent by e-mail on the same date. But one official of the Respondent intervened and restored the power supply the defaulting unit on the same date. This action was explained by the official as given below: It was done 'taking into account the larger interests of the regular customers working in the campus. If this counter alone is closed the situation may lead to creation of unrest by the staff working there. However this was done only as a short term measure and was in no way intended to interfere with the function of the food court.' But the same story repeated on 18.4.2009 also when the power supply to Mothers Kitchen was cut off by the Appellant on the same conditions. The Appellant alleges that *these interventions* of one official of the Respondent resulted in the failure of realization of the dues from the unit there after. The Respondent has stated that the power connection to Mothers Kitchen was disconnected arbitrarily and without prior permission from Techno park. They also insist that the Appellant has no authority or power to disconnect the power supply to an establishment working in Techno park campus without prior permission from Techno park. But the Respondent has not produced any supporting evidence to substantiate these claims. The license agreement between the parties do not include such a conditions. The Respondent has not produced any communications or understandings between the parties to

substantiate that the power connection to any unit sub let in the food court shall be disconnected only with the permission of the distribution licensee. It is not known how the Respondent can make such claims in the absence of any evidences. If the service connections had been provided by the Licensee in the individual names of the brand food shops they had a right to ask for prior permissions . Techno park can not pretend that they are unaware of the fact that the Appellant is the provider and coordinator of services to the individual units. The way the official of the Techno park had intervened in the day to day management of the power supply in the food court on 10.4.2009 and 18.4.2009 had effectively resulted in blocking the realization of dues from the individual unit. The Appellant produced records of deposition by the MD of Mothers Kitchen in the Arbitration court stating that they had not paid current charges from August 2008 onwards. It is clear that the officials of the Respondent have also made their own 'contribution' in accumulation of arrears of current charges of Mothers Kitchen from August 2008 onwards. The Appellant was forced to pay the same dues under threat of disconnection subsequently. Hence the licensee shall set apart the dues from the connection to Mothers Kitchen (Number VIII) from August 2008 as 'arrears' and refund the excess payments by the Appellant by adjustment in future current charges.

2. The power supply to all the units of the food court was disconnected at 5.30 PM on 15.7.2009 . The Section 25(3) of Supply Code of KSERC specifically states that : *'Due to non-payment of dues no service connection shall be disconnected after 1 PM so that the consumer get a chance to remit the dues on the same day and get reconnection'*. Was the Licensee unaware of this mandatory clause? The disconnection must have been done at 5.30PM either due to total ignorance of the rules and regulations or due to high handedness of the officials concerned. The Respondent agreed that this was a mistake which will not be repeated in future. Disconnection notice was issued on 23.6.2009 demanding a payment of Rs 205856/- towards power charges. An email circular was issued on 10.7.2009 to all the concerned in the Technopark that the power supply to the Appellant shall be disconnected on 13.7.2009 .Appellant had paid an amount of Rs 1.82 lakhs at 4.30 PM on 15.7.2009 excluding the share of Mothers Kitchen whose payment had been virtually blocked by the actions of the official of the Respondent himself. It is seen that by the evening of 15.7.2009 the only un remitted arrears was the current charge component of Mothers Kitchen. Then what was the hurry in disconnecting the services at 5.30PM? The representative of the Respondent had no explanations. If the Respondent had been really concerned about 'the larger interests of the regular customers working in the campus', and on the 'unrest by the staff working there' they would not have resorted to such actions. This action of the Licensee was arbitrary and amounts to high handedness. The Appellant deserves compensation on the matter.

It is noted with much displeasure that the Licensee do not comply with the provisions of the Electricity Act 2003 , Supply Code and other regulations. Hence the following guide lines are issued to the Distribution Licensee :

- The activities related to distribution of electricity shall be carried out in accordance with the provisions in the Electricity Act 2003, the Kerala Electricity Supply Code 2005 and all the relevant regulations made by the Kerala State Electricity Regulatory Commission from time to time.
- The functions of the Chief Executive Officer, Techno park as an Electricity Distribution Licensee shall be segregated from other activities of the Techno park and power supply to the individual consumers shall not be disrupted for realizing other dues.
- The power supply to the consumers in the Techno park shall be disconnected and amounts collected from them only in accordance with the provisions of the Supply Code and at rates approved by the KSERC.
- The Licensee may enter into individual agreements related to Electricity supply with all consumers.

Orders:

Under the circumstances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The Licensee shall refund the current charges realized from the Appellant towards the account of the connection to Venoos Mothers Kitchen Pvt Ltd (Number VIII) from August 2008 onwards and treat the above dues as 'arrears' which shall be realized from the Appellant only on lawful settlement of the disputes between the Appellant and M/s Venoos Mothers Kitchen Pvt Ltd*
2. *The Licensee shall pay an amount of Rs 1000/- (Rupees One thousand only) as compensation towards the high handed, arbitrary and illegal action of disconnecting the Electric Service connections to the Appellant at 5.30PM on 15.7.2009*
3. *No order on costs.*

Dated this the 15th day of February 2010,

P.PARAMESWARAN
Electricity Ombudsman

No P 109 /09/ 493/ dated 16.02.2010

- Forwarded to:
1. M/S Vital Links & Services Pvt Ltd
Thejaswini Building,
7th Floor, North Wing,
Technopark Campus, Karia Vattom ,
THIRUVANANTHAPURAM 695581
 2. The Chief Executive Officer
Technopark Campus ,
THIRUVANANTHAPURAM 695581

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010