

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/230/2011.

(Present: T.P. VIVEKANANDAN)

APPELLANT : S.K. Unnikrishnannair
Vinayaka Business Centre, Elamakkara, Kochi 680026
RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, Palarivattom P O, Ernakulam Dt.

ORDER.**Background of the case:**

The Appellant is running a shop for Photostat and DTP works, owned by the NSS Karayogam, and is provided the electric service connection No 21480, from Electrical section, Edappally. While being so, on 01.03.2011, when a person deputed by the Licensee arrived at his premises for taking the Meter readings, the Appellant got suspicion of him and asked him to show the I D Card. It is alleged that without revealing the identity, the person has prepared the bill for electricity charges and tried to hand it over to him. The Appellant declined to accept the bill and immediately contacted the Electrical Section office over phone and informed the matter. He also lodged a complaint before the Respondent and they assured him to issue the bill on the next day. As no bill was issued to him till 10.03.2011, he filed another complaint and the Respondent informed him that since the Appellant's shop was closed, the bill was sent by post. On 14.3.2011, the Sub Engineer from the Section office visited the Appellant, enquired the incidents and served a copy of the bill. On the next day the Appellant submitted a Petition claiming compensation for delay in issuing the bill under the standard of performance rules. He was given a reply in which it was stated that the consumer of the said connection is the Secretary, NSS Karayogam and therefore the Appellant has no right for compensation. The Appellant aggrieved by the above actions of the KSEB, filed the Petition before the CGRF, Ernakulam, and after hearing the same was dismissed vide order No CGRF-CR/ Comp. 04 / 2011-12 dated 13.6. 2011. Aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority.

Arguments of the Appellant: -

The main contentions of the Appellant in the Petition are the following: -

1). The Respondent has illegally deputed a man for taking the Electricity Meter readings. That man did not show his identity card even on demand. The man handed over a paper stated to be the bill for energy charges and it was not accepted by him. The telephonic conversation made with Electricity office, consequent to the incident, revealed that no identity cards were issued to its staff so far. He informed the Section office about the rejection of the Bill and sent a complaint to the Respondent. They agreed to issue the bill next day but the same was not received till 10.3.2011, and when contacted, got the reply that since the shop was in closed condition, it was sent by post. On 14.3.2011,

the Sub Engineer handed over the bill. The next day the Appellant submitted the claim for delay in issuing the bill as per the standard of performance rules.

2) The complaint dated 1.3.2011 before the Respondent was not answered till the claim for delay was preferred. In the reply issued it is stated that the Secretary, NSS Karayogam is the consumer and so the Appellant has no right to claim for compensation. But this is not true. The Respondent has not verified the records and their version that the electric connection is in the name of Secretary, NSS karayogam, is not correct. Further, the KSEB informed him that this matter will not come under the standard of performance rules.

3) The Asst. Exe. Engineer is available at 3 section offices on 2 days each per week. Hence there is no need for a Sub Division Office and an Asst. Exe. Engineer for that.

4) The Respondent did not reveal the identity of the person deputed for taking the Meter reading of his shop on 1.3.2011, even on request. Further the original bill was not issued so far.

5) The Respondent is extracting undue amounts from the consumers by improper billing. It should be corrected.

6) The Respondent's counter to his Petition does not contain the date and hence it is not valid. No pleadings were made by the Respondent in the Hearings, as I have done, which shows that my arguments stand proved. The evidence, to prove that the energy bill was sent by post, is not produced.

7) The KSEB has approved tenants as consumers. In the case of Connection no 21480, he was considered as consumer by the KSEB earlier.

Other points, the Appellant raised during the Hearing and through submission of additional statements and argument notes, can be summarized as follows;

He argues that the Respondent should have given an authorization letter or identity card to the person when deputed to take meter readings. Further he argues that KSEB had approved the tenants also as consumers and accordingly he claims that he is the consumer. There was no response from the Respondent on the claim Petition for a few days, for the delay in issuing the electricity bill in 03/2011, submitted to the Respondent.

Another contention of the Appellant is that as the statement of fact is countersigned by the Executive engineer, he had requested the CGRF to induct the EE as second Respondent but this request was not considered. The contentions against the verdict of the CGRF were that he had sought for remedy on seven points but the Forum had reduced it to six for the reasons unknown to him. He further alleges that the Forum has acted as the counsel of the Respondent. The CGRF had issued the orders without any seal and not recording the verbal presentations of both sides during the hearing. It is further alleged that the Forum has purposefully helped the Respondent in the case. He suspects a meeting might have taken place between the Forum and the Respondent. The term used by the Forum as 'registered consumer' is not valid. In an earlier case the Ombudsman had taken the stand that the user of electricity and not the name holder of the connection is the consumer.

The Forum did not take action on non-numbering the Petitions received and the irregular office procedures done at the Section offices. The Forum acted as "referee scoring the goals", because Forum stated that the Respondent had issued a reply which is not correct. The Forum did not record the verbal recordings during presentation of the case as is being done in District courts and this step is to make use of its own discoveries. It is a cooperative movement of the Forum and the KSEB. If the Respondent has no arguments to submit, then it should be treated as, the points raised by the Appellant as being proved. The Respondent has replied the points leveled against the CGRF. This is a clear evidence of illegal attachment between them. The Respondent did not issue any direction to the

Meter readers to issue correct bills to consumers. This fact was not considered by the Forum and the Forum decided the matter simply as having some misunderstanding between the Appellant and staff that led to the dispute. This was another proof of the Forum purposefully helping the KSEB.

The KSEB Chairman has lied in the ARR filed before the KSERC. He promised to give ID Cards and Uniforms to all staff in a phased manner. But it did not happen. The Forum did not check it making the KSEB Chairman a liar. The uniforms are not issued to staff.

A staff member at the section office declined to receive his complaint lodged in November 2010. The Forum issued the order without affixing its seal on the verdict copy, and this may be to prevent the consumer from going to higher courts of law.

The Ombudsman did not take action on the charge of contempt of court leveled against the Respondent. The Ombudsman is doing all these for the undue advantage of the Respondent. The Respondent is sure that the verdict will be in their favour only. As per instruction of KSEB, false billing, is being continued through out the State and is extracting large sum of money from them.

The Appellant argues that the NSS Karayogam has rented 30-35 rooms and the electricity charges are paid by tenants. The interest on Security Deposit is deducted in the bill issued to the tenants. The Karayogam did not ask the interest and so they also consider the tenants as the consumer. Secondly the KSEB is issuing notices to the tenants and not to Karayogam. If KSEB considers the owner as the consumer why it is not sending notice to the Owner?. If KSEB has no relation with the Tenant, then KSEB need to produce permission from owner, to allow by the tenant, for the meter readers entry for taking the meter readings. If owner did not pay bill the tenant is required to pay the bill with interest unnecessarily.

As long as no action is taken against the 'contempt of court' leveled against the Respondent and also against their improper statements, there is no benefit in continuing with this Appeal Petition and hence no further proof is submitted.

The reliefs which the Appellant sought are;

1. To consider him as the consumer of Electric service connection No. 21480.
2. To allow compensation and expenses requested for delay in issuing the monthly bill of 3/2011.
3. To issue directions to the EE, AEE and AE to follow office procedures.
4. To issue to all staff of the KSEB to follow rules and regulations.
5. To issue orders to the KSEB to take suitable action against the EE and AEE for their malpractices.
6. To issue orders to the Chairman of the KSEB to clarify whether ID cards and uniforms were supplied or not. A) If supplied, to take action against the EE, AEE and CGRF for furnishing false statements. B) If not supplied, inform the KSERC that the statement of the chairman of the KSEB in the ARR was not true and to take suitable action.
7. To issue orders to the employees of the KSEB to wear the ID cards, especially field staff.
8. To issue orders to KSEB to appoint CGRF chairperson and members who are conversant with IE Act 2003, KES Code 2005, Standard of Performance Rules, its periodical amendments and decisions and directions of Ombudsman, KSERC, CERC, APTEL, various courts etc.
9. To issue orders to all CGRFs to record the points of arguments at the hearings and get them signed by both parties.
10. To order cost of expenses incurred towards travel to various KSEB offices and for attending the Hearings of Forum totaling to Rs 396.50, Loss of work at his shop for 15 days due to the above travel =Rs 1500.00, KSEB's objection to reduce his connected load to 1 KW and there by paying the

excess fixed charges =Rs 800/-, etc. The Total Compensation demanded is Rs 2696.50 plus the penal interest for delay in issuing interest for the Security deposit lying with KSEB etc.

For the above reasons the Appeal Petition may be allowed and order costs.

Arguments of the Respondent:-

The Respondent has opposed the contentions of the Appellant in the Petition and raises the following arguments among other things included in the replies submitted and stated during the Hearings.

According to the Respondent, the Meter readings under Electrical section, Edappally, is mainly arranged through contract basis, due to shortage of permanent staff. On enquiry it came to know that the Appellant had declined to accept the bill from the Meter reader and the same was sent to him by post. On receipt of further complaint, the Respondent has deputed the Sub Engineer to the Appellant's shop and appraised him the situation and handed over a copy of the bill. The Respondent admits the receipt of a claim Petition for compensation from the Appellant for which the acknowledgement was also issued. Though the complaint lodged was not numbered, the Respondent submits that proper action has been taken on it and no inconvenience was caused due to non-numbering of the complaint.

Further the Respondent argues that the electrical connection under consumer no.21480 is taken by NSS Karayogam and the Appellant had not produced any documentary evidence to prove that he is the consumer. The claim of compensation made by him for the delay to issue the bill does not come under standard of performance and the reason was intimated to him. Further the Respondent submits that no ID cards were issued to the meter readers deputed on contract basis. There is no accusation of any misbehavior towards the Appellant by the meter reader. The bill was sent on post based on the address given in the office records. It is argued that when a tenant takes connection from KSEB, he becomes consumer. In this case the electric connection was taken by the owner himself and the name of the Appellant is nowhere mentioned. The counter signature put in the statement of facts by the Exe. Engineer is only a routine official procedure.

Analysis and Findings: -

The Appellant has filed an Appeal Petition on 28.6.2011, aggrieved by the order of CGRF, Central, Ernakulam and stands as No: P/230/2011. The Respondent has submitted the Statement of Facts to the Petition through the letter dated 19.7.2011. Meanwhile the Appellant filed an additional statement to the Petition on 15.7.2011 and the Respondent has submitted the reply on 3.8.2011. The Appellant then filed a submission dated 08.08.2011, seeking the cause for delay for hearing the case, along with an argument note praying for orders as requested in the complaint. Further, he has requested to take 'contempt case' against the Respondent, on the ground, for issuing the statement by them that the Appellant is not the consumer, during the pendency of the case.

Later on 24.8.2011, the Appellant has filed a statement alleging that the KSERC, the CGRF and the Ombudsman are not useful to the consumers and hence he wants to withdraw the case as he wishes to approach the Hon: High Court of Kerala. Later, the said request was not pressed. The Appellant then filed a reply dated 2.9.2011, on the statement of facts, furnished by the opposite side. Both parties were heard on 11.10.2011, in my chamber at Edappally. The Appellant then requested for one month's time extension to produce some documents and the same was allowed. This Forum conducted the next hearing on 28.12.2011 and both parties were present. They have presented their arguments based on the lines stated as above. The Appellant has filed additional argument notes dated 28.12.2011 and 16.1.2012 before this Forum.

On examining the Petition and argument notes filed by the Appellant, the statement of facts of the Respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The Appellant has raised ten prayers for consideration in his Appeal Petition of which, the first two are the only specific requests, that directly relates to the Appellant. The First one is to consider him as the consumer of electric service connection No.21480 of Edappally Section and the second one is to allow him compensation for not issuing the bill in time and the litigation costs. All other requests raised by the Appellant are general in character and pertains to a common cause.

It is true that the statement of facts submitted by the Respondent does not contain the date of filing but the same was sent to this Forum with a covering letter having date as 19.7.2011 and this Forum accept the same document with the date as date of the covering letter.

Issue No 1: - The Appellant is reported as the tenant of a shop owned by the NSS Karayogam. He did not produce any document to prove he is the tenant. Here the question to be answered is whether the Appellant, who even if he is a tenant, can be declared as the consumer of the electric connection No 21480, given to the said shop, under Electrical Section, Edappally. The Appellant has neither entered into any agreement with KSEB for receiving the electric supply nor has he been supplied with electricity for his own use by the KSEB. The owner of the shop, the President, NSS Karayogam has applied for the electric service connection and stands registered in their name as per the office records of KSEB. The tenant is enjoying the benefit of the said electric connection, may be as per the Rent Agreement terms or by mutual understanding entered into between the owner and the tenant, which normally decides whether the owner or tenant (beneficiary) will be using the electric service connection and remitting the electricity charges thereof to the KSEB. The KSEB is interested in seeing the Electricity charges, being paid in time, as long as there are no disputes.

The Appellant is not the person whose premises are for the time being connected for the purpose of receiving electricity from the KSEB, because the person who is being supplied with electricity by the KSEB is the President, NSS Karayogam, bearing consumer no. 21480. The shop (premises) to which the electricity supply was connected also belongs to NSS Karayogam. The Appellant has not produced any evidence to prove that the electricity connection was given in his name or in his own premises. As per clause 19 of the KSEB Terms and Conditions of Supply 2005, the consumer is bound to execute the service connection agreement with the KSEB, for getting the supply. The service connection agreement was seen executed by the President, NSS Karayogam, and the Appellant is only enjoying the benefit of 'consumer', may be as the tenant of the shop (electric connection No 21480), for and on behalf of the registered consumer. As per clause 19(3) of T & C of supply, 2005, when there is transfer of ownership or right of occupancy of the premises, the consumer shall intimate the transfer of right of occupancy of the premises within 7 days to the AE/AEE concerned. In this case no such intimation has been received from the consumer, NSS Karayogam, by the KSEB officials to transfer the ownership to the Appellant.

Even in cases the tenant having dispute with the owner, there is provision to give supply in the name of tenant after executing an indemnity bond in Form No 5 and remitting a special deposit (in addition to the security deposit), as per clause 14(4) of KSEB Terms and Conditions of Supply, 2005. When there are specific provisions in the T & C of supply, for the tenants to get electric supply afresh or continue to avail the existing service connection, which shows that he can become the consumer only after observing the formalities as detailed above. Hence considering the above facts the Appellant is not a consumer, in terms of Section 2 (15) of the IE Act 2003, but is enjoying the benefit of the

consumer of electricity for and on behalf of the registered consumer, may be being the lessee of the shop he has rented out with the electric connection No 21480, given for the shop.

Issue No: 2: - The Appellant has requested to allow compensation for delay in issuing the monthly bill of 3/2011 and expenses incurred for conducting the Case and approaching various offices of KSEB for lodging complaints. The Appellant does not dispute the fact that the Electricity spot bill was issued on the same day of taking the Meter reading but he has declined to accept the bill from the person (meter reader) who did not show the Identity Card and became suspicious of that person. This resulted in dispatching the bill by post to the consumer by KSEB and there after handed over a copy of the bill to the Appellant directly by the Sub Engineer on getting complaint of non-receipt of the electricity bill.

Even if the Meter reader (Contract person) was not able to show his ID card, as demanded by the Appellant, there is no allegation of misbehavior from his side. Hence the Appellant could have received the bill issued by the person and then lodge the complaints with the KSEB, if any. Here the Appellant has discarded a bill, issued to him in person, on suspicion ground only. The KSEB has stated that they have not provided ID Cards to Contract staff. The Respondent has arranged the Meter reading and Billing of consumers by engaging persons on contract basis due to staff shortage and has not caused any inconvenience to the Appellant. The Appellant got suspicion of the Meter reader and hence did not accept the bill and then lodges a claim for delay to get the bill, does not deserve any merit for considering for compensation. I am of the view that there was no deficiency of service from the side of KSEB in issuing the bill in the month of 3/2011 and hence the claim of the Appellant is not justifiable as he refused to accept the bill given in person.

Issues Nos 3 to 9: - Regarding these points, i.e. to order KSEB and CGRFs to follow correct office procedures, Rules, Regulations and stop malpractices and improper billing, to wear uniform and ID Card, no need for an AEE post, to appoint CGRF Chair person and its Members conversant with IE Act and Supply Code etc, this Authority feels that the Forums are established to redress the specific grievances of individual consumers rather than of a general nature which are not proved conclusively. These complaints do not belong to the grievance of an individual consumer. Many of the prayers are beyond the powers of this Forum. Further there is no evidence to establish that the rules are totally flouted by all the KSEB Officers and CGRF. Without evidences to establish the same, this Authority finds it difficult to concur with the Appellant's view. However a copy of this Order will be marked to the Secretary, KSEB, for their attention and actions.

Issue No 10: - The expenses requested are for the 'travelling cost' incurred to approach various KSEB offices to lodge complaints, and to attend the Hearing of the cases filed at the CGRF and Ombudsman offices, amounting to Rs.396.50. The cause of dispute and the cases followed were based on 'the delay in the issue of monthly energy bill of 3/2011'. Declining to accept a bill issued in person to him and then conducting the case, for the issue of 'non receipt of bill in time' and then asking for costs thereof cannot be considered as it is not justifiable.

DECISION: -

Based on the analysis and findings arrived at, as detailed above, I decide that there is no merit in the Reliefs sought by the Appellant and hence stands disallowed.

The other points raised by the Appellant in the Petition and during the time of hearing, and through additional statements filed, are decided as follows;

The Appellant wants a declaration from this Forum to have his connected load reduced since the owner refuses to sign the papers. For reducing the connected load, the consumer has to give the papers to the KSEB, through a licensed wiring contractor, regarding the alterations/ modifications

made in his electrical system, as per clause 26 of the T & C of Supply, 2005. He is required to execute an Indemnity bond and pay the special deposit etc with KSEB, as per rules, if the owner of the shop refuses to sign papers for the same. He has demanded compensation of Rs.2300/- for not complying with the request for reduction of Load. The Appellant has not acted as per clause 26 stated above. No convincing reason has been adduced by the Appellant for claiming the above amount. He had put forward reasons like he lost 15 days' work loss and the Building owner's refusal to sign the application for reducing the connected load etc. are not sufficient cause for granting compensation as it is not a fault of the Licensee. Without observing the rules, the Appellant is asking for compensation and reduction in his connected load, which is not at all found reasonable and hence not maintainable. The Appellant's statement that he has approached the owner, to put the application to reduce the connected load, itself prove that the Appellant was aware that he was not the consumer.

Another allegation of the Appellant is that the CGRF has invented a new term 'Registered consumer.' This is not correct. The term is available in KSEB Terms and Conditions of Supply, 2005, vide clause 19(3), which means the person in whose name the electric service connection stands 'registered' with the Licensee (after executing the agreement in stamp paper) and there is nothing wrong in using this term. The Court cases against the defaulted consumers and the Revenue recovery action, if any, on their landed properties can only be initiated against the registered consumers or their legal heirs only. Hence the significance of the term 'registered consumer' to be more specific.

The Appellant has requested interest at commercial bank rate for security deposit kept with KSEB, at the rate prevailing as on 1st April of the year, for which interest is due. Records show that interest on security deposit was paid to the account of the consumer No 21480, as per rules. He has not produced any details to prove his arguments that it is not paid. Hence the request of the Appellant to allow interest on security deposit at penal rate to him is not admissible. Moreover, the Bank rate means the RBI rate in buying and discounting bills of Exchange and not the rate of a commercial bank.

The Appellant requests to initiate 'contempt case' against the Respondent, for the statement issued by them that he is not the consumer, while the case is pending before this Forum. There is nothing 'contempt' in the statement of the Respondent that he is not the consumer while the case is pending. It is an argument of the Respondent before this forum. Hence I am not inclined to accept the pleading of the Appellant to proceed against the Respondent on the charge of 'contempt case'.

Similarly the Appellant argues that the Respondent had replied to the arguments raised against the CGRF, and is a clear evidence of illegal attachments between them. If the Appellant has the right to raise averments against the CGRF order, it is natural to defend the same to the best of their advantage by the opposite party and cannot be termed as biased or illegal attachment between them.

The CGRF is set up and is functioning under the Regulations made by the Hon: KSERC vide KSERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2005. If the complainant has anything to suggest on its procedures or it's functioning, it is proper that he may submit such 'suggestions for betterment' to the Hon: Commission for its consideration, rather than leveling accusations against a Forum established by Law.

The Appellant has expressed total disrespect against the CGRF by the statements like;
a). The Forum has acted as the counsel of the Respondent, b) Suspects meeting between the Forum and the Respondent, c) Forum acted as referee scoring the goals, d) it is a cooperative movement of the Forum and KSEB etc. Similarly he has reservations against the Ombudsman in 'Ombudsman doing undue advantage of the KSEB. He even goes to the extent of saying that the KSERC, the CGRF and the Ombudsman are no more useful to the consumers. These types of unnecessary comments, without any

specific evidence to prove, should have been avoided by any Appellant, I believe. Moreover, the CGRF, to the best of my knowledge, normally take the decisions as per the rules in the IE Act, 2003, Clauses in the Supply Code, 2005 and T & C of Supply, 2005, only. The applicable rules quoted by the Forums, even though it may not be specifically mentioned in the Petition, Counter statements or argument notes of either party but might have been brought to its attention during the Hearings or while analyzing the case and may be quoted in the orders issued by them. This action or procedure followed by the Forums cannot be attributed by the Appellant as helping the Licensees by the Forums.

It is a genuine request of the Appellant that the Respondent should have issued either Identity cards or Authorization letter by the Meter readers, whether they are permanent or temporary staff and I order to do so by the Respondent in future without fail.

Having concluded as detailed above, I do not find any merit in the Appeal Petition filed by Sri. S.K. Unnikrishnan Nair, and decides to dismiss the same and orders it accordingly. No order on costs. Dated the 29th of February, 2012,

Electricity Ombudsman.

No P/ 230/2011/ 1139/ Dated 29.02.2012.

Forwarded to: - (1) Sri. S.K. Unnikrishnan Nair, Vinayaka Business Centre,
Elamakkara, Kochi-682026 .

(2) The Assistant Executive Engineer, KSEB Electrical sub division Palarivattom

Copy to : - 1.The secretary, KSERC, KPFC Bhavan, Vellayambalam, Thiruvananthapuram-10.

2. The secretary, KSEB, Vaidyuthi Bhavan, Pattom, Thiruvananthapuram-4. - **Please note the General Complaints against KSEB like non issue of ID cards, Uniforms as promised by the Chairman in the ARR and improper billing etc and take suitable and appropriate steps.**

3. The Chairman, CGRF Central region, KSEB, Power house Bldg, Ernakulam.