

STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No:P/ 252/ 2011.

(Present: T.P. Vivekanandan)

Appellant : K.Kalesh, Kalesh Bhavan, Chelikuzhy P.O.
Pathanapuram Taluk, Kollam District.

Respondent :The Assistant Executive Engineer,
Electrical Sub Division, KSEB, Pathanapuram, Kollam Dt.

ORDER.

Background of the case: -

Sri Kalesh, the appellant, had obtained the Electric connection with consumer No. 22781, for his venture of a wire cut brick unit in Pathanapram Panchayath under MG (minimum guarantee) scheme on 16-07-2001 with a connected load of 19 KW under LT-IV industrial tariff. The appellant stopped the unit after two years because of heavy loss in the business. The MG period for which the consumer is bound to pay the minimum amount as per the Agreement was for seven years from July, 2001. The appellant had remitted current charges up to 02/2004 only and due to non-payment of electricity bills, the electric service connection was disconnected on 06/2004 and finally the service was dismantled on 10.12.2004. After that Revenue recovery notice for Rs. 1, 41,401/- was issued to him towards the arrears of bills and the MG charges to be paid up to 07/2008 plus interest, for the realization of the amount. The appellant has requested to exempt from the action of revenue recovery ordered against him considering his present financial difficulties, and the amount already remitted at the KSEB and at the Village office as per the RR Action. The petition submitted before the CGRF was rejected vides order no. OP No.498/2009 dated 15/5/2010. The appellant has also requested to condone the delay occurred to submit the appeal petition with in the time limit. This Forum intends to look into the facts of any 'over payment' and whether he is eligible for relief if any.

Arguments of the appellant: -

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. Further the appellant has adduced the following arguments. He argues that the Board disconnected the connection on 06/2004, but he was served with the arrear demand notice for the preceding three months also. The Board had given connection to other consumers from the same transformer installed under MG for him and got revenue of Rs. 42682/-. The Board had taken action to recover the amount through revenue recovery proceedings and auctioned his 2.5 cents of land and house. An amount of Rs.18000/- was received by the Board from the auction proceedings in addition to the revenue received from other consumers who were supplied current through the same transformer. While assessing the arrears these details were not taken into account. Since the revenue recovery action initiated were not in order and as per rules, the recovery amount was returned to him and fresh action has been recommenced to realize an amount of Rs.1,41,401/- Based on a special order received from the Revenue Minister, the appellant had already paid a sum of Rs. 38000/- , approximately , by monthly installments. Further the appellant argues that the

CGRF has not sent its orders to him in time which had resulted in the failure to remit the arrears and thereby caused the action of revenue recovery and mental agony. The appellant argues that he had entered MG agreement with the Board for Rs. 1,02,000/- and he had remitted approximately more than Rs. Three lakhs being the current charges up to 02/04 and Board had got Rs. 42682/- towards sale of electricity from the same transformer to other consumers and further Rs.38000/- by way of Revenue recovery. So the total recovery was Rs.3,75,000/-. Lastly the appellant submits his inability to remit the arrears as he is unemployed and has no permanent income and humbly requests to solve the issues in an amicable way.

Arguments of the respondent: -

The respondent has submitted the statement of facts opposing the contentions raised by the appellant. The respondent states that the appellant was given service connection by installing a new 100 KVA transformer on 16/07/2001 for an estimate amount of (Rs.1,12,516 /- +10%) under MG basis for a period of 7 years. As per the MG agreement, the appellant has to pay an amount of Rs.2579/- per month including the electricity charges for seven years whether he is consuming energy or not. Though the consumer had used electricity up to 05/04, he remitted the current charges up to 01/04 only and due to non-payment of current charges the electric connection was disconnected on 06/04 after issuing notice. Thereafter the service was dismantled after six months as per rules. The Board had taken legal action to recover the dues from the appellant by initiating Revenue recovery proceedings. Accordingly the dues to be recovered from the consumer were as follows:

1). Electricity arrears from 2/04 to 1/05	- Rs	40,277.00
2). Amount to be remitted as per MG agreement from 2/05 to 7/08 (Rs.2579/- per month)	- Rs	1,08,318.00
Total	- Rs	1,48,595.00
Deduct the Security Deposit remitted by appellant	(-)	- Rs 8,000.00
Balance amount due to KSEB	- Rs	1,40,595.00
Fine	- Rs	806.00
Grant total	- Rs	1,41,401.00

An amount of Rs. 36,101/- has been recovered as on date from the appellant through Revenue recovery action. The respondent argues that connections given from the said transformer to other consumers for industrial / commercial purposes is very few. Further there was no request from the consumer to verify the self remunerative status. The total amount of current charge received from the appellant till 1/04 was Rs. 84,797 and amount received through Revenue Recovery action was Rs. 36,101/- and the balance amount to be recovered is Rs.105300/=. The respondent submits that any reduction in this amount can not be allowed and requests to dismiss the appeal petition. Further the respondent says that the allegation of non- receipt of the CGRF's Order by the appellant may not be true as they got the order on 9/6/2010.

The respondent files a submission dated 18.1.2012, in which it is stated that had the consumer remitted the MG amount till 12/2006, the consumer would have been set free from paying further MG as the 'Line' became self remunerative from 12/06 onwards. Since the consumer defaulted the payment from 2/2004, they were not able to declare the Line as self remunerative in 12/06.

Again on 17.02.2012, the respondent filed another statement which shows;

The total dues of the consumer = Rs 1,41,401/-

The amount collected as per R R action = Rs 53,069/- (from 1/2005 to 1/2012)

The balance amount payable by the consumer as on 2/2012. = Rs 88,332/-
 If the Line was not declared self remunerative from 12/06, the MG amount duly payable by the consumer for the balance period of 12/06 to 7/08 would be =Rs 51580/-. Suppose the line had been declared self remunerative from 12/06 onwards, the consumer will not be required to pay any further sum to KSEB on the MG account. It may be noted that the consumer paid the MG amount only up to 1/2004 and hence required to pay the MG charges for the period 1/04 to 12/06 with interest. In such a case (if the line is declared self remunerative), the balance amount payable by the consumer as on 2/2012 shall be Rs (88332- 51580) = Rs 36752/- only.

Analysis and Findings: -

The Hearing of the case was conducted on 03.01.2012 and on 17.02.2012, in my chamber at Edappally, and Mr. K Kalesh, represented the appellant's side and Smt. Ambika Kumari, Assistant Executive Engineer, Electrical Sub Division, Pathanapuram, represented the Respondent's side. On perusing the Petition, the counter of the Respondent and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The AEE has been directed to report on some points like the details of MG, the arrears pending, the amount for which the RR Action was taken, the amount collected so far and whether the line has become self remunerative, if so from which date etc. The appellant was asked to submit the details of the amount remitted so far, to the AEE for verification, as he had claimed remittance of more than Rs. Three lakhs so far. The respondent has furnished all the details in the 2nd hearing on 17.2.2012. The RR action was initiated for Rs.1,41,401/- and the RR amount collected during the period 01/2005 to 01/2012 was Rs.53069/- and the balance pending from the appellant as on 2/2012 was reported as Rs.88332/- only. On examining the documents it is seen that the estimate sanctioned for transformer installation was for an amount of Rs.112516/- and the MG amount shall be the estimate cost plus its 10% as establishment cost. Another fact is that, 18 numbers of service connections (domestic) and one number industrial connection were given after 7/2001 from the said transformer installed under MG agreement. The AEE states that the total current charge received from the above 19 consumers from 7/01 to 11/06 is Rs. 42138/- and current charge remitted by the appellant according to consumption in excess of the MG amount is Rs.9811/- . She further states that the total amount remitted by the other consumers up to 11/06 plus the excess amount remitted by the appellant comes to Rs.51949 which is greater than the amount due from the petitioner for the balance MG period of 12/06 to 7/08. The MG amount due from the appellant for the same period of 12/06 to 07/08 is Rs.51580/- only. Hence, if the line had been declared as self-remunerative during 11/06, then only an amount of Rs. 36752/- (i.e. Rs 88332-51580) would be pending from the appellant as on 2/2012.

The contention of the appellant that he had remitted more than Rs. Three lakhs, with KSEB, as the electricity charges after availing the electric connection is found to be not true. Further his allegation that the arrear contained previous 3 month's charges is also found correct as the consumer used electricity up to 6/04 but paid the electricity charges up to 1/04 only and therefore he is bound pay that amount.

DECISION: -

The consumer may not be aware of the rules of MG scheme and KSEB is not supposed to penalize the consumer once the MG Line has become self remunerative. The Respondent shall take action to declare the Line as Self remunerative from 12/06 onwards as the AEE has reported it as

eligible for the same. The appellant is required to pay further, a balance amount of Rs 36752/- only, as on 2/2012, in such a situation. Once the consumer remits the balance (amount of Rs 36752) he shall be relieved from the MG liabilities and the R R action. Having concluded and decided as above, it is ordered accordingly and the Appeal Petition Filed by the Consumer Sri K Kalesh, Kalesh Bhavan, Pathanapuram, stands disposed of to the extend ordered. No order on costs.

Dated the 19th of March, 2012.

Electricity Ombudsman.

No: P/ 252/2011/ 1162/ dated 19.03.2012.

- Forwarded to : 1). K.Kalesh,
Kalesh Bhaven,Chelikuzhy P.O.
Pathanapuram Taluk,
Kollam District.
- 2). The Assistant Executive Engineer,
Electrical Sub Division, KSE Board,
Pathanapuram, Kollam

Copy to: -

- (1). The Secretary. Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
- (3). The Chairperson, Consumer Grievance Redressal Forum, KSEBoard, Vydyuthibhavanam, Kottarakkara.