

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No: P/255/2011.

(Present Sri.T.P.Vivekanandan)

Appellant : Rev: Fr. Benadine. M. Louis,  
Director, Annunciation Convent,  
Kidarakuzhy, Venganoor P.O,  
Thiruvananthapuram Dt.

Respondent : The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Balaramapuram, Thiruvananthapuram Dt.

ORDER.

Background of the Case: -

The appellant, Fr. Benadine M. Louis, Annunciation Convent, Venganoor, Thiruvananthapuram, has filed an Appeal Petition before this Forum against the Order of CGRF dated 27/8/2011 stating that the order was pronounced by the CGRF (Soth) through ex parte proceedings without informing him about the posting of hearing dates and also the CGRF (S) pronounced the order by misconception of facts and without hearing the consumer. As per the letter issued from this end dated 19.10.2011, the CGRF was directed to review the case and pass appropriate orders. Accordingly, the CGRF reopened the case and passed order in OP No.653/2011 dated 11.11.2011 after hearings of both sides.

The gist of his case before the CGRF is as follows. The petitioner had challenged the assessment made under Section 126 of the IE Act 2003, following the site inspection by the officials of the Board. Consumer No. 6426 under Electrical Section, Kottukal, is a domestic connection registered in the name of Sri. Sivanandan, Kidarakuzhy, and the same was purchased by the appellant and his watchman is living there. While being so, the consumer's premises was inspected by the AE and Sub Engineer of Electrical Section, kottukal, on 29/5/2010 and found that the appellant was using unauthorized extension of Supply and using 7920 watts in his newly constructing Building situated about 100 mts away. Accordingly, a provisional assessment bill for Rs. 1, 44, 000/- was issued, alleging unauthorized extension and use of additional load.

The petitioner filed an appeal before the Deputy Chief Engineer, Thiruvananthapuram (Rural). One of his grievances was that even though he was personally heard on 4/6/2010, his appeal petition has not been disposed of by the appellate authority so far. Later, the Dy. Chief Engineer has passed final order on his petition on 19/8/11. During the hearing the petitioner submitted that he has no further complaint against the final proceedings passed by the Dy. Chief Engineer, Thiruvananthapuram (Rural), the appellate authority.

His present grievance is only with regard to the delay in effecting service connection to the new building premises for which he submitted an application as early on 28/3/2011. The CGRF, in its order, it is held that; *“But no specific allegation with regard to the delay is filed before this forum by the petitioner, and there is no such complaint before this forum at present. Hence, we need not find any modification or review of the earlier order of this forum dated 27/8/2011. However, the petitioner is at liberty to file a fresh petition seeking the reliefs required by him. In the event of filing such a petition, appropriate proceedings will be initiated by this forum on registering the complaint”*. Still not satisfied by the decision of the CGRF the appellant has filed this petition before this Authority.

Arguments of the Appellant.: -

The appellant has not raised any additional arguments in his appeal petition submitted before this authority other than the arguments raised in his petition before the CGRF. The reliefs sought by the petitioner before CGRF were;

1. To take a decision on the interim application attached with the petition
2. To cancel Ext. R2 invoice 3.
3. To refund the amount remitted as per Ext.10 along with interest.
4. To give compensation for denial of connection to the old age home w.e.f. 28/3/2011.
5. To transfer the officials of Distribution Wing of KSEB who are harassing the consumer intentionally.
6. To allow compensation and other reliefs as are deemed fit and proper in the interest of justice.

On the hearing day of 25.4.2012, the Advocate for the appellant argued as follows.

- 1). The complaint is regarding the delay caused for processing the application submitted by the appellant on 28.3. 2011, for a new electric connection to his building. The said application was entertained only on 2.9.2011. Hence the eligible compensation for the delay caused or deficiency in service on the part of respondent may be ordered. Not only that, had the service be registered in 3/2011, the electric connection would have been obtained earlier.

The following are the Reliefs sought from the Ombudsman in the Appeal petition.

- 1). The order was totally biased and prejudiced without considering Interim Application and any reliefs sought even though the matter is very slightly comes under section 126 & 127 of Electricity Act 2003 according to the Licensee.
- 2). The order was pronounced again by the CGRF by misconception of facts.
- 3). Ext 10 is a deposit and the complainant is eligible for interest that was denied by CGRF(S).
- 4). The Chairman and members of CGRF is not conversant with the connected rules and procedures and hence the decision is biased and prejudice and pronounced in favor of the Licensee.

So the appellant requests to reconsider the reliefs sought in the complaint/Grievance before CGRF (S) and to issue appropriate orders.

Arguments of the Respondent: -

The respondent has submitted the statement of facts opposing the contentions raised by the appellant. It states as follows;

The consumer No: KTL 6426 is allotted to Sri.Sivanandan, Valiyavila, Kidarakuzhy for domestic purpose with a sanctioned load of 440 watts. The usage of electricity other than the purpose for which the supply is availed and also using excess load without sanction of KSEB attracts penalization. The Assistant Engineer, Electrical Section, along with the Sub Engineer inspected the premises of the consumer No: KTL /6426. They had prepared the site mahazar in the presence of Sri. Chandran who is residing at that time and nobody was available other than him. Hence he was witnessed the mahazar. The details of the excess load connected are furnished in the site mahazar clearly. After completing the construction of a new building, the party connected unauthorized additional load, by extending supply using wire to the following load, from consumer No: 6426 which is about 100 meters away from the house. Lights-40 w x 90 Nos, plug-60 w x 42 Nos, fans- 60 w x 30 Nos totaling to 7920 watts additional load. For an unauthorized extension of supply and connecting a load of 7920 watts, a penal bill for Rs.1, 44,000/- was issued to the consumer. On 28.04.2011 the petitioner had remitted a sum of Rs.94, 717/- and filed appeal petition before the appellate authority (i.e. Deputy Chief Engineer , Electrical Circle, kattakada) and after which the reconnection of service was effected.

On 28.03.2011, when the petitioner approached the Assistant Engineer, Electrical Section, Kottukal, for taking a new electric connection to the building, where unauthorized extension was taken from consumer No:6426, he was intimated, vide letter No:DB/KTL/10.11/78 dated 28.03.2011, that the connection can only be given after settling the dispute regarding the penal bill. As per the law existing, since there was an arrear bill pending in the case of consumer No: 6426, against which a case was going on for the irregularity of unauthorized extension committed by the appellant, the application for new connection to the building could be processed only after settling the dispute existing between the applicant and KSEB. This was intimated in writing to him and the applicant did not give any reply nor filed the appeal petition before the Dy CE at that time. Hence the application was not processed at that time.

The appellant subsequently filed appeal and the Dy CE issued order on 24.8.2011. Immediately the consumer was informed to submit application for new connection and accordingly registered the connection on 2.9.2011 and the cost estimate for the same connection was also accepted. Without paying the cost estimate the consumer is not eligible for getting new connection.

The petitioner filed appeal petition only on 26.05.2011 vide no: GB/TVM /Appeal Petition/11-12/ 269 dated 26.05.2011. After conducting hearing on 04.06.2011, the Deputy Chief Engineer passed the order No.DCE/TVM (R)/Appeal Petition/11-12/2KTDA dated 24.08.2011. On receiving the order, on 24.08.2011 itself, the Assistant Engineer, vide letter no.DB/KTL/2011-12/dated 24.08.2011 intimated the petitioner for submitting the application for taking electric connection to the building. As per the

order of the Deputy Chief Engineer, Electrical Circle, Kattakada, the Executive Engineer, Electrical Division, Neyyattinkara, has accorded sanction for withdrawal of the excess amount collected from him to be refunded.

Analysis and Findings: -

The Hearing of the Case was done on 25/4/2012, at Paruthipara and Sri Ramesh Das, Advocate, represented the appellant's side and Sri. Vasudeva Pillai AEE, ESD, Blalaramapuram appeared for the respondent's side. On examining the Petition, the counter of the Respondent, perusing the attached documents and the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The first point is whether the consumer is eligible for interest for the excess amount remitted for filing the appeal petition before the Dy. CE, Thiruvananthapuram?

Based on the inspection of the Section Squad of KSEB, an assessment was issued to the appellant for an amount of Rs. 144000/- for unauthorized extension of Electric supply from a house connection No 6426 to the new building. The appellant had remitted half the bill amount and preferred appeal under Section 127 of IE Act 2003, and accordingly the Deputy Chief Engineer (Dy.CE), Electrical Circle, Kattakada, has finalized the appeal and ordered to revise the bill for unauthorized extension of 1 KW for a period of six months prior to the date of inspection. Accordingly the AE, ES, Kottukal, has revised the bill to Rs. 18000/- and the case stands closed. But it is complained that interest was not issued for the refunded sum. It is the rule that the excess amount collected from the consumer, if any, has to be refunded with interest, at a rate, as approved by the Hon Commission. Here, the respondent is seen to have collected excess amount, by way of 50% of the penal bill, and therefore it has to be refunded with applicable interest, from the date of collection of the said amount to the day of refund.

During the hearing conducted on 25/4/2012, the appellant has contended that he has the main grievance, relating to denial of connection to the old age home in time, for which he had submitted an application on 28/3/2011. The appellant claimed compensation for the delay occurred. According to respondent, the application for new connection can be processed only after settling the dispute and clearing the dues pending, between the petitioner and KSEB.

In the light of the rival arguments raised, Regulation 3(8) has to be looked into first. Regulation 3(8) of KSEB T & C of Supply 2005 reads as follows:

*Reg: 3 (8). The Board shall not be responsible for the delay, if any, in extending supply, if the same is on account of delay in getting statutory clearances, right of way, land acquisition, or the delay in consumer's obligation to provide necessary clearances, or payment of required cost of works as per clause 4 and security deposit as per clause 15 and 16 or for any other reasons beyond the reasonable control of the Board. In all such cases, the Board will take all reasonable steps to avoid delay.*

The appellant has extended supply from a domestic service to the newly constructed Building. This has resulted in the penalization of the consumer and a dispute over the allegation of unauthorized extension of supply and its penal bill was going on from 6/2010 onwards. When there are arrears in a consumer's premises, the new connection is provided only after closing the pending dues against

him. The Regulation 12 of Electricity Supply Code, 2005, restricts the application for a new connection in a premise, having dues of the previous consumer. The rule amended stipulates that the previous dues have to be deposited with the Licensee, before releasing a new connection, till the arrears are recovered from the original consumer. Here the appellant has purchased a house having electric connection and that electric supply was extended to his newly constructed building, Old Age Home, unauthorisely paving the way for a penal bill. The unauthorized extension was detected and a Case was going on and the appellant has remitted only a part of the bill was undisputed facts. The Case was settled, as per the Order of the Dy Chief Engineer, limiting the penal charges and adjusting the said dues by the appellant, in 8/2011. Hence it is certain that some arrears were outstanding against the consumer, when he applied for a new connection for the Old age Home, on 29.3.2011.

It is also noted that the Assistant Engineer gave notice to the appellant, intimating the dues and the difficulty to process the application for new connection before clearing the dues pending against him. In such a situation, the appellant should have brought the matter before the Dy. Chief Engineer, the appellate authority before which the dispute is pending and sought interim orders, if any, to get fresh electric connection. But no such action was seen taken from the appellant's side to that effect.

The appellant had filed the appeal against the penal bill of Rs. 1, 44, 000/- before the Dy. CE on 26/5/11 and he issued final orders on 24/8/2011. The order of Deputy Chief Engineer on the appeal was issued on 24/8/2011 and on the same day itself, the AE has asked the appellant to submit the application for the new connection. Hence I am of the opinion that there was no deliberate delay occurred either from the side of Dy. CE, in issuing the order on the Appeal filed or on the part of the respondent in processing the application for new connection.

#### DECISION: -

The rule restricts to provide fresh connection in a premise having old arrears. The new applicant for electric connection has either to clear the dues fully or has to deposit with the Licensee, supplying the electric power, the arrear charges excluding interest portion, till the same is recovered from the original consumer. In this case, a penal bill was issued to the consumer for unauthorized extension availed to the said building and an appeal petition was pending for decision before the Dy. CE. Here both the old consumer and the applicant for fresh connection are one and the same. The appellate authority (Dy. CE) has found the allegation of unauthorized extension as true but decided to reduce the penal charges, limiting the excess load availed. Hence it was established that, there was arrears pending against the appellant, while submitting the application for a new connection. The Asst. Engr. Kottukal, has also intimated the consumer, through letter dated 28. 3. 2011, the reason for not taking further steps on the application submitted for the new connection. As such I am of the view that the respondent has acted only as per rules and I do not find any dereliction of duty or deliberate attempt from the respondent's side, to cause delay in effecting the service connection, in time. Hence the grievance on that point is found devoid of merits and hence needs to be rejected.

Secondly, the respondent is seen to have collected excess amount, by way of 50% of the original assessed penal bill and the same bill was reduced by the Dy. CE, on filing appeal against the bill

before him. As such the consumer was refunded the excess amount accordingly. But the said amount has to be refunded with applicable interest, from the date of collection of the amount till the day of refund made.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of with the above directions ordered. No order on costs.

Dated the 15<sup>th</sup> of February, 2013.

ELECTRICITY OMBUDSMAN.

REF No. P/255/2011/1585 /Dated 15.02.2013.

Forwarded to

- 1). Rev: Fr. Benadine M Louis.  
Director, Annunciation Convent,  
Kidarakuzhy, VenganoorP.O,  
Thiruvananthapuram.
- 2). The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Balaramapuram, Thiruvananthapuram.

Copy to:

- (1). The Secretary, Kerala state Electricity Regulatory Commission,  
KPFCBhavanam, C V Raman Pillai Road,  
Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEB,  
VydyuthiBhavanam, Pattom, Thiruvananthapuram-4
- (3). The Chairperson, Consumer Grievance Redressal Forum,  
KSEBoard, Vudyuthi Bhavanam, Kottarakkara.