

STATE ELECTRICITY OMBUDSMAN
Pallikkavil Building, Mamngalam-Anchumana Temple Road
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024
www.keralaeo.org Ph.0484 2346488 Mob: +91 9567414885
Email:ombudsman.electricity@gmail

Appeal Petition No: P/299/2012
(Present T P Vivekanandan)

APPELLANT : Sri. Mani C,
Velmudi Quarters,Grahamsland Estate,
Korandakad, Munnar, Idukki Dt.

RESPONDENT : The Senior Manager,
Engineering Dept.,M/s KDHP Co. Pvt. Ltd.,
Munnar, Idukki Dt.

ORDER.

Background of the case: -

The Respondent represents the Licensee, M/s KDHP Co., who supply electricity in the Munnar Area and the appellant is said to be a former employee of the Licensee. The appellant while working with M/s KDHP Co. was allotted a Quarters (Quarter No. XIII/233 of Devikulam Panchayath) and was residing in it, with the disputed electric connection obtained from the respondent. It is alleged that the employment of the appellant in M/s KDHP Co. was terminated and a labor dispute is going over the same. Meanwhile, when the Licensee tried to evict the appellant from the quarters, he got an order of Injection from Munsiff Court, Devicolam, under OS No.104/2002, and is staying there on its strength. It is alleged that the electric connection to the said Quarters was disconnected in the year 2002 without issue of notice. Though the party filed a complaint before the Consumer Disputes Redressal Forum, Idukki, against the disconnection, it was not allowed. Then the appellant preferred a complaint before the CGRF of M/s KDHP, Munnar, in which the CGRF passed its order allowing reconnection, but with a condition that the appellant has to execute an undertaking/agreement, vide order dated 24/12/2010. The appellant had also submitted his petition before the Hon Chief Ministers Complaint Redressal Forum named 'Sutharya Keralam' which was redirected to District Collector, Idukki, for enquiry and disposal. The Addl. District Magistrate, Idukki, after hearing the parties, issued order No. E10-26330/2010 dated 9/12/2011, confirming the orders of the CGRF, KDHP. The appellant had filed a review application against an apparent error in the said orders and the same is still pending for disposal. Aggrieved by this order of CGRF, KDHP, the appellant has filed this appeal before this Authority on 8/8/2012.

Arguments of the Appellant:-

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. The main contentions of the Appellant in the Petition are the following.

The appellant has received an unsigned photocopy of a letter during February 2012, in which no

address of the appellant or respondent or date was mentioned. Based on this, the appellant appeared before the 1st respondent, whom directed him to meet the Chairman, CGRF, KDHP and he insisted for signing an agreement that was kept with him. Since it was found detrimental to the very claim of this appellant, based on facts and evidences, he did not sign it. The power connection has not been restored even now.

Another contention raised by the appellant is that, it is now over 10 years since the plight of the appellant has started and is not yet redressed. The family of the appellant consists of six members (appellant and his wife, two children studying in school and parents, who are aged and sick). The quarters under reference is a Line room, without any means of sun light from outside and even on a normal day, electric power is required. There is no ventilation or exhaust system equipped to it and the family is forced to use kerosene, purchased in open market at a very high price, since supply of Kerosene under the Ration card is not available, for those living in the 'quarters', comes under the category "Electrified". The appellant's wife is under treatment due to breathing problems and other connected ailments. The studies of the children are also adversely affected.

The respondent has no right under the provisions of Indian Electricity Act and Regulations made there under to utilize the license given for the supply of electricity in Munnar area, for their punitive actions or for their personal gains and they are bound to comply with the rules in force. Here there is criminal violation, unfair practices and illegalities committed and hence are bound to compensate the loss sustained to the appellant, which quantifies to Rs.200/- per day, apart from other liquidated damages.

Another contention is that the CGRF, KDHP Co. in whom the power conferred by the statutes, to be exercised judiciously and without any favoritism to any one rests, have committed dereliction and grave lapse of duty and have misused the said power for personal gains and in order to please the employer/superiors, have suppressed material facts and hence is responsible and liable jointly and severally.

Arguments of Respondent: -

The respondent was directed to file detailed statement of facts on the points raised by the appellant. But the respondent has submitted the following remarks only.

According to them, the above case is in favor of the petitioner only. As per the order of CGRF, KDHP, they have made an agreement format, which was enclosed for perusal of this Authority. The respondent also submits that since the petitioner has refused to sign the same, the power supply was not restored.

Analysis and Findings: -

The Hearing of the case was conducted on 19/3/2013, in my chamber at Edappally, and Mr. Mani C, the Appellant and Sri. V Mohan Kumar, the Counsel for the appellant, appeared for their side and presented their arguments. The respondent informed their inconvenience and sent a request for adjournment to another date for hearing. Accordingly the next hearing was done on 4/4/2013 in my chamber at Edappally and Mr. Mani C, the Appellant and Sri. V. Mohan Kumar, the counsel were present and Sri. D Nelson, Junior Technical Officer, KDHP Co., represented the Respondent's side. On perusing the Petition, the remarks of the Respondent, the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and

conclusions leading to the decisions there of.

The appellant has raised two issues in this appeal which are as follows;

1. To provide reconnection of power supply to the quarters occupied by the appellant, and
2. To compensate the loss sustained by the appellant due to the illegal disconnection of power supply by the respondents.

In this case, the respondent has not put forward any strong contentions or submitted any valid grounds to defend their case. Instead their only demand is that once the appellant agrees to sign an Agreement form, prepared by the Licensee, they are willing to reconnect the supply. The agreement format describes the appellant as a personal servant to a Manager of M/s KDHP Co. to which the appellant reacts strongly against. It is a fact that a labor dispute is going on between the appellant and the Licensee, M/s KDHP Co. for quite some time and at present the appellant is not engaged for any work by the Co. In such a situation, the coercive attempt by the Licensee to get an undertaking from the appellant to get the reconnection of his electric service, cannot be accepted. Even if the appellant is an occupant of the Co. Quarters, he cannot be denied the benefit of electricity as long as he is staying there, for other legal or personal gains of the Licensee.

Earlier, against the attempt of M/s KDHP Co. to evict him from the Company Quarters, the appellant has filed O.S. No. 104/2002 before the Munsiff Court, Devicolam and the Court has decreed restraining the Co. from forcibly evicting him and his family from the schedule building, till the Case is settled as per Law. It is said that, from October 2002 onwards, his electric connection was in disconnected condition and since then the appellant has approached various Fora like the CDRF, Idukki, the ADM, Idukki etc. for reconnection of electricity, but all failed. The main contention of the appellant is that the electric connection was disconnected on 24.10.2002 without following any due procedure and without issue of notice.

Since an industrial dispute raised by the appellant is still pending in the Court and the appellant has obtained an injection order against forceful eviction from the Company Quarters, under OS No. 104/2002 from Munsiff Court, Devicolam, I feel that the action of the respondent in disconnecting the electricity without observing rules and procedures is highly improper and irregular. Moreover, the respondent himself had filed OS 291/02 for evicting the appellant legally. In normal course, the respondent has to wait for further action, till the verdict of the Court is pronounced.

The appellant has preferred a petition before the CGRF, KDHP, Idukki, against the disconnection and also with the Chief Minister's Complaint Redressal Forum called Sutharya Keralam. The CGRF has passed its orders for reconnecting the electricity, provided, the petitioner executes an agreement/undertaking. The complaint filed before the Sutharya Keralam was disposed by the Addl. District Magistrate, Idukki, confirming the order of the CGRF, KDHP. The appellant fears that if he signs an undertaking/agreement, as prepared by the respondent, it will adversely affect his case of industrial dispute and hence he has declined to sign the same.

I also do feel that the stipulation insisted by the CGRF for such an agreement is unwarranted. There is no Rule or Regulations in the Electricity Supply Code or any provision in the Indian Electricity Act, 2003, to support the direction of the CGRF that the Consumer should sign an agreement, to get the reconnection of his electric service connection. Further, a reconnection of power supply will not give any merit to the appellant's labor case or other cases, as this subject

matter is a separate issue.

DECISION: -

The Respondent (Licensee) has not a contention that the Electric connection, provided to the appellant's quarters, has any arrears of electricity charges. Also the Licensee failed to explain why the supply was disconnected or has produced any documents suggesting the cause for such a drastic action. The CGRF, M/s KDHP Co., (the Licensee for Distribution of Electricity in the Munnar area) has held that the appellant is eligible for reconnection of electricity to his Quarters, disconnected by the Co. earlier. Once a decision is taken by the CGRF to give reconnection, as it has fully satisfied that the disconnection of the electric service was not in order, then it is not reasonable or justifiable to attach any conditions to the Order, for effecting the reconnection. There is no provision in the IE Act or in the Regulations made there under for such a stipulation of 'conditional reconnection' of electric service and hence I direct the respondent, to give the reconnection of the Electric supply to the appellant's Quarters, within 24 hours of the receipt of this order. The respondent shall not collect any fees from the appellant to effect the reconnection of his Electric service, as the disconnection was seen done without observing the rules in force.

The unlawful coercive step taken by the Licensee on the consumer, to enter into an agreement for getting reconnection of his electric connection, has to be viewed seriously.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent ordered. The Respondent is ordered to pay Rs.500/- (Rs five hundred only) as litigation costs to the appellant within 60 days of this order. Dated the 22nd of April, 2013,

Electricity Ombudsman.

Ref No. P/ 299/2012/ 1702/ Dated 23.04.2013.

Forwarded to

1. Sri. Mani C,
Velmudi Quarters, Grahams land Estate,
Korandakad, Munnar, Idukki Dt.
2. The Senior Manager,
Engineering Dept.,
M/s KDHP Co. Pvt. Ltd., Munnar.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission,
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSEB,
Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum,
KSEB, Power house Bldg, Cemetery mukku, Ernakulum-682 018.