

STATE ELECTRICITY OMBUDSMAN
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Appeal Petition No: P/281/2012

(Present T P Vivekanandan)

APPELLANT : Sri. Manilal C.P,
S/O Prabhakaran, Chethikkattil House
Chazhoor P.O. Thrissur

RESPONDENT :The Assistant Executive Engineer
Electrical Sub division, KSEB, Thriprayar,
Thrissur.

ORDER.

BACKGROUND OF THE CASE: -

The appellant, Sri C.P. Manilal, is a consumer under Electrical Section, Peringottukara and is running a small shop. His initial connected load was 150watts. The appellant submits that he had requested for load enhancement vide his letter dated 8/2/2010 and the AE returned his request with a direction to submit with 'Completion report' through a licensed wiring contractor. While so, the officials of the respondent inspected the shop of the consumer on 6/7/2010 and detected unauthorized additional load of 2506 watts. A penal bill as per Section 126 of IE Act, 2003, was issued to the consumer and he remitted the same in two installments in August and September 2010. Meanwhile, the KSEB had announced a voluntary disclosure scheme for those who wish to regularize their unauthorized additional load, vide order B.O.(FM)(GENL) No.1993/2010 dated 30/7/2010.The appellant demands refund of the penalized amount since he had already disclosed the additional load earlier and thereby claims the benefit of the voluntary disclosure scheme. The appellant had lodged a complaint before the CGRF, Ernakulum. The CGRF had dismissed the Petition on the ground that the bill issued by the respondent is in order and the petition is devoid of any merits. Aggrieved by this, the appellant has submitted this Appeal petition before this Authority.

Arguments of the Appellant: -

1). The appellant's contention is that he had installed a fridge in his premises of stationery shop as part of starting a bakery. Due to this enhanced consumption, he received a bimonthly bill of Rs.2000/- and because of this he had submitted an application dated 8/2/2010 for change of tariff in the section office. The application was returned by Sri. Surendran, then Assistant Engineer with a direction to submit with a completion report through the licensed electrical contractor. The appellant submits that this document may be considered as evidence. Meanwhile, on 6.7. 2010, a special squad from KSEB conducted an inspection of his shop and detected additional load in the premise of the consumer.

2). During the recent period, KSEB had issued voluntary disclosure scheme for regularizing the unauthorized additional load by consumers. The appellant claims that since he had already made disclosure of the unauthorized additional load on 8/2/2010, his connected load and tariff should be revised accordingly and penalization cancelled.

3). The appellant has raised another argument that after the remittance of the penal amount the Board regularized the additional load and changed the tariff without insisting the service of a licensed electrical contractor and certificate from him. According to the appellant, this action of the respondent is exploitation, cheating and denial of justice to consumers. He finally prayed to refund the penal amount of Rs.9671/- collected from him.

Arguments of the Respondent: -

The Respondent has filed the counter statement against the complaints contained in the Appeal Petition, stating that all the averments in the petition except which are admitted, are false and hence denied by him.

1). The appeal is not maintainable either in law or on facts. The Con. No 1937 is a commercial tariff connection and the registered consumer is Sri. Prabhakaran, father of the appellant. The registered connected load was 150 watts and tariff assigned was LT-VII B-, applicable for small shops. The Division squad of KSEB inspected the premise on 6/7/2010 and detected an excess load (than the sanctioned load) of 2506 watts. A mahazar was prepared at the time of inspection and a detailed notice was issued along with the penal bill.

2). The Board had proclaimed a voluntary disclosure scheme for regularizing the additional load connected (without sanction) of consumers, on 30.7.10 and an extension to this scheme was also announced on 30.9. 2010. The inspection on the consumer's premise was carried out before the announcement of voluntary disclosure scheme by the Board. The respondent denies the receipt of the application dated 8/2/2010 in the Section Office, said to be filed by the appellant, and also states that no Asst. Engineer named as Sri. Surendran, had worked at Peringottukara, Electrical Section office, during that period. Anyhow, the appellant states that the then Assistant Engineer had directed the consumer to submit a Licensed Wireman's test report for regularizing the excess load. This is the right advice as per rule 45 of Indian Electricity Rules, 1956 and Section 26 of the Terms and Conditions of Supply, 2005. The consumer is bound to submit the 'test report' to regularize the additional load as per rules.

3). Another contention of the respondent relates to the delay to regularize the additional load for a period from 23.12.2009 (date of Installation of new equipments) to 6.7.2010, the date of inspection. The reason pointed out by the consumer is non-availability of licensed electrician. But he had submitted test report of licensed wireman for regularizing the additional load to 1500 watts on 14/7/2010, within ten days after inspection. There was enough time before inspection to regularize additional load. As per section 51(4) of Terms and Conditions of Supply 2005, the regularization should be given effect from the date of collection of additional security deposit and other charges, if any.

4). The statement of appellant that the load was regularized without test report after remitting penal charge is not correct. The respondent has produced a copy of the test report.

5). The consumer's allegation that the inspection team ignored and neglected their requests even after showing the paper news about the extension of voluntary disclosure scheme. Voluntary disclosure scheme declared on 30.7. 2010 and inspection was done on 6.7.2010. This shows the argument of the consumer is wrong.

6). The appellant has no complaint about the inspection and findings thereon.

Analysis and Findings:

The Hearing of the case was conducted in my chamber at Edappally, Kochi on 24.7.2012. Sri. Sreedharan Therambil and Sri C.P. Manilal represented the appellants. They have not adduced any arguments other than that specified in their appeal petition and the counter dated 2.6.2012, to the statements of the respondent and requested to refund the penal amount of Rs.9671/- paid. Sri. P.K. Sudharman, Electrical Sub Division, Tripayar, represented for the respondent's side. On perusing the Petition, the counter of the Respondent, the documents submitted 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 was penalized for the detection of unauthorized additional load in his premise which was detected consequent to an inspection conducted by the Division squad of KSEB on 6/7/2010. The appellant had not disputed the findings in the mahazar and he remitted the penal amount in two installments. Earlier, he had approached the Electrical Section office with request for regularization of the additional on 8/2/2010. As his application lacks the required papers such as Completion report of the Wiring installation done by a 'licensed wiring contractor', the Asst Engineer (AE) directed him to resubmit the papers accordingly.

Since it is the rule that the wiring of additional loads and its Electrical installations Works should be done by authorized persons like Licensed Wireman only, the action of the AE is found to be in order and cannot be said as arbitrary in this regard. But the consumer had not taken any serious further action, as directed by the AE, till 6/7/2010, on which date an inspection was done by the Division squad. After that date, the appellant had taken immediate action to regularize his additional load by submitting the Completion Report and remitted the fees for the regularization of the additional load.

Here the appellant challenges the veracity of the test report produced by the respondent. The appellant denies that he had submitted any test report and claims that the regularization was done by KSEB itself without any test report. But as per rules, the regularization shall be given effect from the date of collection of additional security deposit and other charges. Regulation 26 of KSEB Terms and Conditions of Supply, 2005 reads as follows ".....A test report signed by a licensed wiring contractor should also be produced by the consumer along with his application for extension and alteration. The consumer should remit the testing fee" The Copy of the 'Application Form for service connection'-document produced by the respondent shows that the consumer has produced the Ownership certificate (dated 30.3.2010) of the building, issued by the Chazhur Grama Panchayath and also seen to have remitted the additional Cash Deposit of Rs. 1730/- for regularizing the additional load. Hence, I am inclined to believe the contention of the respondent that the consumer regularized the additional load on 6.9.2010, by submitting necessary papers and documents.

As per the statement of the appellant, he had disclosed the additional load in his premise vide his application dated 8/2/2010. The AE has directed the consumer what to do to regularize the extra load connected and has not taken any action against him for connecting additional load without sanction at that time. The consumer was given time to regularize his additional load and was also given advice on the rules in force. But he delayed the matter.

Here a point of question to be settled is whether a disclosure made by the consumer before the issuance of the circular for voluntary disclosure scheme by the Board has any legal validity? The cause of action on this appeal aroused only after issuance of the circular by the Board and it is the only ground for preferring the appeal by the consumer.

DECISION : -

From the analysis done as above and Findings arrived at, I decide as follows.

The appellant does not question the detection of additional load detected in his premise on 6/7/2010 and the penal amount assessed.

The appellant has stated in his petition before the CGRF that he has installed a Fridge as a part of starting a 'Bakery' and as such his energy consumption has increased substantially from his previous average energy use. He has also admitted that, though he engaged a Electrical wireman to prepare the papers necessary for submitting to KSEB, but there occurred some delay in completing it. Therefore, the Asst. Engineer's action in returning application for regularizing the additional load, in 2/10 for want of Wireman's Certificate is found justifiable. The contention of the appellant that there was dereliction of duty on the part of Asst. Engineer in regularizing the additional load is not found sustainable.

The copy of the wiring Completion report produced as document by the respondent, appears to be true, as it contains the ownership certificate and particulars of fees paid for regularizing the excess load. It is hard to believe somebody else will fabricate documents for regularization of excess 'Electrical load' with KSEB, without any benefit and also bear the fees for regularization.

The KSEB has announced a Voluntary Disclosure Scheme for regularizing the unauthorized connected Load of the existing consumers. It was a scheme intended to benefit those who are ignorant, of the necessity of informing KSEB, about their increased connected load, attached to the KSEB System. This scheme came into effect on 30.7.2010 and it has no retrospective effect and hence cannot be made applicable to an anomaly detected on 6.7.2010. Moreover, the KSEB officials has advised the appellant suitably also, when he approached the office during 2/2010, for increasing his connected load and thus was seen given an opportunity. Hence the plea of the appellant seeking the benefit under Voluntary Disclosure Scheme is not maintainable.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is dismissed as it is found devoid of merits. No order on Costs. Dated the 26th of April, 2013,

Electricity Ombudsman.

Ref No. P/ 281/2012/ 1712/ Dated 26.4.2013.

- Forwarded to :
1. Sri. Manilal C.P,
S/O Prabhakaran, Chethikkattil House
Chazhour P.O. Thrissur
 2. The Assistant Executive Engineer
Electrical Sub division, KSEB, Thriprayar,
Thrissur.
- Copy to:
1. The Secretary, Kerala State Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
 2. The Secretary, KSEB,
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
 3. The Chairperson, Consumer Grievance Redressal Forum,
KSEB,Power houseBldg, Cemetery mukku, Ernakulum-682 018.