

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/134/2015

(Present: V.V. Sathyarajan)

Dated: 26th November 2015

Appellant : Smt. Kavitha T.S.
Kottoor Veedu, Thumpodu,
Madavoor, Pallickal,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Kilimanoor, KSE Board Ltd,
Thiruvananthapuram

ORDER

Background of the case:

The appellant is a consumer with consumer number 17057 under Electrical Section, Madavoor. The gist of the grievance of the appellant is that she submitted an application before the respondents requesting to disconnect the supply to the shop room owned by her for carrying out the repair works. It is alleged that no action was taken by the respondent due to influence of the tenant who occupied the shop. Aggrieved by this, the appellant approached the CGRF, Kottarakkara with a petition in OP No. 1373/2015 which was disposed of with the following orders: "the respondent is directed to receive disconnection application and take steps for disconnection of the supply in due process of law within 30 days from this order." Against the above Order of the Forum, the appellant filed this appeal before this Authority.

Arguments of the appellant:

The appellant has submitted an application in the Section Office on 26-12-2014 for disconnecting the electric supply to the shop room in connection with some renovation works. A reply was received by the appellant from the Section Office without considering her request. This reply was issued under the influence of an illegal tenant who conducting a tea shop in the premises. Since the supply was not disconnected in time, the tenant could not be vacated from the shop and thereby she lost some financial gains as advance amount and monthly rent from the new tenant.

The appellant further stated that the shop was let out to one Sri. Nazeer on a rent agreement and the said tenant was working in a Gulf country. On returning this tenant from Gulf country, he vacated the shop and now the shop kept closed. The appellant is not satisfied with the orders issued by the CGRF. The relief sought for by the appellant is to take action against erring officials of the respondent against the loss sustained to her.

Arguments of the respondent:

The respondent has stated that on the basis of appellant's application for disconnection an enquiry was conducted and it is revealed that a hotel is functioning in the said premises and the tenant is remitting the electricity charges regularly without fail. As per the direction received from the CGRF, the appellant was requested to give evidence to prove that the present tenant is an illegal occupier. But the appellant has not furnished any satisfactory reply. The respondent argued that the provision under Regulation 146 of Supply Code, 2014 prohibits disconnection of supply, if the supply is being utilized and paid for by a lawful occupier of the premises.

The respondent has complied with the order issued by the CGRF and disconnected the supply on 22-06-2015 after issuing proper notice to the appellant. The appellant has not produced any court order or rent agreement as evidence to prove the date of expiry of rent period. If she produces any such evidences, the delay in disconnection of supply could have been avoided and timely action can be taken on her application for disconnection.

Analysis and findings

The Hearing of the case was conducted on 14-10-2015, in my chamber at Edappally. The appellant was absent during the hearing. Sri Chandran M, Assistant Executive Engineer, Electrical Sub Division, Kilimanoor represented the respondent's side. On examining the petition, the argument note filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

The appellant here is mainly aggrieved by the inaction of the respondent to disconnect the supply based on her request dated 26-12-2014. Further, the appellant is not at all satisfied with the reply given by the respondent directing to furnish the evidence to prove that the present tenant is not a legal occupier in the said premises. The relief sought for by the appellant in this appeal petition is to take disciplinary action for the failure to take action against the concerned officers of KSEB, on the application submitted by the appellant.

According to the respondent, if the appellant produced any court order or rent agreement as evidence to prove the date of expiry of rent period, action could have been taken timely on the application for disconnection. On examining the provisions in Regulation 146 of Supply Code 2014 it can be seen that ***"In case the consumer requests for disconnection of supply or for dismantling of service, while the supply being utilized and paid for by a lawful occupier of the premises, the supply shall not be disconnected and service shall not be dismantled."*** Here in the case the present occupier Sri Muhammed Hashim had requested the respondent not to disconnect the supply and expressed his willingness to remit the current charges without fail. On analysing the issue it can be noted that the submission of the application for disconnection was with an intention to evict the tenant from the premises. There is no provision to disconnect the supply to a premise in which the regular payments were made promptly by the tenant. Hence this Authority could not find any lapse or

negligence on the part of the respondent in this case. Moreover, the respondent had complied with the order issued by the CGRF and disconnected the supply on 22-06-2015.

On going through the documents it can be seen that there is no wilful negligence or delay on the part of the respondent to disconnect the supply to the appellant's premises. The other grievance of the appellant is to get an order for reconnection of the supply. Regulation 147 (4) of Supply Code, 2014, deals reconnection of supply, "***in case the supply is disconnected on the request of the consumer, the licensee shall give reconnection on the request of the consumer, within twenty four hours of the payment of all dues by the consumer.***" According to the above Regulation the appellant is eligible for reconnection subject to payment of all dues.

In the above circumstances, there is no need to examine the case in deep. The prayer of the appellant is to take disciplinary action against the officers of the licensee could not be entertained as this Authority has not vested with any such powers. Hence the only remedy available for the appellant is to approach the authorities of KSEB Limited, if so advised.

Decision

In view of the above discussions it can be seen that the request of the appellant to disconnect the supply has already been effected, this Authority do not want to interfere in the matter. As the appellant is eligible for reconnection as per Regulation 147 (4) of Supply Code, 2014, the respondent is directed to issue reconnection subject to payment of all dues. The appeal petition is hereby disposed of accordingly. The order of CGRF is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/134/2015/ _____ /Dated: _____

Forwarded to:

1. Smt. Kavitha T.S., Kottoor Veedu, Thumpodu, Madavoor, Pallickal, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, Kilimanoor, KSE Board Ltd, Thiruvananthapuram

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.