

**THE STATE ELECTRICITY OMBUDSMAN**

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APPEAL PETITION NO. P/025/2016

(Present: V.V. Sathyarajan)

Dated: 29<sup>th</sup> July 2016

Appellant : Sri. P.M. Varkey  
H. No. 426, Carborandum Road,  
South Kalamassery,  
Ernakulam 683104.

Respondent : The Assistant Executive Engineer,  
KSE Board Limited,  
Electrical Sub Division,  
Kaniyapuram  
Thiruvananthapuram.

**ORDER****Background of the case:**

Sri Ajith George Thomas is the registered owner of the domestic connection with consumer No. 7746 having a connected load of 3 kW and an agricultural connection with consumer No. 6757 having a connected load of 4 kW, under Electrical Section, Mangalapuram. The appellant, Sri P.M. Varkey is the power of attorney holder of Sri Ajith George Thomas. As per the request of the appellant the agricultural connection in the premises was disconnected on 17-05-2013.

On 30-04-2015, the appellant had submitted an application before the Assistant Engineer, Mangalapuram to disconnect the service connection in the premises with consumer No. 7746. Accordingly the Assistant Engineer inspected the premises on 11-05-2015 and found that the service connection is given to a three storied building which is occupied by one Sri Deepu and his family. The present consumer is paying the current charges regularly and no arrears are pending.

The respondent has informed the appellant that the request for disconnecting the service could not be effected without the concurrence of the

occupier of the premises who is the present user of electricity. So the appellant approached the CGRF seeking orders to disconnect the service connection. But the Forum dismissed the petition due to lack of merits and maintainability. Aggrieved by the decision of CGRF in OP No. 1665/2015 dated 11-03-2016, the appellant has submitted this Appeal petition.

**Arguments of the appellant:**

The arguments advanced by the appellant in his petition are the following.

The appeal petition is submitted for the safety of an 85 year old widow, mother of an NRI Sri Ajith George Thomas who is the registered owner of the service connection with consumer Nos. 7746 and 6757 in Electrical Section, Mangalapuram and for the safety of the electrical installation in the premises and for the prevention of theft of electricity for which a case No. 851/15 is registered by KSEB. Sri Ajith George Thomas (NRI) is employed in USA and his 85 years old widowed mother is the only person available in India who looks after the issues related to the above referred electrical connections. Hence I, P.M. Varkey (74 years) am the Power of Attorney to Sri Ajith George Thomas and I am staying at Ernakulam.

Taking advantage of the unfortunate situation, one Sri M.K. Muraleedharan who was an employee of the late husband of this widow and one Deepu B. who faced criminal charge for attempting to murder his father in Nedumangad Police Station and in Court and who was chased away by the Karakulam villagers trespassed to the ground floor of the 3 storied building situated in the plot with survey No. 407/7.1, 407/7.2, 407/7 in which the above referred consumer Nos. 7746 & 6757 exist. Sri Muraleedharan is a close friend of the Secretary of Kerala Police Officers Association and friend of many officers in KSEB. Details of the evidence for attempting to murder Sri Deepu's father and close association of Sri Muraleedharan with Police officers and KSEB officers are with me.

These criminals forged a lease deed which is marked as "A" and enclosed, presented in Police station which is marked as "B") and in KSEB ("C","D","E"). On 15-09-2012 Hon'ble Munsiff Court declared this so called lease deed as the forged one. (The copy of the judgment is marked as "F"). On 06-04-2016 Hon'ble High Court also declare this so called lease deed is invalid for several reasons (copy of the judgment is marked as "G"), Human Rights Commission enquired in detail to this forgery and ordered to arrest Sri Muraleedharan and police arrested him on 22-11-2013 (FIR 540/12) Human Rights Commission instructed Mangalapuram Police to take appropriate action in FIR 459/13 for looting the consumer No. 6757 and removing all the electrical items including 5 hp motor and pump and 2 hp motor and pump. Later the supply to the consumer No. 6757 was disconnected for safety reason and to prevent further theft of electricity.

Against the refusal of Assistant Engineer of KSEB also the appellant approached the Human Rights Commission and they directed as to approach CGRF. (Copy of the order is marked as "H"). The appellant approached the Hon'ble High Court for police protection for the 85 years old widowed mother and 74 years old Power of Attorney of Sri Ajith George Thomas and got the order. Again the appellant got police protection order for the Power of Attorney against the various attempt to murder him by these criminals (FIR 540/12, FIR 475/15, FIR 1175/15 of Mangalapuram Police Station). The copy of the order is marked as "I". Though there are 6 criminal cases against this team of notorious criminals for various atrocities like attempt to murder, looting the house, theft of electrical items etc. police arrested them only in 2 cases that also only after strict instructions from the Hon'ble Chairman of Human Rights Commission. This shows the bad influence of the criminals in police and the seriousness of suffering of appellant had from these criminals.

On appellant's request respected DGP of Kerala conducted detailed enquiry about the police action and report was submitted to DGP. In that report also the enquiry officer reported that in many cases police gave station bail to the criminals and allowed them to escape. They recommended to Rural SP, Trivandrum to reconsider these cases and if possible to arrest the criminals and give bail only from the Court. The evidence for the undue support for the criminals from the KSEB officers is as follows:

Even if the so called lease deed is a genuine one, the criminals are not to be considered as consumers of the con. No. 7746 & 6757 as they are situated in our house in Pallipuram Village (A copy of the Sale Deed which clearly shows that these two connections are in our building No. AP 5/192 in Survey No. 407/7.1, 407/7.2, 407/7 and it is highlighted in page No.6 of the Sale Deed which is marked as "J". Though the appellants repeatedly pleaded to the officers that the connections are in Pallipuram village and not in Andoorakonam village as claimed in the clause No. 1 of the so called lease deed, which is marked as "A", they didn't consider the request. They went on insisting their stand that the connections are in Andoorakonam Village (the order from Assistant Engineer dated 29-06-2015, the order from the public information officer dated 06-10-2015 and the order from respected Dy. Chief Engineer Electrical Circle (Urban) which are marked as "C", "D" & "E" clearly proves this fact).

Against the denial of the KSEB officers of various levels appellant approached CGRF (South) for justice as directed by Human Right Commission. But to appellant's great disappointment, not only they rejected the request but also insulted calling as stranger, the un-registered consumer etc. in the order. Also they blamed appellant that appellant didn't attend the hearing on 30-01-2016. In fact appellant didn't receive any communication regarding this. Instead of postponing the hearing in the absence of the appellant, they have concluded the case by releasing an order favouring the criminals as

recommended by the Kerala State Electricity Board officers. As a Senior Citizen of age 74 years of this state, I express strong objections to the irresponsible attitude of the KSEB officers by denying the genuine request of the consumers and encouraging the criminals to do all kinds of atrocities to poor consumers. No doubt only this kind of attitude of the officers are resulted in the loss of life of an average 309 people per annum in our state due to electrical accidents as reported in Newspapers(marked as "M"). Also the debt of electricity board went up to 5000 crores as reported again in newspapers. (Marked as "N").

Considering the fact that 74 years old Power of attorney of Sri Ajith George Thomas is staying in Ernakulam and in record he is the resident of the house and he stays in the house where the consumer No. 7746 exists whenever he visits Trivandrum he only to be consumer of No. 7746. Appellant is the lawful occupier of the consumer No. 7746 not the trespassed criminals the lawful occupier there. In fact the KSEB officers twisted the Clause 146 in Electricity Act, 2014 as "occupier means owner or any person". In fact the correct clause is the owner or the lawful occupier. The officers repeatedly tried to fool us and help the criminals by misquoting the clause 146 of 2014 which cannot be applied in the case of these criminals. It is a shocking reality for persons who are fighting against corruption and goondaism to note this kind of attitude of officers even up to the rank Deputy Chief Engineer. Not only they denied appellant's request for a temporary disconnection but they threatened that appellant will be held responsible for any accident or theft or any kind of mischief likely to be taken place in the construction No. 7746. This is highly objectionable and requests you to bring these officers before Law for taking this kind of illegal stands and cheating two very senior citizens of the State.

Hence the appellant requests for temporary disconnection of the supply to the consumer No. 7746 for the safety of human being, safety of equipment and prevention of theft of electricity.

**Arguments of the respondent:**

The respondent has filed the statement of facts against the averments raised in the appeal petition. The main contentions of the respondent are the following.

Mr. Ajith George Thomas, Chempakasseril, Kattachirakonam is having a three phase domestic connection (consumer no. 7746) with connected load of 3 kW as well as a three phase agricultural connection (consumer no. 6757) with connected load of 4 kW under Electrical Section, Mangalapuram.

Mr. P.M Varkey, father-in-law of Mr. Ajith George Thomas, is the power of attorney holder with the property where the said connections have been given. Upon request from Mr. P.M Varkey, the agricultural service connection to the premises of consumer number no. 6757 was disconnected on 17-05-2013 and the final reading at the time of disconnection is 2322.1 kWh. Mr.

P.M Varkey gave a complaint to the Assistant Engineer, Electrical Section, Mangalapuram, alleging power theft at consumer no. 6757 (agriculture) by consumer no. 7746. On 06-04-2015 the Assistant Engineer, Electrical Section Mangalapuram inspected the premises in the presence of Mr. P.M Varkey on the allegation of theft and found no such incident had ever taken place at the premises of consumer number 6757. A reply to this effect was given to the appellant by the Assistant Engineer and marked as EXBT -R1.

On 30-04-2015, Sri PM Varkey has given a request to the Section Office at Mangalapuram to disconnect the electric connection to the premises of consumer no. 7746. Based on his request, the Assistant Engineer inspected the premises on 11-05-2015 and found the service connection under question was given to a three storied building, which is occupied by one Mr. Deepu and his family. As per office records, the current charges to this premise was regularly being paid without any dues. On detailed enquiry about his occupancy, it is learned that currently a dispute is going on, on the tenancy rights on the property and the premises. Based on the inspection, the Assistant Engineer, Electrical Section, Mangalapuram given a reply vide EXBT -R2, in which it is stated that according to the Regulation 146 of Kerala Electricity Supply Code 2014, supply of electricity not to be disconnected when utilised and paid for by a lawful occupier of the premises."

In this connection, a petition was filed by Sri. P.M Varkey before Munsiff Court, Attingal vide IA no.1104/12 in OS no. 226/20122, a copy of which is marked as EXBT -R3. In order to ascertain the lawful occupier of the subject premises, the Assistant Engineer, Mangalapuram issued a disconnection notice to Sri. Deepu vide DB1/general/2015-16/51 dated 23-07-2015 (marked as EXBT -R4) to explain his legality in occupying the building against which, a reply was submitted by Sri. Deepu (marked as EXBT -R5). In his reply, it is stated that he is a worker in the farm owned by Sri Muraleedharan and also informed that there was an agreement between Sri Muraleedharan and Sri Thomas Mathai, in wherein it has stated that Sri Muraleedharan had leased the said premises from Sri. Thomas Mathai for agricultural purpose (a copy of the agreement received from Sri. Deepu is marked as EXBT -R6.)

As per the direction of the Deputy Chief Engineer, Electrical Circle (Urban) vide letter no. GB/M-51/3060/2015/677 dated 11-11-2015, service connection to premises of the consumer number 6757 was dismantled on 07-12-2015 and informed the matter to the appellant. As per Central Electricity Authority (Measures Relating to Safety & Electrical Supply) Regulation 13(4), the consumer shall also ensure that the installation under his control is maintained in a safe condition.

It is also brought to the kind attention before the Honourable Ombudsman that no case is registered by KSEB Limited in this regard, as alleged by the appellant in Para no 1 of the petition. In this connection, the Chief Electrical Inspector, Thiruvananthapuram issued a notice to Sr. P.M.

Varkey to keep the premises in a safe condition, a copy of which is marked as EXBT -R7. It is also submitted that the Sub Inspector of Police, Mangalapuram Police Station had given a reply under RI Act-2005 to Sri P.M. Varkey regarding the action taken against the subject matter, a copy of which is marked as EXBT-R8.

In view of the above, Board officials acted based only on the prevailing rules in Electricity Act, 2003, The Kerala Electricity Supply Code, 2014 and CEA Regulation (Measures Relating to Safety & Electrical Supply).

**Analysis and Findings: -**

The Hearing of the case was conducted on 18-07-2016 in my chamber at Edappally, and Sri. P.M. Varkey, the appellant himself appeared for his side and Sri Andrew Albert, Assistant Executive Engineer, Electrical Sub Division, Kaniyapuram represented for the respondent's side. On examining the petition and argument notes filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The main contention of the appellant is that his service connection with consumer No. 7746 provided to building No. AP II/237 owned by Sri. Ajith George Thomas, Chempakasseril, Kattachirakonam, which was not disconnected. Hence the appellant approached the CGRF with a prayer for disconnecting the above service connection. The appellant raised various contentions disputing the arguments of the respondent and the decision taken by the CGRF in this regard. The legal contentions raised by the appellant during the hearing conducted on 18-07-2016 are the following:

1. The liability arising out of such illegal action by the present occupier on the electric connection ultimately will cause liability to the appellant vicariously.
2. The lease deed agreement by which respondent gave the status of lawful occupier to Sri Deepu found to be forged one by the Hon'ble Munsiff Court, Attingal and invalid for many reasons by the Hon'ble High Court of Kerala.
3. The agricultural connection with consumer number 6757 was disconnected on 17-05-2013. The poultry farm run by Dr. Thomas Mathai and his family was closed on 18-04-2012 and even the shed of the poultry farm removed by the Panchayath on 23-06-2012.
4. There was theft of electricity by the present occupier. The appellant's contention is that before the disconnection of supply to the agricultural consumer no. 6757 on 17-05-2013, the average consumption recorded in consumer No. 7746 was only 26 units. After the disconnection of supply to consumer no. 6757, the consumption in 7746 shot up to 1515 units. From

this it is clear that energy was tapped from the low priced supply of 6757 to 7746 prior to 17-05-2013 and thus huge electricity theft took place.

According to the respondent, based on a request dated 30-04-2015 from Sri P.M. Varkey to disconnect the electric connection to the premises of consumer no. 7746, the Assistant Engineer inspected the premises on 11-05-2015 and found that the service connection under question was effected to a three storied building occupied by Sri Deepu and his family. As per office records, the current charges of this premise were regularly being paid without any dues and currently a dispute is going on, on the tenancy rights on the property and the premises. Accordingly, a reply was given to the appellant that as per the Regulation 146 of Kerala Electricity Supply Code, 2014, "supply of electricity not to be disconnected when utilised and paid for by a lawful occupier of the premises."

Regarding the allegation of theft of power, the Assistant Engineer inspected the premises on 06-04-2015 in the presence of the appellant and found no such incident had ever taken place at the premises of the appellant with consumer number 6757 and no case was registered by the respondent in this regard. The service connection to the premises of the consumer number 6757 was dismantled on 07-12-2015. Further, the respondent stated that as per Clause 13(4) of Central Electricity Authority (Measures Relating to Safety & Electrical Supply) Regulations, 2010, the consumer shall also ensure that the installation under his control is maintained in a safe condition. The Chief Electrical Inspector, Thiruvananthapuram issued a notice to appellant to keep the premises in a safe condition.

Regulation 140 of the Electricity Supply Code, 2014 says that ***"The licensee may disconnect supply to the consumer for such period as requested by the consumer under intimation to him". Further Regulation 146 reads as "Supply of electricity not to be disconnected when utilized and paid for by a lawful occupier of the premises - in case the consumer requests for disconnection of supply or for dismantling of service, while the supply is 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 the dispute pertains to the fact that the present occupier in the building is a lawful occupier or not?**

The judgment of Hon'ble High Court in OP(C) No. 911/2016 dated 06-04-2016 produced by the appellant established that there is a dispute between the appellant and Sri Murlaleedharan who is presently occupied the premises. The Hon'ble High Court directed the Munsiff Court, Neyyattinkara to rehear the application in OS No. 226 of 2012 and pass the appropriate orders. So it is clear that the dispute as to the legality of the present occupant is not finalized. In this background the Regulation 146 of the Supply Code, 2014 will apply to

this case. The present occupier is remitting the electricity charges without any failure and the allegation of theft of electricity is found not correct by the respondent. Hence there is no merit in the appeal submitted by the appellant praying for disconnection of supply to service connection with consumer No. 7746.

### **Decision**

In view of the discussions, it is clear that the dispute as to the legality of the present occupant is not finalized and the Hon'ble High Court in OP (C) No. 911/2016 dated 06-04-2016 directed the Munsiff Court to rehear and to pass appropriate orders. In the result the appeal is dismissed.

It is made clear that in the event of the appellant succeeding his case in the Civil Court, the appellant is free to approach this Authority or any other appropriate Forum for the reliefs claimed in this appeal, if he desires so. The order of CGRF in OP No. 1665/2015 is upheld. No order as to costs.

### **ELECTRICITY OMBUDSMAN**

P/025/2016/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. P.M. Varkey, H. No. 426, Carborandum Road, South Kalamassery, Ernakulam 683104.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Kaniyapuram, 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.