

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/036/2016

(Present: V.V. Sathyarajan)

Dated: 10th November 2016

Appellant : Sri. Greenol K.B.,
Green Nest,
Kalarikkal,
Kurumpilavu Post,
Thrissur 680564.

Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division,
Kalady, Ernakulam.

ORDER**Background of the case:**

M/s Atlas Gold Township Private Limited is having HT service connection with consumer code: 8/7135 under the jurisdiction of Electrical Section, Kalady, with a contract demand of 250 kVA and connected load of 1470 kW. Since the building is a multipurpose township, the tariff allotted was HT-IV commercial tariff. In the ground floor of the building there is reception area, parking area and above the ground floor there are 7 floors consisting 208 flats. At the ground floor there is an electrical room where 2 Nos. of transformers having a capacity of 750 kVA. Supply from this transformer has been extended through the distribution boxes to the panels installed at various floors of the building.

The appellant, Sri Greenol K.B, is the owner of flat No. 226 in the Atlas Celestial Park associated with Atlas Gold Township Pvt. Ltd., who has applied for a service connection under LT domestic tariff to his flat. But the respondent has denied the request and directed the appellant to submit scheme approval from the Electrical Inspectorate. Aggrieved against this, the appellant filed a petition before the CGRF, Ernakulam seeking remedy to his grievances. The Forum in its order dated 03-05-2016, disposed of the petition directing the respondents to effect the service connection to the appellant's flat

with immediate effect as per Regulation 56 of Electricity Supply Code, 2014, which deals with the methods to be adopted for giving single point supply and sharing of electricity charges in multi-storied building. Hence the licensee (respondent) is directed to comply with the provisions of the said Regulation particularly 56(2), (4), (6) and (9) and to give service connection.” Not satisfied with the above decision of CGRF, the appellant has submitted this appeal petition before this Authority.

Arguments of the appellant:

The main contentions raised by the appellant in his appeal petition are as follows:

The appellant struggled for about 4 years without electric power as the builder cheated all the 200+ flat owners especially the appellant, a poor Ex-Army Soldier and a senior citizen who was dreaming to live the remaining part of old age life peacefully in the flat bought with hard earned money by serving the hazardous frontiers. The project, 7 storied building with 200+ flats started in the year 2009 with an agreement to handover fully furnished flat within 18 months. But the builder and his people cheated them by not giving the flat in time and by not providing KSEB Electric connection until now. The builder also took money for service connection before the deed registration.

The builder also took money for association fund (approx Rs. 50,00,000 +) but not ready to handover the fund to the elected association. The builder Sri Ramachandran, Atlas Gold, is in UAE jail for cheque fraud case. Somebody on behalf of, knowingly or unknowingly to the builder, is manipulating the HT electric connection to make money. The builder informed many times that the HT connection is temporary for construction and will be changed soon. The appellant was reluctant to sign the deed till the last date without electricity service connection. But when all the others completed the deed then there was no option. Also the appellant came to know that the HT connection was taken after completion of the building in October 2014.

Once about four months ago on 3rd November 2015, the HT connection was disconnected by Assistant Engineer, Kerala State Electricity Board, Kalady for non payment of dues but reconnected on 3rd January 2016 without making any verification of the consumer ownership and the load. The appellant requested to Public Information Officer, Perumbavoor to provide information about the person who made the payment. But they simply said the office is not keeping such documents. The Public Information Officer did not give any information how to get the same. In view of the above circumstances, the illegal HT service connection must be disconnected immediately to provide LT service connections.

The appellant had a little doubt that somebody from KSEB supports the builder out of way to cheat appellant for unknown reason. From Deputy Chief Engineer to Assistant Engineer and the electrical contractor all support the builder by accepting false documents knowingly. The Atlas Gold Townships has only three flats or rooms in their name and all the remaining 200+ flats belong to different owners at the time to HT connection having a total load of 1470 kW. But, from the Deputy Chief Engineer to Assistant Engineer were accepting the full load of the 7-storied building as Atlas Gold Townships even though they know the reality.

The appellant made a complaint to Deputy Chief Engineer, Perumbavoor but no information about the action taken till now. Even though HT connection is working in the whole building Assistant Engineer, Kalady want to have scheme approval again from Electrical Inspectorate. Few flat owners in the building have gone through legal help. But the appellant is not a party in the court case. The appellant requests a favourable order as early as possible to help many poor people like the appellant to live in their flat bought with lifetime savings.

Arguments of the respondent:

The respondent has filed the statement of facts against the averments raised in the appeal petition.

M/s Atlas Gold Townships (India) Pvt Ltd., with Consumer code 8/7135 is an existing HT consumer under Electrical Section, Kalady having a registered contract demand of 250 kVA with connected load of 1470 kW under HT IV commercial tariff. Supply to the premises was disconnected on 04-09-2015 as per Regulation 138(1) (a) of Kerala Electricity Supply Code, 2014 due to non remittance of monthly current charges. The dues were remitted by the consumer and service was reconnected on 03-01-2016 as per the direction from Special Officer (Revenue).

Sri Greenol K.B, in January 2016, applied for electric connection (domestic) to his flat No. 226 in the Atlas Celestial Park associated with Atlas Gold Township Pvt Ltd., P.O Nayathode, under Electrical Section, Kalady. On verifying the application, it is learnt that the necessary documents required for giving service connection to high rise building was not provided with his application and hence the Assistant Engineer, Electrical Section, Kalady had given a notice dated 22-01-2016 to the applicant for submitting the details as per Regulation 49(5) & (6) of Supply Code, 2014 along with the application.

Meantime, Sri Greenol approached the Hon'ble CGRF and requested to disconnect the HT connection already existing in the premises of M/s. Atlas Gold Townships and to provide individual service connection to his flat. Subsequently, the Hon'ble CGRF had conducted hearings on 29-03-2016 and

22-04-2016. The KSEB Limited informed that, being a high rise building, KSEB Limited is ready to provide separate connections to all apartments subject to Regulation, 49(5) & (6) and Regulation 11(3) of Supply Code, 2014. Further the Hon'ble CGRF in its order No. CGRF-CR/Comp.151/2015-16/57 dated 03-05-2016 directed to effect electric connection to the appellant's flat as per clause 56(2), (4), (6) and (9) of Supply Code, 2014.

The appellant again approached the Assistant Engineer Electrical, Section, Kalady for providing service connection to his flat. But the application was incomplete and hence issued him a notice dated 09-05-2016 stating that his application can be considered after submitting the details as per Clause 49 (5) & (6) of Supply Code, 2014 along with the application. The same complaint is pending before the Hon'ble KSEERC. Similar petitions are also pending before Hon'ble High Court of Kerala in WP(C) No. 32153/15 and WP(C) 27140/15.

Analysis and findings

A hearing of the case was conducted on 03-08-2016 in my chamber at Edappally. Appellant Sri Greenol K.B. and Sri Babu Parakkot represented for the appellant's side. Smt. Sheeba I., Assistant Executive Engineer, Electrical Sub Division, Kalady and Sri C.K. Anandan, Assistant Engineer, Electrical Section, Kalady represented for the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, 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 facts disclosed before this Authority reveals that some flat owners and Atlas Celestial Park Apartment Owners Association had filed Writ Petition (C) 27140 of 2015 and WP (C) 6548 of 2016 before the Hon'ble High Court to direct Deputy Chief Engineer, Electrical Circle, Perumbavoor and Chief Electrical Inspector, Thiruvananthapuram to take necessary steps so as to enable the petitioners to complete electrification works of apartments and the building namely Atlas Celestial Park owned by the petitioners. It is also requested to change the tariff from HT commercial to LT IA domestic tariff without insisting the consent of the Executive Director, M/s Atlas Gold Townships (India) Private Limited, Angamaly and also permit the petitioners to make use of all the infrastructure facilities including the transformer installed for giving connection to the above building under HT commercial tariff, pending disposal of the Writ Petitions.

Accordingly, the Hon'ble High Court issued the following directions to be taken into consideration while implementing the judgment in the above referred Writ Petitions.

- i. The 3rd respondent, Chief Electrical Inspector, Thiruvananthapuram in W.P. (C).No. 27140 of 2015 shall take immediate steps to modify the existing agreement between him and the Kerala State Electricity Board so as to ensure that electric supply at LT-1A tariff is made available to the petitioners and other similarly situated apartment owners within the building in question.
- ii. In the modified agreement, the names of the apartment owners who require connection at LT-1A rates shall be separately indicated in a schedule and the said apartment owners shall sign as beneficiaries in the said agreement.
- iii. On the necessary agreement being entered into, the same shall be forwarded by the Electricity Board to the Electrical inspectorate for the purpose of their approval to the arrangement contemplated under the agreement.
- iv. The Chief Electrical Inspector, who is the 3rd respondent in W.P. (C) No. 6548 of 2016 shall, forthwith on receipt of intimation from the Electricity Board and, at any rate within a period of one month, inspect the building and suggest the measures to be taken to ensure that separate electric connection at LT-1A tariff is made available to the apartment owners, whose names are mentioned in the modified agreement referred to above.
- v. On receipt of the necessary sanction from the Chief Electrical Inspector, the petitioners in this Writ Petitions as also the person who are named in the agreement, who are desirous of getting a connection at LT-1A rates, shall do the needful, by way of incurring the incidental costs and expenses that are necessary for providing the electrical connection at LT-1A rates to their apartments. They shall also bear the cost of installation of the separate meters required in connection with the aforementioned arrangement.

From the averments and the documents produced it is found that a single point supply to multipurpose high rise building with a contract demand of 250 kVA under HT IV commercial tariff was issued in favour of M/s Atlas Gold Townships as per the energisation sanction issued by the Chief Electrical Inspector. As per the HT agreement No ECB/HT-686/2014-15 dated 31-10-2014 between Sri G. Harikrishnan, Director, M/s Atlas Gold Township Private Limited as the consumer and the Deputy Chief Engineer, Electrical Circle, Perumbavoor on behalf of licensee, the supply has been availed by the consumer. It is pertinent to note that the above said agreement is still in force and any further alterations can be effected only on request of the consumer. Hence individual LT service connection can be given after modifying the existing HT agreement incorporating the names of individual beneficiaries in

the existing HT agreement for which M/s Atlas Gold Townships Pvt. Ltd., has to prepare a revised scheme including the list of individual beneficiaries after modifying the existing HT agreement and submit the completion report for the issuance of energisation sanction. Though the Hon'ble High Court issued direction in this regard, which was not seen complied with by the Director, M/s Atlas Gold Township Private Limited. Individual beneficiaries should have independent ownership certificate for providing independent LT connection and the total load of the LT connections should be connected from an independent transformer.

Some of the owners of the apartments had approached the Hon'ble High Court and in the interim order Hon'ble High Court directed the third respondent in WP (C) No. 27140/2015 (M/s Atlas Gold Townships Private Limited) to take urgent steps to modify the existing agreement between the licensee so as to ensure that electric supply at domestic tariff is made available to the petitioners and other similarly situated apartment owners within the building in question. The Hon'ble High Court of Kerala has passed its judgment in WP (C) 27140/2015 and 6548/2016 together filed by some flat owners requesting for individual service connection to their flats directing the building owner of M/s Atlas Gold Townships, Chief Electrical Inspector and the licensee for taking steps to redress the grievance of the petitioners. **As per Regulation 15(4) (i) and (ii) of Kerala Electricity Supply Code, 2014 an approval from Electrical Inspector shall be obtained for the electrical installations in the case of HT or EHT service and multi storied building.**

During an inspection in the premises on 20-09-2016 it is found that in the ground floor of the building there is reception area, space for parking and hotel namely Vyshali. Above the ground floor there are 7 floors consisting more than 200 flats. At the ground floor there is an electrical room where 2 transformers were installed having capacity of 750 kVA. Supply from the secondary of the transformer has been extended through the distribution panels installed at various floors of the building. LT energy meters are installed in the panels from where supply to various rooms is extended from the first floor to seventh floor. The obligations of the licensee to supply on request are described in the Regulation 27 of Supply Code, 2014. **As per Regulation 27(1), the distribution licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in its area of supply and shall supply electricity to any person on his request in accordance with the provisions of the Act and of this Code.**

(2) The licensee shall, on an application in the proper form from the owner or lawful occupier of any premises located in his area of supply, give supply of electricity to such premises within the time specified in this Code if

a) The supply of electricity is technically feasible.

- b) The applicant has complied with the conditions specified in this Code and**
- c) The applicant bears the expenditure for providing supply and services as specified in this Code.**

Regulation 49 of Supply Code, 2014 deals with electricity connection to high-rise building, colony and to residential, commercial or industrial complex.

- 1) The expenditure for modification, upgradation and up-rating of the distribution system of the licensee executed, if any, exclusively for giving connection shall be raised from the applicants in the following cases.**
 - a) Colony developed by Development Authority or private builder or promoter or developer with a total load demand more than 1 MW.**
 - b) Domestic or commercial or industrial complex with multiple consumers with a total load more than 1 MW.**
 - c) High-rise buildings, irrespective of the load demand.**
 - d) A single consumer with a load demand above 1 MW.**
- 2) The total connected load of such colony or residential complex or commercial complex or high rise building shall, for the purpose of this Regulation, be the connected load computed as per the norms approved by the Commission, on the basis of area constructed or the load applied for whichever is higher:**
- 4) The development authority or the promoter or the builder or the developer or any other person constructs a colony or a residential complex or a commercial complex or an industrial complex or a high-rise building shall prepare and obtain approval from the Electrical Inspector, a detailed scheme of electrification of the entire colony or complex or high-rise building, with all necessary equipment namely transformer, Ring Main Unit (RMU) etc. and shall submit the same to the licensee along with application for service connection.**
- 5) The development authority or the promoter or the builder or the developer or such other person as the case may be, who constructs such colony or complex or high-rise building under the clauses (a), (b) and (c) of Sub-regulation 1 above, shall, at his cost, construct the required internal distribution network including the service line, transformer, switch gear etc. as per the detailed scheme approved by Electrical Inspector for receiving power from the licensee and for distributing it and shall hand over such internal distribution network up to and including the metering point to the licensee before commencement of supply of electricity.**

The relevant provisions for giving electricity connection to high rise building, colony and to residential, commercial or industrial complex are dealt with Regulations 49 (1) (c), (4) and (5) of Supply Code, 2014. As per Regulation 15 (4) (i) and (ii), approval from Electrical Inspector shall be obtained for the electrical installations in the case of HT or EHT service and multi storied building. In the instant case, the respondent issued single point supply to multipurpose high-rise building with a contract demand of 250 kVA and connected load of 1470.95 kW + 600 kVAr as per the energisation sanction of Electrical Inspectorate under HT IV commercial tariff as requested by the builder. It is revealed that some of the owners of the flat had approached the Hon'ble High Court and the Hon'ble Court issued interim order in this regard. But the appellant herein is not a party in the Writ Petitions. The Atlas Celestial Park Apartment Owners Association representing all the flat owners is a party in the Writ Petitions.

On a perusal of records, it is revealed that the Deputy Chief Engineer, Electrical Circle, Perumbavoor has taken proper action by addressing the Chief Electrical Inspector and the HT consumer with consumer code 8/7135 vide letter dated 10-05-2016 on the basis of the above judgment. In order to satisfy the demand of flat owners for separate LT connections to their flats, it is not essential to modify the existing HT agreement as the LT agreement can be executed between individual owners and the Assistant Engineer concerned on the basis of individual ownership certificate. Either the registered consumer or his authorized representative/Apartment Owners Association has to apply for independent LT connections with their total requirement of power. Energisation sanction from Electrical Inspectorate for approved drawing showing the details of independent beneficiaries separately metered and the same shall be shown in the "As fitted" drawing. As per the direction of Hon'ble High Court of Kerala, M/s Atlas Gold Township Pvt. Ltd. had to take further steps based on the approved scheme to provide separate service connection to flat owners.

In view of the common judgment of Hon'ble High Court in WP (C) 27140/2015 and 6548/2016, similarly placed consumers like that of the appellant were considered for giving the benefit of separate electric connection under domestic tariff. The appellant herein is also entitled for the same relief as ordered by the Hon'ble High Court even though the appellant is not a party to the judgment of the Hon'ble High Court. The appellant is also similarly placed consumer like that of petitioners before the Hon'ble High Court. So, a direction to the respondent to consider the request of appellant for providing separate service connection under LT domestic tariff to his flat as directed by the Hon'ble High Court in Writ Petitions (C) 27140/2015 and 6548/2016 will suffice to redress the grievance of the appellant.

Regarding the allegations against the KSEB officers and for taking disciplinary action against them, this Authority has no jurisdiction to entertain

such matters. The only remedy available for the appellant is to approach the higher authorities of the licensee, if so desires.

Decision

In the above circumstances the respondent is directed to provide separate service connection to the appellant's flat under domestic tariff without any delay after complying with the directions issued by Hon'ble High Court in its common judgment in Writ Petitions (C) 27140/2015 and 6548/2016. The order No CGRF-CR/Comp/151/2015-16 dated 03-05-2016 is modified to the extent as ordered above. No order as to cost.

ELECTRICITY OMBUDSMAN

P/036/2016/ _____ /Dated: _____

Delivered to:

1. Sri Greenol K.B., Green Nest, Kalarikkal, Kurumpilavu Post, Thrissur 680564.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Kalady, Ernakulam.

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.