

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/055/2016
(Present: V.V. Sathyarajan)
Dated: 19th December 2016

Appellant : Sri Sasidharan P. P.
Puthenpurayil House,
Keezhal P.O., Vatakara,
Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Vatakara, KSE Board Ltd,
Kozhikode

ORDER

Background of the case:

The service connection bearing consumer No. 15936, under Electrical Section, Vadakara South, was originally stands registered in favour of Sri Sasidharan P.P. The service was disconnected on 23-07-2015 due to non payment of electricity bill and consequently dismantled on 01-12-2015. The grievance of the appellant is that he was not issued a disconnection notice in writing, intimating about the grounds for disconnection. In addition to that, though the appellant had applied for a new service connection on 22-02-2016, the same was not processed timely and properly and delayed unnecessarily.

The appellant further stated that the indecent behaviour and utterance of abusive languages from the part of the concerned officials created a lot of difficulties and mental agonies while providing new service connection. Aggrieved against the undue delay from the part of respondent, the appellant approached the CGRF praying for compensation for the delay caused and to refund the amount towards the OYEC already remitted by him. But the Forum dismissed the petition vide Order OP No. 181/2015-16 dated 21-07-2016. Not satisfied by the decision of the Forum, the appellant has filed this appeal petition before this Authority.

Arguments of the appellant:

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. Further the appellant has adduced the following arguments. The service connection with consumer No. 15936 was given to him about 40 years back under OYEC scheme and the service was disconnected on 23-07-2015 due to nonpayment of bimonthly invoice dated 27-06-2015. Later, the respondent dismantled the service on 01-12-2015 without issuing dismantling notice. Even though the respondent argued that they had affixed the notice in the appellant's premises it was not in the presence of two independent witnesses as in the case of the consumer who refused to receive or avoided receiving the notice.

Another contention raised by the appellant is that how the licensee can accept the amount remitted through online from a consumer whose service was dismantled on 01-12-2015. The appellant argued that the Forum was prejudiced, predetermined and has taken a partisan view and did not bother to consider the merits and demerits of the case. Thus the Forum denied justice to the appellant. The respondent dismantled the service connection even without adhering to the procedures prescribed for dismantling a service connection and due to this the appellant sustained loss of an amount of Rs. 10,000.00 and hence requested to quash the order of the Forum and to award compensation for the same.

Arguments of the respondent: -

The respondent has submitted the statement of facts against the contentions raised by the appellant.

The application for new service connection was received on 22-02-2016 from the appellant, but it was seen incomplete. The appellant remitted the application fee on 29-02-2016 and submitted the documents except agreement and photo. On 02-03-2016 the appellant came to the Section Office as directed by the respondent and on verification of documents and application, it was realized that no agreement has been submitted by him. Hence he was directed to remit the amounts after submission of the agreement. The respondent denied any misbehavior from the part of the officers as alleged. The officers had not harassed the appellant intentionally or not caused any delay in giving the connection. The appellant was given connection on 08-03-2016 after submitting all the documents by him.

Analysis and Findings: -

A hearing of the case was conducted in the Court Hall of CGRF, Northern Region, Kozhikode on 29-11-2016. The appellant, Sri P. P. Sasidharan and the respondent, Sri K.P. Suresh, the Assistant Executive Engineer, Electrical Sub

Division, Vadakara were present and they argued the case on the lines stated above. On a consideration of the facts and circumstances of the case as also the submissions and arguments made by both parties, this Authority disposed of the petition with the following directions.

The appellant's contention is that though his application dated 22-02-2016 was incomplete, the reason for not taking any action till 29-02-2016 by the Assistant Engineer was not furnished. It is alleged that the Assistant Engineer simply kept the application for a period of one week and allowed to remit application fee only on 29-02-2016. As directed by the Assistant Executive Engineer, the appellant attended the office on 02-03-2016 for remitting the cash deposit and then only the Assistant Engineer intimated that the application was incomplete. Accordingly, the appellant was directed to submit service connection agreement for taking further steps on his application. Hence the appellant argued that the failure on the part of respondent to take appropriate action has caused a delay of 11 days for processing his application.

Refuting the above contentions the respondent stated that an incomplete application was received on 22-02-2016 and the appellant was allowed to remit the application fee on 29-02-2016. When the appellant attended the office on 02-03-2016 to remit cash deposit as per the direction of the Assistant Executive Engineer, then only the Assistant Engineer realized that the service connection agreement was not attached along with the application. Hence the appellant was directed to submit the service connection agreement. Accordingly the appellant submitted the required documents and effected service on 08-03-2016. The respondent also denied that any misbehavior, any harassment or any delay caused in giving service connection to the appellant.

The complaint of the appellant revolves around two aspects. One with respect to the procedures adopted while dismantling of service of the appellant. The second aspect is delay caused for issuing new service applied for. With respect to the second issue, it is true that the respondent has not taken due care and diligence while dealing with the application submitted by the appellant for new connection on 22-02-2016. The relevant provision contained in Regulation 76 of Supply Code, 2014 which is extracted below.

76 – Processing application for new service connection - “On receipt of application form for new service connection, the licensee shall verify the application form along with enclosed documents, and if found deficient prima facie, shall issue a written intimation on the spot as far as possible, regarding the deficiencies of the application.”

In fact, the respondent permitted the appellant to remit the application fee on 29-02-2016. But even then the respondent failed to note the defect of not providing service connection agreement along with the application. This is

admittedly a violation of provisions contained in the Regulation 76 of Supply Code, 2014. But, taking note of the entire issue this Authority is of the considered opinion that there is no deliberate attempt from the part of respondent for delaying the new service because the appellant was given service connection on 08-03-2016 i.e., within a period of 16 days of submission of application.

Regarding the first issue it is essential to look into the provisions contained in Regulation 139 of Supply Code, 2014 which is extracted below.

139 – Procedure for disconnection – The licensee shall in case of disconnection proposed on the grounds mentioned in Clauses (a) & (b) of sub regulation (1) of Regulation 138 above, issued a disconnection notice in writing as per Section 56 of the Act, with a notice period of not less than 15 clear days, intimating the consumer about the grounds for disconnection and directing him to pay the dues with penal charges within the notice period.

(2) If the consumer fails to remit the dues within such notice period, the licensee may disconnect the service of the consumer on the expiry of said notice period, by cutting off the supply in the manner as the licensee may deem fit.

(6) The licensee shall, after disconnection on the grounds mentioned in sub regulation (1) of Regulation 138 give intimation to the consumer as per format given in Annexure 18 to the Supply Code, 2014, to remove the cause of disconnection within 45 days, failing which the supply may be dismantled.

The evidence shows that there is deficiency on the side of respondent in complying with the statutory provisions before disconnecting a service. If the respondent adopted the mandatory procedures, the appellant ought to have been taken steps for not dismantling the service provided to his premises. The version of the respondent that they affixed the notice on the premises of the appellant cannot be admitted since the respondent failed to serve the notice as per Regulation 175 of Supply Code, 2014. While affixing the notice at a conspicuous place on the premises of the consumer should be in the presence of two witnesses and photographing the notice or publication of notice in daily newspaper commonly read in the concerned locality to be kept on record by the licensee as per Regulation 175 (2) of Supply Code, 2014.

Hence regarding the first issue it is open to the appellant to approach the licensee for appropriate relief including compensation as claimed in this appeal. It is also made clear that the appellant is left open to approach appropriate officer of the licensee under Section 57 of Electricity Act, 2003 for award of compensation, if so advised.

Decision

In view of the above findings, the appeal is disposed of leaving open the claim of compensation for dismantling the service provided with the appellant's premises with consumer No. 15936 without complying with the mandatory provisions in Regulation 139 of Supply Code, 2014. The order of CGRF in OP No. 181/2015-16 dated 21-07-2016 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/055/2016/_____ /Dated:_____

Delivered to:

1. Sri Sasidharan P. P., Puthenpurayil House, Keezhal P.O., Vatakara, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vatakara, Kozhikode

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, Gandhi Road, Kozhikode