

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/083/2016
(Present: V.V. Sathyarajan)
Dated: 06th February 2017

Appellant : Smt. Aysha W/o Moosa,
Naduvil Valappil House,
Mukkala, Maranchery P.O.,
Malappuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Ponnani,
Malappuram

ORDER

The appellant, Smt. Aysha, is a domestic consumer with consumer number 6736 having a connected load of 200 Watts under Electrical Section, Purangu. On 29-05-2016 an inspection was conducted in the appellant's premises, had detected that the service wire was directly connected to the output of the meter and the actual connected load of the premises was found as 2205 Watts. Based on the inspection, a penal bill for Rs. 40,309.00 was issued to the appellant after disconnecting the supply and initiated proceedings for theft of electricity as per Section 135 of Electricity Act, 2003. So, the appellant filed a complaint before the CGRF. It is alleged that the outsiders who had personal grudge against the appellant on certain issues had committed the offence. The appellant also suspect one line staff of KSEB in this case who demanded bribe for rectifying the supply disruption in the premises.

According to the respondent, the issue of penal bill is with respect to an assessment for theft of electricity as per Section 126 and 135 of the Electricity Act, 2003 and the CGRF is barred from entertaining such complaints in view of Regulation 2 (1) (f) (vii) (1) of the KSERC (CGRF and Electricity Ombudsman) Regulations, 2005. Hence the Forum held that it was improper to entertain the complaint. Aggrieved against the said order of the Forum, this appeal petition was filed.

Hearing of the case was conducted on 04-01-2017 in the Court hall of CGRF, Kozhikode. Sri. Moosa M represented for the appellant. Sri. Abhilish V.S., Assistant Engineer in charge, Electrical Sub Division, Ponnani appeared for the respondent. On a detailed analysis of pleadings and documents produced by both sides the question arose in this case is that whether the appeal petition filed before this Authority is maintainable or not.

On a perusal of the documents it can be held that admittedly electricity bill raised by the licensee against a consumer for unauthorized use of electricity under Section 126 of the Act is specifically excluded from the scope of "complaint". On the other hand, electricity bill raised on allegation of unauthorized uses, which include use of power for the purposes other than mentioned under the tariff under which connection is given, is an order specifically appealable under Section 127 of the Act, which is excluded from the scope of "complaint" covered by Regulation. When Regulations specifically exclude the jurisdiction of CGRF on all disputes pertaining to the bills raised under Section 126 of Act on allegation of unauthorized use, the only remedy available to the appellant against such bill is to file an appeal under Section 127 before the Statutory Authority. So the observation of the CGRF in its order dated 30-09-2016 that to dismiss the petition as it lack jurisdiction can be justified.

The Section 127 (I) of Electricity Act reads as follows.

"(1) Any person aggrieved by a final order made under Section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed."

Instead of filing appeal before the aforesaid Statutory Authority, the appellant herein approached the CGRF against the bill raised under Section 126 of Electricity Act, who has no jurisdiction to entertain such complaints. Therefore, it only appropriate that the appellant should be allowed to raise the aforesaid grievances before the Statutory Authority under Section 127 of the Act to Appellate Authority. The appeal petition is rejected as not maintainable under Sub Clause (vii) (I) of Clause 2 (f) of the (CGRF & Electricity Ombudsman) Regulations, 2005.

Decision

In short, the appellant herein is not entitled to file a complaint before the CGRF and this Authority against the bill raised under Section 126 of Electricity Act. If she had got strong argument against the disputed bill, she ought to

have raised the same before the Appellate Authority under 127 of the Electricity Act. Such a course is the only remedy available.

In the above circumstances, this Authority is of the firm view that the appeal petition is not maintainable. It is left open to the appellant to appeal before the Appellate Authority under Section 127 of the Act, 2003, if desires so within 30 days from the date of receipt of this order. No order as to costs.

ELECTRICITY OMBUDSMAN

P/083/2016/ _____ /Dated: _____

Delivered to:

1. Smt. Aysha W/o Moosa, Naduvel Valappil House, Mukkala, Maranchery P.O., Malappuram.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Ponnani, Malappuram.

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