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APPEAL PETITION No. P/082/2016  
(Present: V.V. Sathyarajan)  
Dated: 16<sup>th</sup> February 2017

Appellant : Sri. Muhammed Rafi  
S/o Alavikutty,  
Thiruvakulathil,  
Anandavur,  
Malappuram

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

**ORDER**

**Background of the case:**

The appellant, Sri Muhammed Rafi, had submitted an application for service connection before the Assistant Engineer, Electrical Section, Thirunavaya, Malappuram, on 13-11-2013. He remitted the application fee and also paid Rs. 1,850.00 as cash deposit and OYEC charges. The grievance of the appellant is that the respondent failed to effect the service connection timely. Aggrieved by this, the appellant approached the CGRF (North), Kozhikode, with his petition dated 30-05-2016. The CGRF disposed of the petition directing the respondent to take up the matter with the District Magistrate so as to effect the connection to the petitioner without further delay. Meanwhile, the service connection was effected on 21-11-2016. Thereafter the appellant filed this appeal petition before this Authority seeking compensation for the delay in effecting the service connection.

**Arguments of the appellant: -**

The main argument of the appellant is that as per the Standard of Performance prescribed, the respondent has the responsibility to give electric connection to a new applicant within specified days of registration of service connection and remittance of required fees. He argues that there was delay on the respondent's side in effecting the supply. But this fact was not considered by the CGRF for

awarding compensation. Even though the appellant has highlighted serious errors made by the respondents in failing to provide the connection, none of the said grounds were considered by the CGRF in a proper manner.

It is the responsibility of the licensee to take timely action against the construction of line through public road as per the provisions of Telegraph Act. But the respondent had not submitted any such application before the Additional District Magistrate. Moreover, the electricity was denied to the appellant on the basis of a letter which has no legal validity. There is no obstruction to provide service connection from the post 67/1 standing in the public road, but the respondent proposed service connection from post 67/2 which requires a property crossing. It is alleged that if the respondent has taken the matter with the Additional District Magistrate the issue could have been solved timely. The argument of the respondent that, orders from Additional District Magistrate is required for effecting the supply cannot be justified.

**Arguments of the respondent:**

The respondent has filed the following submissions.

The service connection in favour of appellant was registered under Electrical Section, Thirunavaya on 13-11-2013 and as per the estimate prepared, steps were taken to arrange the service connection. In the meantime, one Sri Mujeeb raised objections against providing service from post No. 67/1 and argued that the post is situated in a disputed property. Further, it is revealed that three Suits related to the above disputed property were pending before the Munsiff court, Tirur and Sub Court, Tirur. So, the respondent arranged to provide connection from another post No. 67/2, which was not accepted and the appellant insisted for electric connection from the post No. 67/1 situated in the disputed area. The respondent's contention is that as the appellant was not ready to accept the above proposal, the service connection could not be given to the appellant.

The appellant had taken up the matter with the Additional District Magistrate. The Additional District Magistrate has issued orders to effect connection from the post No. 67/1 and accordingly the service was effected. As the appellant has not submitted any documents to prove the posts 67/1 and 67/2 erected are in public roads, but service connection from post No, 67/2 can be effected through the appellant's property.

The appellant also filed a complaint before the CGRF in OP No. 34/2016-17. During the hearing the appellant agreed to effect connection from post No. 67/2 and the Forum orally directed the respondent to effect the connection from post No. 67/2. Accordingly the respondent arranged to give connection from post No. 67/2, but the father of the appellant, Sri. Alavikutty objected and insisted to take connection from post No. 67/1. The respondent contended that no intentional delay or purposeful dereliction of duty was committed from his side.

As per Regulation 86 (3) of the Kerala Electricity Supply Code, 2014, the KSEB Limited is not liable for the delayed service connection. "The Licensee shall not be responsible for the delay, if any, in extending supply if the same is on account of problems relating to right of way or land acquisition, or court order or any delay on account of causes or force majeure conditions, over which the licensee has no reasonable control." Therefore the respondent prays this Authority that he cannot be blamed for the delay in effecting the service in time.

**Analysis and findings:**

Hearing of the case was conducted on 04-01-2017 in the Court hall of CGRF, Kozhikode. Sri Rajan T represented the appellant. Sri E.T. Murali Mohan, Assistant Executive Engineer, Electrical Sub Division, Alathiyur appeared for the respondent. The respondent intimated that the grievance of the appellant was redressed since the service connection was effected on 21-11-2016 from the post No. 67/1. This fact was also reiterated by the appellant. So, there is no need for any further adjudication of the issue. The only question arose for consideration is with respect to the awarding of compensation for the alleged delay on the part of the respondent in providing the service connection in time. This fact is to be decided based on, whether there was any willful delay or any deliberate deficiency of service from the respondent's side warranting such penalization.

The records produced before this Authority reveals that there is no dispute regarding the date of submission of the application for new electric connections by the applicant, i.e. 13-11-2013 and the connection effected only on 21-11-2016. It is observed by the CGRF that the licensee has not initiated any steps to refer the matter before Additional District Magistrate, Malappuram even if the issue is pending for more than 2 years. According to the respondent the reason for delay was due to the objection raised by one Sri Mujeeb as the post No. 67/1 is located in the disputed area and 3 cases were pending in the Courts. Even though the licensee was ready to effect the supply from the post No. 67/2, the appellant declined to accept this option.

While evaluating the rival contentions of the respondent it is essential to look into the following provisions in Supply Code Regulation 2014. Regulation 84 of Supply Code, 2014 reads as follows:

***(1) The obligation of the licensee to energise connection the connection shall arise only after receipt of full payment as the demand note.***

***(2) Before energising any connection, the licensee shall make sure that the appellant had complied with all requirements regarding safety and standards as per the law in force and that the approval for energisation is obtained from the Electrical Inspector and such other statutory authorities wherever necessary.***

**Regulation 85 deals with the timelines for releasing and energising new connection.**

**(1) the overall timeline for releasing new electricity connection, from the date of receipt of completed application and all the payments as per demand note shall be as specified hereunder in the cases where supply can be provided without any extension or augmentation to the existing distribution system.**

<b>Particulars</b>	<b>Maximum time</b>
<b>Inspection of the premises of the applicant and preparation of the cost estimates, and issuance of demand note including security deposit</b>	<b>Seven days from the date of receipt of application form</b>
<b>Giving the connection</b>	<b>One month from the date of receipt of application</b>

**Provided, that the priority for releasing connection shall be fixed with reference to the date of remittance of required expenses and security deposits and submission of the required documents.**

**Regulation 86 - Failure to comply with the time line. – (1) If any licensee fails to comply with the time frame stipulated under Regulation 85 he shall be liable to pay penalty as may be determined by the Commission in accordance with subsection (3) of Section 43 of the Act.**

- 1. The liability of the licensee to pay penalty under this regulation shall be without prejudice to the liability to pay compensation to the affected person as per the regulation notified under subsection (2) of Section 57 of the Act.**
- 2. The licensee shall not be held responsible for delay, if any, in extending supply if the same is on account of problems relating to the right of way or acquisition of land or court order or any delay on account of causes of force majeure conditions, over which the licensee has no reasonable control.**

On going through the records it can be seen that the respondent originally proposed the service from post No. 67/1 as it is found the shortest and technically feasible one. But, due to the objection from Sri Mujeeb, the respondent proposed to change to post No. 67/2 for giving service to the appellant. It is the duty of the respondent to take all efforts to provide supply as per the original proposal or an alternate arrangement mutually acceptable in order to redress the grievance of the appellant. But this was not seen followed in this case. Moreover, the applicability of Regulations 24 and 47 in this case was also not taken for consideration.

Considering the facts and circumstances of the case, this Authority finds that the issue is squarely covered in favour of the appellant to the extent stated above and the appellant is entitled to get compensation for the delay occurred for effecting the service connection. But, as this Authority is not empowered to award compensation in the first instance, it is left open to the appellant to approach the authorities of licensee for compensation as per rules.

### **Decision**

In view of the fact that the matter is settled I am not going into the merits of the rival contentions raised in the appeal. However, it is left open to the appellant to approach the authorities of licensee for compensation, if desires so.

In the above circumstances the appeal is disposed of as above. The order of CGRF in OP No. 34/2016-17 dated 04-10-2016 is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/082/2016/ \_\_\_\_\_ /Dated: \_\_\_\_\_

1. Sri. Muhammed Rafi, S/o Alavikutty, Thiruvakulathil, Anandavur, Malappuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Alathiyur, 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