

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 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/031/2017
(Present: A.S. Dasappan)
Dated: 15th June 2017

Appellant : Sri N.A.V. Abdulla
Banjuri Nivas,
Keloth,
Payyannur,
Kannur

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Payyannur,
Kannur

ORDER

Background of the case:

The appellant, Sri N.A.V Abdulla, Proprietor, Navab Printers & Publishers, Payyannur, Kannur registered as consumer No. 7661 in the jurisdiction area of Electrical Section, Payyannur is a 3 phase consumer with effect from 29-08-1990 in LT IV A tariff. The electric connection was disconnected on 27-03-2008 due to default in the remittance of monthly electricity bill. The appellant was issued with an arrear bill amounting to Rs. 28,513/- for the period from 03/2008 to 02/2014 and initiated revenue recovery proceedings against him. The appellant approached the CGRF, Northern Region, Kozhikode requesting to limit the arrear demand to six months. The CGRF has dismissed the petition on finding that the bill issued by the respondent was in order and the petition was found as devoid of any merits, vide its order OP No. 124/14-15 dated 07-10-2015. Aggrieved by the decision of CGRF, the appellant has submitted the Appeal petition before this Authority.

Arguments of the appellant:

The appellant had started a printing press by availing a bank loan under self employment programme. The appellant has availed electric connection to his printing press on 29-08-1990. The firm functioned in good condition till 2008 and thereafter the appellant forced to close the firm for a short period due to his illness. This caused very deep financial crisis and led to default of bank loan and recovery proceedings initiated by the bank. The respondent disconnected the supply on 27-03-2008 for making default of an amount of Rs.1,374/-. Till this period the appellant had regularly remitted the bill amount without fail. Though the appellant had requested to waive the minimum demand charges eligible for reopening the closed industrial units declared by the licensee, the licensee had not taken proper action to exempt the arrears and to give reconnection. The matter was brought to the notice of Chief Minister in his "Sutharya Keralam" programme and as directed by the Assistant Engineer over phone, the appellant remitted AF and additional deposit on 28-12-2011. Thereafter due to the laxity of the respondent, the connection was not reconnected and any written information was given to remit any arrears. It was informed by the Deputy Chief Engineer vide his letter dated 22-01-2013 that the minimum charges for the period from 03/2008 to 12/2008 were exempted, but the appellant not taken any steps for reconnection and not recommenced the firm, as per the conditions of the Board order and therefore his request for reconnection rejected. The respondent had not issued any directions to adhere the conditions in the Board order in this regard. The only possibility for reopening the unit is after getting the supply reconnected. The respondent purposefully denied justice by hiding the above fact. The respondent had not taken timely action on the application submitted by him and not issued any direction to rectify defects and to comply with conditions, if any, which caused the existing problems. The appellant has requested to set aside the recovery proceedings and the orders issued by the CGRF.

Arguments of the respondent:

The functioning of the press was discontinued in 2008 due to several reasons including financial crisis. The electric supply was disconnected on 27-03-2008 due to default in the remittance of demand notice for regular consumption. Dismantling was not effected since the premises was a closed industrial unit and the petitioner has requested for waiving fixed charges under the Govt. scheme for assisting sick Industries. It is not true that the licensee had not taken any steps to waive the minimum demand charges. As per the request of the petitioner, the matter has been taken up with the higher officials and the fixed charge of Rs. 3,102/- (from 03/2008 to 12/2008) has been waived to the consumer on 04/2010 vide No. DPC I /C 24-02/10/654 Dt:

24-03-2010 of the member (Transmission & Distribution) Kerala State Electricity Board intimated the same vide this No. BB-1/2010-11/19 Dated: 04/05/2010 of Assistant Engineer, Payyannur. But the petitioner neither remitted the balance amount due to board Rs.8700/- (CC 7164/+ S/c 1436 + RF 100) after waiving the FC within 15 days for effecting reconnection of the supply based on the direction received from the Executive Engineer, Electrical Division, Payyannur vide letter No. GB/waiver of MD/2010-11/21 dt-23-04-2010 and intimated the same . But the petitioner did not remit the balance due to the Board and also not submitted the test report. Hence the reconnection not effected. At the same time the petitioner again submitted an application for waiver of electricity due on 20.05.2010 .This application also forwarded to the higher office even if the petitioner violating all conditions in the above order.

On 28-12-2011 the petitioner remitted Rs. 25/- as Application fee and Rs.50/- as IF/TF vide Receipt No. 430936 and 430935 respectively. In accordance with that the connected load reduced to 1420 watts from 6030 Watts. On 11-12-2012 the consumer again applied for waiving minimum demand charge without fulfilling the conditions and formalities contained in the earlier order such as re-opening the sick unit and remitting the balance due amount and Deputy Chief Engineer of Electrical Circle, Sreekandapuram vide No DCE/SKPM /md/2012-13/2861 Dated 22-01-2013 intimated that the petitioner is not eligible for waiver of minimum demand on the ground that he didn't reopen the Unit and started functioning. The consumer requested for waiver of fixed charge cannot be admitted because the violation of conditions in the Board order No. BO(FB) GenI) No.2202/2012 (comml-11/MD Waiver/2012-13) Dated TVPM, 20-11-2012.

The petitioner did not take any actions positively for remitting Balance due to the KSE Board, the service connection at the premises was dismantled on 06-02-2014 and forwarded to the revenue recovery on 10-03-2014. The total due from 03/2008 to 02/2014 is Rs. 28,513/-

This may kindly be noted that the petitioner had neither remitted the balance amount nor open the Unit as per the order issued by the Member (T & D). The respondent humbly prays before the Honourable State Electricity Ombudsman to dismiss the petition.

Analysis and Findings: -

The hearing of the case was conducted on 08-06-2017, in the Court Hall of CGRF, Kozhikode. The appellant's side was represented by Sri N.A.V. Abdulla, and for the respondent's side by Sri Shiju K., the AE of Electrical

section, Payyannur. Both sides have argued the Case on the lines as stated above. On examining the Appeal Petition, the statement of facts of the respondent, the arguments of either side, perusing the documents filed and considering all the facts and circumstances of the case, this Forum comes to the following conclusions and findings leading to the decisions thereof.

The consumer defaulted payment of electricity charges for 03/2008 and the service was disconnected by KSEB in 27-03-2008. Though the supply was disconnected in 3/2008 the service connection was stated to be not dismantled since the premise was a closed industrial unit and the appellant has requested for waiving fixed charges under the government scheme for assisting sick industries. But the respondent is eligible for collecting the minimum charges from the consumer, for next six months after D/C in 3/08 only. Actually the service connection was dismantled after the disposal of the case on 06-02-2014, but the respondent does not deserve any merit to demand the minimum charges up to that date. It is limited up to 09/2008 only.

The point for decision is 'what is the amount due by the consumer to the respondent?'

The consumer himself agrees that the industry was running on loss and was not able to pay the electricity charges in time for 03/2008. The Board has disconnected the power supply, as per rules, in 27-03-2008 and dismantled the service connection only on 06-02-2014. The party is bound to pay the up to date current charge arrears as well as the minimum charges (fixed charges) even during the period of disconnection, to be eligible for getting an Electric connection reinstated so as to be a 'continuing Live consumer' all along the period.

On verifying the records submitted by the respondent and appellant, the following facts are revealed. The appellant had requested for waiver of minimum demand charges to consumer number 7661 and the Member (Trans & Distribution), KSEB, in his letter dated 24-03-2010, directed the Deputy Chief Engineer, Electrical Circle, Sreekandapuram to reconnect the service connection and to waive fixed charges from the date of disconnection (03/2008) to the date of reopening (12/2008). Accordingly as instructed by the Deputy Chief Engineer, the Executive Engineer, Electrical Division, Payyannur had given direction to the Assistant Engineer to effect reconnection after collecting arrear current charge from the consumer, vide letter dated 23-04-2010. In the letter dated 23-04-2010 of the Assistant Engineer, the appellant was demanded to pay an amount of Rs. 8,700/- (CC 7164 + SC 1436 + RF 100) towards arrear current charge from 2/2008 to 4/2010 after waiving FC 3/08 to 12/08 (i.e. Rs. 3,102/-) within 15 days after receipt of the said notice. On receiving this notice, the appellant again submitted an application for waiver of electricity dues, on 20-05-2010. On 11-12-2012 the consumer again applied for waiving minimum demand charge and Deputy Chief Engineer of Electrical Circle,

Sreekandapuram vide dated 22-01-2013 intimated that the appellant is not eligible for waiver of minimum demand on the ground that he didn't reopen the Unit and started functioning. The respondent dismantled the service connection on 06-02-2014 and initiated revenue recovery proceedings on 10-03-2014.

The action of the Assistant Engineer in demanding the current charges, SC and RF for a period from 2/2008 to 4/2010, after disconnection in 3/2008, is strictly against the rules. As per Regulation 25 (4) of Supply Code, 2005, "If the service connection stands reconnected for more than 6 months, the Licensee shall arrange dismantling the same on 15 days' notice and no charges shall be due to the Licensee for the period, which is in excess of six months from the date of disconnection". There was serious laxity on the part of the respondent in complying with direction issued by the Member, KSEB and dragged the issue for a period of six years.

It is reasonable that the respondent can raise claim for the energy consumed and the appellant is bound to pay the charges for the electricity he has used for the period of 03/2008. Moreover, KSEB can claim the fixed charges (minimum charges) for the next six months after disconnection date i.e. up to 9/2008. The respondent has furnished the dues as on 02/2014 as Rs. 28,513/-including the surcharge portion. Hence the revenue recovery proceedings has to be dropped and the current charge pending as on 27-03-2008 and minimum demand charges for next six months only need be collected from the appellant after adjusting the security deposit since appellant not required the service connection.

Decision

From the analysis done and the findings and conclusions arrived at, I take the following decisions.

I find total negligence and irresponsibility on the side of Board officials for which the consumer should not be held liable. The Board is duty bound to take appropriate action in time in the cases of disconnection, including issuing notices to the consumer. Hence the assessment done for period, 4/2008 to 2/2014, amounting to Rs. 28,513/-, is decided as not admissible.

Therefore, it is decided that the total assessment done by the Respondent, has to be revised and the respondent is directed to issue a fresh bill for current charge pending as on 27-03-2008 and minimum demand charges for 6 months from 4/2008 to 9/2008 and with thirty days time (due date) given for making the payment. No interest/surcharge is payable by the

consumer up to the due date of the revised bill as ordered now. It is also directed to take immediate action to drop the revenue recovery proceedings initiated against the appellant.

The CGRF order dated 07-10-2015 in complaint No. 124/14-15 of CGRF, Kozhikode, stands set aside. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/031/2017/ _____ /Dated: _____

Delivered to:

1. Sri N.A.V. Abdulla, Banjuri Nivas, Keloth, Payyannur, Kannur
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Payyannur, Kannur

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