

THE STATE ELECTRICITY OMBUDSMAN
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REVIEW PETITION NO. RP/02/2019 IN APPEAL PETITION No.
P/089/2018

(Present: A.S. Dasappan)

Dated: 12th April 2019

Review Petitioner : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Karunagappally South,
Kollam

Review Respondent : Smt. Shanima Ishak,
Managing Partner,
M.G. Roller Flour Mills,
Thevalakkara, Kollam

ORDER

Background of the Case:

The review respondent/appellant is the Managing partner of the M.G. Roller Flour Mill, an SSI Unit conducting flour making unit. The inspecting authorities of TMR Thirumala conducted a field inspection in the review respondent's/appellant's premises on 02.08.2017 and found that the PT Secondary RY and BY Voltages are low and hence the PT unit was suspected to be faulty and directed him to enhance the contract demand and to replace the PT unit with new PT of accuracy class 0.2 and to change CT with ratio 10/5 A to 15/5 A with accuracy Class 0.2S. The review petitioner has imposed penalty as 50% extra over the prevailing rate applicable both demand and energy for two months during which the appellant failed to replace the faulty metering component, and one month thereafter. The review respondent has challenged the penal bill before Consumer Grievance Redressal Forum in O.P. No. 94/2018 and the CGRF dismissed the petition vide order dated 05-11-2018.

Aggrieved by the order of the CGRF, the review respondent/appellant has submitted appeal petition against the orders of CGRF which was admitted in appeal no. 89/2018 and disposed of the

appeal by quashing the 50% extra imposed for three months over the prevailing rate applicable both demand and energy charge, vide order dated 27-02-2019. The review petitioner has filed this review petition against the orders of this Authority.

Arguments of the review petitioner:

The contentions of the review petitioner in the review petition are the following.

The review petitioner has adduced the argument that the submission of metering components was not made by the review respondent within the stipulated period of 2 months. The metering component was submitted to the TMR, Thirumala directly by the consumer on 25.10.2017 after a lapse of two months period. The review respondent has failed to submit the tested meter to the licensee for the replacement of the defective PT within the period of two months as stipulated under para 4 (d) part B of tariff conditions. It is also submitted that if the language of the above tariff condition is not distorted and the intention thereof gathered from the language used therein, the plain meaning of the words used do not restrict the responsibility of the consumer to either merely remitting the testing fee or submitting the meter without subjecting it to required testing.

The schedule of the miscellaneous charge in the Kerala Electricity Supply Code 2014 provides that the Consumer can entrust the meter testing either in the Electrical Section office or can directly submit the meter to the approved laboratory for testing. In the instant case, the consumer has voluntarily submitted the meter to the approved lab on 25.10.2017 for replacement of the defective meter/metering component.

The Ombudsman hasn't relied on the time line specified under Reg. 113 (5) of the Kerala Electricity Supply Code, 2014 for testing the meter when the consumer opts to purchase the meter. By virtue of the said regulation the licensee shall test and install the HT or EHT meter within a maximum of twenty days. As per the above regulation the TMR should have to install the meter duly tested on or before 14.11.2017, whereas the TMR has installed the meter on 09.11.2017 which is well within the statutory period of 20 days.

The Review Petitioner submits that regulation 174 and 175 of the Supply Code 2014 which necessitate issuance of notices detailing the time limit for the replacement of the meter has no relevance since the Review Respondent had entered into a service connection HT agreement bearing number 18/2015-16 with the KSEB Ltd. on 08.01.2016, wherein the consumer has agreed in para 9 (b) that the tariff applicable shall be

as per tariff notifications in force from time to time for the category of service shown in the schedule. It is also laid down therein that the tariff notification issued by the Kerala State Electricity Regulatory Commission for the Licensee from time to time shall form part of this agreement and this agreement shall stand modified to that extent.

Arguments of the Review Respondent:

The above petition to review the final order dated 27.02.2019 is not maintainable either in law or on facts. In the above referred final order passed by the Ombudsman, there is no error apparent on the face of the record. The attempt of the Revision petitioner for production of documents after the pronouncement of final order is unheard in common parlance. Moreover the letter dated 2.03.2019 is false fabricated document for the purpose of the above case and it is to be considered seriously. The appellant / review respondent in the above petition had remitted the testing fee on 21.10.2017 and based on the payment, the Assistant Engineer, Electrical Section, Thevalakara has issued a letter to the respondent to submitting the meters before the TMR, Thirumala. Copy of the said letter was already given to the Ombudsman on 26.02.2019. It is submitted that, 21.10.2017 being a Saturday and 22.10.2017 is a Sunday, on the next working day, that is 23.10.2017 Monday the review respondent/appellant has submitted one no. of TOD meter and 3 number of CT and 1 No. of PT for testing and certification before the TMR Division, Thirumala. This being the real facts the issuance of the letter dated 2.3.2019 by TMR Division Thirumala alleging that date of receipt of meters for testing from M/s. MG Roller Flour Mill, Thevalakara is on 25.10.2017 is a false fabricated document.

In the above matter the review petitioner / respondent in appeal did not give any notice to appellant granting two months time for replacing the faulty meters. Therefore there is no demand or notice to the appellant so far. Without any bonafides the review petitioner submitted that, "the consumer has remitted only the testing fees as per the schedule of miscellaneous charge which does not include the transportation cost with packing charge of Rs. 100/- per meter in addition to the testing fee" is an absolute false story. The respondent herein has paid Rs. 10/- and Rs. 1500/- for testing fee.

Analysis and findings

Hearing of the case was conducted on 04-04-2019 in the Court Hall of CGRF, Kottakkara. Smt. Sheeja Beegom K.B., Assistant Executive Engineer, Electrical Sub Division, Karunagappally South and Sri. Noushad A., Assistant Executive Engineer & Nodal Officer (Litigation), Electrical Circle, Kollam appeared for the review petitioner.

On examining the petition and the arguments from either side, this Authority comes to the following conclusions and decisions thereof.

This Authority has considered the arguments of the review petitioner. Many of the points raised by the review petitioner in the review petition are the points to be raised in the appeal petition against the orders of this Authority, if it is challenged in an Upper Court of Law. No glaring mistake or apparent errors on the face of record were pointed out by the review petitioner here. The arguments raised cannot be considered now for a review, as most of them are 'challenging the decision taken by this Authority'. However, this Authority wants to clarify the following points challenged under the 'review' petition.

The review petitioner has produced a document dated 2-3-2019 obtained from the Executive Engineer, TMR Division, Thirumala, after the disposal of the appeal by this Authority on 27-02-2019. This document is not admissible presently and hence cannot be considered as a mistake or error which is apparent on the face of records happened in the side of this Authority. Further the review respondent has accused it as a false fabricated one and pointed out that on 23.10.2017 the review respondent/appellant has submitted one no. of TOD meter and 3 number of CT and 1 No. of PT for testing and certification before the TMR Division, Thirumala and also produced the gate pass dated 23-10-2017 of TMR, Thirumala as proof earlier. The main argument of the review petitioner is that the date of receipt of application for testing and erection of metering system cannot be considered for the period of permission to the appellant for the replacement of the metering system. This point has been discussed in the appeal petition and this Authority has taken a decision accordingly. The argument of the review petitioner on the replacement of the defective PT within the period of two months as stipulated under para 4 (d) part B of tariff conditions and the application of Reg. 113 (5) of the Kerala Electricity Supply Code 2014 for testing the meter when the consumer opts to purchase the meter are on different situations and not inter connected. The provisions of regulations 174 and 175 of the Supply Code, 2014 is mandatory and the licensee cannot be escaped from the implementation of the regulations by showing an agreement executed between the licensee and the consumer.

In the review petition nothing is pointed out which escaped the notice of this Authority while disposing the appeal petition. The review jurisdiction is limited to rectify a mistake or an error which is apparent on the face of records and it cannot be used as appellate jurisdiction. In view of the above discussions, I hold that review petition is not maintainable as this Authority didn't find any reason to intervene the order already issued. Hence the review petition is dismissed and disposed of accordingly.

Decision

In view of the above discussions the review jurisdiction is limited to rectify a mistake or error which is apparent on the face of records and it cannot be used as appellate jurisdiction. So, in view of the fact that the review petitioner has not pointed out anything which escaped the notice of this Authority while disposing the matter earlier, I hold the review petition is not maintainable and hence rejected.

ELECTRICITY OMBUDSMAN

REVIEW PETITION NO. RP/02/2019

IN APPEAL PETITION No. P/089/2018/ _____ /

Delivered to:

1. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Karunagappally South, Kollam
2. Smt. Shanima Ishak, Managing Partner, M.G. Roller Flour Mills, Thevalakkara, Kollam

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.