

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/017/2019  
(Present: A.S. Dasappan)  
Dated: 13<sup>th</sup> May 2019

Appellant : Smt. Maya Vinod  
1257, Pattathuvila,  
Kadappakkada,  
Kollam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Kollam,  
Kollam District

### **ORDER**

#### **Background of the Case:**

The appellant has filed an appeal petition, being aggrieved at the inaction of KSEBL, Electrical Section, Kollam to provide a new LT connection in the premises owned by the appellant. The appeal is against the order dated 06-02-2019 of CGRF, Kottarakkara, in the OP 141/2018 dismissing the complaint due to lack of jurisdiction, filed before it. The matter stands referred to the Additional District Magistrate, Kollam by the respondent.

#### **Arguments of the appellant:**

A part of the power supply to the appellant's building is from HT connection of Hotel Karthika. At the same time, the appellant has an LT connection with consumer no: 17426 under LT 6c tariff for functioning of a bank inside the building. Balance portion of the building, which is functioning as lodge, is fed from HT connection of Karthika hotel.

In this situation, and, as the appellant has clear title of the land and building of VG tourist home, the appellant had applied for an LT connection for the balance portion (lodge) to remove extended power supply from another HT connection (Karthika Hotel), on 13.12.2017. As there is no response from

KSEB, the appellant appealed before CGRF but the CGRF did not interfere in the case as there is a dispute about ownership of the building before the ADM, Kollam.

Finding of the CGRF that "Now this building is power supplied from Hotel Karthika HT connection...." is not exactly correct as there exist an independent LT connection bearing consumer number 17426 under LT VI C tariff, for functioning of a bank in the above building. Rest of the building is fed from HT connection of hotel Karthika.

Even if the ownership of the building is disputed, it is highly unsafe to continue as part of the HT connection from another building, where a separate LT connection exists in the building, the V.G. Tourist home.

This extension of HT connection to another building, where an LT connection exists, can be termed as misuse or unauthorized additional load, and hence extension from HT connection is to be removed.

Presently Karthika Hotel is reselling energy to the appellant's building, through the extended LT cable, which is against law.

In this situation, the appellant applied for the LT service connection to remove the unauthorized extension from nearby buildings, which may kindly be ordered. Still, even if there's genuine dispute, the LT connection may kindly be allowed provisionally, for which the appellant is ready to execute indemnity bond against any loss to KSEB.

**Arguments of the respondent:**

01. The Appeal Petition is not maintainable under Reg.22(1)(d) of the Kerala State Electricity Regulatory Commission (Consumers Grievance Redressal Forum and Electricity Ombudsman) Regulation 2005 which reads as under "No Representation to the Ombudsman shall lie in cases where a representation for the same grievance by the complainant is pending in any proceedings before any court or arbitrator or any other authority or a decree or award or a final order has already been passed by such court, tribunal, arbitrator or authority". In the case at hand, the Respondent had already made a representation before the Additional District Magistrate Kollam on 22/11/2018, under section 164 of the Electrical Act 2003, wherein Sri. G Santhosh, Managing Partner, Karthika Hotel, Chinnakkada, Kollam residing at Pattathuvila Veedu, Kadappakkada Kollam was made the Opposite party as there was obstruction from the opposite party in respect of providing electricity connection to the Appellant.

02. Sri. Santhosh, Managing Partner, Karthika Hotel, was made the opposite party in the case before the ADM, Kollam. Sri. Santhosh ought to be a necessary party in the appeal to be adjudicated upon. Whereas the Appellant

hasn't made Sri. Santhosh, a party to the Appeal. Therefore the Appeal stands bad for non-jointer of necessary parties.

03. The Appellant has applied for a Low Tension Electric Connection to the building namely VG Tourist Home where an electric connection already exists from the HT connection bearing consumer No. LCN 23/2304 already given by the Licensee to M/s Karthika Hotel Kollam. The Appellant has produced an ownership certificate issued in her name by the Corporation, Kollam authorities. Whereas Sri. Santhosh, Managing Partner, Karthika Hotel Chinnakkada has objected to provide electric connection to the Appellant stating that the ownership of the building to which electric connection is sought by the Appellant is under dispute and there is a full fledged civil suit instituted in regard of the title over the said property and the same is pending before the Hon'ble Sub Court Kollam as OS No. 29/2017.

04. There is an LT connection with consumer No. 17426 issued for the functioning of Corporation Bank under LT VI C tariff. Whereas there is already an electric connection where the Appellant has applied for a new LT service connection for which the scheme approval, energisation approval etc. were obtained by the consumer from the competent Authority viz. Electrical Inspectorate. The Appellant, while filing the complaint before the CGRF, has not raised the issues related to safety. But in the appeal, she contends that it is not safe to continue as part of the HT connection. The HT connection was given earlier to the said premises after observing all formalities.

It is therefore obvious that the existing HT connection in the said premises could neither be regarded as unsafe nor as unauthorized extension. Further, it could be construed that the absolute owner in possession or legal occupier of the disputed building hasn't yet been declared by the competent court of law.

05. The Appellant hasn't raised the averment of getting a provisional LT electric connection in the complaint before the CGRF. But in the appeal, the appellant raised the said new plea realizing that there is ambiguity on the ownership right over the said property.

06. The Respondent is restrained from giving electric connection to the Appellant for the following reasons

- i. There already exists an electricity connection from the HT connection registered in the name of M/s Karthika Hotel and the said HT consumer/occupier made objection to prevent these respondents from effecting LT Connection to the part of the building on the score of dispute over title.
- ii. The Existing electric connection to the alleged Appellant's building was not 'dismantled due to dispute over the property.

- iii. The Competent court of law hasn't yet decided the absolute owner in possession or legal occupier of the disputed property.

07. The statutory provisions governing the field bestow unbridled powers on the District Magistrate to decide in the event of dispute arises in regard of placing of electric line or electric plant.

**Analysis and findings:**

Hearing of the case was conducted on 04-04-2019 in the Court Hall of CGRF, Kottarakkara. Sri. G.Vinod and Sri. G. Chandran appeared for the appellant and Sri Umesh S. A., Assistant Engineer in Charge, Electrical Sub Division, Kollam represented for the respondent. In view of the arguments made by both parties, it appears that the foremost question to be decided in the matter is whether the appeal petition is maintainable or not. It is needless to enter into the merits of the case, if this Authority has no jurisdiction to entertain the same.

The subject relates to the request of a new connection. The appellant applied for a new connection in the building V.G. tourist home with all documents on 13/12/2017. The KSEBL refused the request since the bifurcation of the premises is in dispute and the appellant has failed to prove her occupancy of the premises for which the service connection is applied. At present there is an HT connection in the building of Hotel Karthika and the appellant has applied for a Low Tension Electric Connection to the building namely VG Tourist Home where an electric connection already exists from the HT connection bearing consumer No. LCN 23/2304 of M/s Karthika Hotel Kollam and also there is an LT connection with consumer No. 17426 issued for the functioning of Corporation Bank under LT VI C tariff. The grievance of the appellant is regarding the refusal of the respondent to dismantle the HT connection extended to V G Tourist Home and to provide a LT connection. The two premises are situated in the distance of 80 metres. There are some disputes over the ownership of the land/building to which electric connection is sought by the appellant in regard of the title over the said property and the same is pending before the Hon'ble Sub Court Kollam as OS No. 29/2017. Now the request of the new connection stands referred to the Additional District Magistrate, Kollam by the respondent.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that “no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”.

Since the matter lies before the ADM regarding the subject of new connection, the issue can be settled after disposal of the case, which restricts the maintainability of the petition filed before this Authority. The respondent is free to take further action on the basis of the orders of the ADM. Hence the Appeal Petition filed by the appellant, need no further action at this Authority and hence stands rejected.

### **Decision**

For the reasons detailed above, the appeal Petition No. P/017/2019, filed by the appellant stands dismissed as it is found not maintainable before this Authority. The order dated 06-02-2019 in OP No141/2018 of CGRF, Kottarakkara is upheld. Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/017/2019/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Smt. Maya Vinod, 1257, Pattathuvila, Kadappakkada, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kollam, Kollam District.

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, Kottarakkara - 691 506.