

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: 15/2008

Appellant: Smt Shereena Mohammed
Kannothe House
Changampuzha Nagar
Thrikkakara Ernakulam

Respondent:

Kerala State Electricity Board
Represented by
The Assistant executive Engineer
Electrical SubDivision KSE Board
Kizhakkambalam Ernakulam Dt

ORDER

Smt Shereena Mohammed Kannothe House Changampuzha Nagar Thrikkakara Ernakulam submitted a representation to the undersigned on 21.6.2008 pleading for the following relief:

1. Set aside the orders issued by the Executive Engineer Electrical Division Perumbavoor on 1.2.2008 and the CGRF Ernakulam on 9.6.2008 on the question of the Minimum Guarantee line becoming self remunerative
2. Declare that the line given to Petitioners industrial unit has become self remunerative and that the petitioner is not liable to pay amount towards Minimum Guarantee agreement.

The appellant was a consumer of electricity under LT IV industrial category with connected load 45KW under Kizhakkambalam Section. The connection was given on 10.12.99 under MG Scheme assuring a minimum revenue return to the tune of Rs 60418/- per annum for 7 years(Rs 5035/-pm).The Distribution Transformer named Ambunad Shareena transformer with the associated HT and LT lines had been constructed to give power supply to her industry. The petitioner paid regular bills upto 2/2001 .Due to problems related to competition etc she could not carry on the industrial activity. The service connection was disconnected in 3/2001and subsequently dismantled in 12/2001. The KSEB initiated proceedings to recover Rs 3,50,071/-by Revenue Recovery. The contention of the petitioner is that she is not liable to pay this amount since the Lines constructed to give supply to her has be come self remunerative.

I. The appellant has put forward the following points/arguments in the Petition and during the Hearing:

1. The petitioner cannot demand any amount towards electricity charges once the service is dismantled except any previous arrears as per the Hon:High Court verdict in Meledam Saw Mills case.(1998(2)KLT 227).the counsel for the petitioner did not press this contention in view of subsequent clarifications/orders by the Hon: High Court.
2. Large number of connections were given from the same transformer making the work self remunerative. A list of 36 connections given was submitted. The line has become self remunerative even in 2002 itself.
3. An industrial consumer by number 17280 has been effected on 1.8.2002 and they alone have paid current charges as listed below:
2002 - 33875/-
2003 - 101411/-
2004 - 119471/-
2005 - 125233/-
2006 - 60374/-
2007 - 14887/-
4. The Executive Engineer and CGRF failed to consider this aspect. The method of calculation adopted by them is not correct. The line has become self remunerative and it is not proper to demand the MG amount from the Appellant.

II. The respondents submitted the following points/arguments in the Counterstatement and during the Hearing:

1. Clause 20 of the Conditions of Supply of Electrical Energy (CSEE) states that the consumer has to give a request to the Board to waive the MG amount for the remaining period. No such request had been given by the consumer before 10.10.2007.The burden to verify whether the line has become self remunerative lies with the Consumer and it is the duty of the complainant to file petition to terminate the MG agreement.
2. The method of calculation to check whether the MG work has become self remunerative is given in clause 20(c) of the Conditions of Supply of Electrical Energy (CSEE) relevant for the period in question. As per the methodology the annual revenue return of the work is only Rs 8100/-Hence the work has not become self remunerative.

III .Discussion and Findings:

1. It is true that Clause 20 of the Conditions of Supply of Electrical Energy (CSEE) states that the concerned AEE shall review whether the line has become self remunerative if the Minimum Guarantor gives an application for termination of MG agreement. That does not mean that the burden to verify whether the line has become self remunerative lies with the

- Consumer alone. This contention of the respondents could be seen only as an attempt to escape from the responsibility of providing a fair treatment to the consumer. The question whether the line has become self remunerative could have addressed by the AEE at least before sending the demand for Revenue Recovery.
2. More import issue to be addressed is the methodology of calculating whether a work has become self remunerative. Clause 20 (c) of the CSEE states that: '*the following shall be considered as the minimum average annual revenue return from different types of consumers to determine whether the line has become self remunerative*' and specifies amounts for each types of consumers which shall be taken per annum per consumer. For example: Rs 125/- per domestic single phase connection . The context of providing this rate per consumer is when the Minimum Guarantor comes up with a list of consumers connected up with the line and when one cannot prospectively compute the revenue earnings these consumers may provide for the KSEB in the years to come. This clause provides the minimum average revenue return one should consider for the years to come. That is the rock bottom revenue the Board can expect.
 3. In the instant case the Minimum guarantee period of 7 years is already over by 12/2006. The *actual revenue earned* by the KSEB is available on records. Is it fair to take refuge in clause 20 (c) of the CSEE now instead of computing the actual revenue earned by the Board? That is the question to be decided now.
 4. Clause 2 of the MG Agreement executed between the Appellant and respondents specify that the MG amount is to be met by *the energy charges component* of the total current charges paid by the Guarantors. Clause 4 specifies that the MG amount will be charged only until the Line Extension has become self remunerative as per the norms fixed by the Board from time to time. Clause 9 states that the liability of a Guarantor who refuses to take service connection shall be *to the extent of the expenses incurred for the work including Establishment charges*. It is clear from the above that the intention of the MG Agreement and the related clauses in the CSEE regulations was to recover the Cost of the Work (plus Establishment charges) from the consumers connected to the work by way of energy charges component of the Current charges paid by them.
 5. Under the above circumstances the considerations of fairness and justice demand that any retrospective review of the self remunerative state of a work should take the *energy charges component of the actual revenue realized* from a work.

IV . Having gone through all the records/documents/arguments furnished by both the parties carefully, the undersigned issues the following orders on the matter:

1. The Assistant Executive Engineer shall review the matter to decide whether the lines/works under question have become self remunerative during any periods during the validity of the MG agreement executed by

- the Appellant and decide upon the liability outstanding from the Guarantor.
2. The question whether the work has become self remunerative shall be decided by taking into account *the actual Energy charges* realized from each and every consumer connected to the works from time to time during the validity of the MG agreement in question.
 3. The Assistant Executive Engineer shall issue a revised demand notice to the Appellant for the outstanding Minimum Guarantee liability based upon the above review, supported by a detailed calculation statement on the energy charges realized from various consumers during the period and take further steps to realize the amount after giving opportunity to the Appellant to get clarifications on the calculations and reasonable time to remit the amount.
 4. The Assistant Executive Engineer shall take immediate action to keep the Revenue Recovery proceedings at abeyance until the demand is revised as per the instructions given above.
 5. The orders issued by the Executive Engineer Electrical Division Perumbavoor on 1.2.2008 and the CGRF Ernakulam on 9.6.2008 on the matter are set aside.
 6. The Assistant Executive Engineer shall submit a *compliance report* on the matter to the undersigned within Three months from the date of receipt of this order.
 7. No order on costs.

Dated this the 13th day of November 2008,

P.Parameswaran
Electricity Ombudsman

No P 15/08 / _____ / dated 13.11.2008

Forwarded to:

1. Smt Shereena Mohammed
W/o Mohammed Kunju ,Kannoth House
Changampuzha Nagar
THRIKKAKARA Ernakulam

2. The Assistant Executive Engineer
Electrical sub Division KSE Board
KIZHAKKAMBALAM ERNAKULAM Dt

Copy to :

- i. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004

- ii. The Chairman
Consumer Grievance Redressal Forum
KSE Board, VaidyuthiBhavanam
Gandhi Road Kozhikode

- iii. The Chairman
Consumer Grievance Redressal Forum
KSE Board, Vaidyuthi Bhavanam
KOTTARAKKARA

- iv. The Chairman
Consumer Grievance Redressal Forum
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Power House Road ERNAKULAM