

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/067/2024
(Present A. Chandrakumaran Nair)
Dated: 29-11-2024**

Appellant : Sri. Arun. C
Arun Jyothy, Chakkumpuram Line
Naickanal, Thrissur (DT)-68001.

Respondent : The Assistant Secretary
Vydyuthi Vibhagam
Thrissur Corporation
Thrissur (DT)- 68001

ORDER

Background of the Case

The appellant Shri. Arun.C is a Consumer of Thrissur Municipal Corporation. This corporation is the distribution Licensee in the old Municipal area in Thrissur Municipal Corporation area. The appellant is having a land measuring 3 Are 10 sq.m which is used for Agricultural purpose and have applied for an Agricultural Service Connection from TCED. The land is used for cultivating vegetable and plantain crops. The application was rejected by Assistant Secretary, TCED without mentioning the regulation. The appellant had filed petition to CGRF of TCED and hearing was conducted on 29/07/2024. The CGRF had issued order dtd 31/08/2024 stating that the appellant is not eligible for Agricultural Connection and if he require connection the same could be given on tariff LT 7A. Aggrieved with decision of CGRF, this appeal petition is filed to this Authority.

Arguments of the Appellant

I have applied for an electricity connection from TCED for agricultural purpose to the property Survey No1843/1-15 of area 3 Are 10 sq.m owned by me at Chakkamukku, Punkunnam, Thrissur City acknowledged vide reference. The property is cultivated by vegetables & plantain crops. There is an open well and motor pump set wired properly at the plot. All the

vegetation, crops damaged and lost due to the non-availability of electricity in the last hard summer.

The application was rejected by Assistant Secretary, TCED on 24.04.2024 (copy attached) without mentioning any regulation. I have approached the CGRF at TCED and a hearing scheduled on 29.07.2024. I have submitted to the forum the following documents.

1) Direction dt. 08.07.2019 of Hon'ble Kerala State Electricity Regulatory Commission contained in OA No. 15/2018 for the orders in the petition filed by KSEB Ltd. for the approval of ARR,ERC(2018-2019 TO 2021-2022) (copy attached).

2) Rejection letter dt. 24.04.2024 of TCED.

On 09.08.2024, 10 AM, I have received a letter again from Asst. Secretary, TCED, to attend a hearing on 09.08.2024 at 11 AM (copy attached). Direction of Hon'ble Commission has been forwarded to TCED in response to the letter.

In the above circumstances, I humbly request Hon'ble KSERC to issue strict orders to TCED for complying commission's direction dt 08.07.2019 and effect electricity connection for agricultural purpose in my property without any more delay. KSEB Ltd., the largest licensee in Kerala is complying Hon'ble commission's direction dt.8/7/2019 for the last 5 years vide circular number No.B.O.(FTD) /2020 (No.D (D&IT)/D6-AE3/Ease of doing business/2019-2020/) Dated, Tvpm 19.08.2020 of KSEB Ltd.

Any consumer aggrieved by non-Redressal of the grievance under CGRF, may approach the Electricity Ombudsman. The Ombudsman has been entrusted with the task of settling the grievance of consumers as per the provisions of KSERC Consumer Grievance Redressal and Electricity Ombudsman) Regulations 2005.

Arguments of the Respondent

With reference to the complaint no. P/067/2024/01790 Dt. 27.9.24 the Assistant Secretary, Thrissur Corporation Electricity Department do hereby solemnly swear as follows.

Thrissur Corporation Electricity Department is a Licensee which distribute electricity in the old municipal area in Thrissur Municipal Corporation, having a consumer strength of 42000 approximately. The petitioner had submitted an application on 28.02.2024 for a new electricity connection under agriculture tariff (LTVA) to their property having an area of 7.6 cents with survey no. 1843/1-15 at chakkammukku Punkkunnam.

Sub Engineer of Electricity Department had visited the site on 04.03.2024 and reported that the connection can be granted after verifying all documents. The requirement was to get electricity connection in agricultural tariff (LT VA) it self. For that the petitioner had submitted a Kerala State Electricity Board Order No. BO(FTD)No.178/2020 dated 13.03.2020. Which is not bounded to Thrissur Corporation Electricity Department. The petitioner filed a petition before CGRF on 05.07.2024 against the decision of the licensee. After completing all formalities, the CGRF passed an order on 31.08.2024. Since the order of CGRF is against the petitioner, hence this petition. As per the Government Order dated 06.11.2006 the minimum area prescribed for agricultural connection is

(i) Not less than 30 cents of which 75% of area to be used for cultivation in case of agriculture crops.

(ii) Not less than 10 cents in case of Vegetable and

(iii) Not less than 5 cents in case of betel vine

The property of the petitioner was cultivated by coconut Tree, Banana plants and vegetables. Since the area of property does not meet the minimum land holding criteria for assigning connection in Agriculture Tariff, The licensee issued a notice on 24.04.2024 to the petitioner stated in that "as per the prevailing Government Order electricity connection in agricultural tariff cannot be issued to the mentioned property". Also informed that electricity connection in Corporation Electricity higher tariff can be given if the petitioner wish to do so. Thrissur Department is the second largest distribution licensee in Kerala which strictly follows the rules and regulations issued by Kerala Government and Kerala State Electricity Regulatory Commission (KSERC) for the day to day activities.

The KSERC made an opinion while considering KSEBL petition for ARR & ERC and tariff proposal for the control period 2018-2019 to 2021-2022. If the licensee convinced that, the pumping water is for agricultural purpose. the irrespective of the land holding prescribed by the State Government, agricultural tariff can be assigned to such consumers. Based on the opinion of KSERC, KSEBL had made the aforesaid order. Since KSERC does not published any order in this regard, Thrissur Corporation Electricity Department has to be bound with the prevailing Government Order dated 06.11.2006 in such situation.

As an electricity distribution licensee it is the duty of Thrissur Corporation Electricity Department to give electric connection to it's valued consumers. In this case, if the licensee made any relaxation on land holding criteria, it may lead to misuse the lower rate electric connection to some other purpose. In view of the above, the licensee humbly requesting to the Hon'ble Ombudsman to quash the arguments of the petitioner and pass an order favour of the licensee. All the facts stated above are true.

Counter Arguments of the Appellant

An Agricultural land area with 3 Are 10 sq.m is owned by me at Chakkamukku, Punkunnam, Thrissur City. It is cultivated by Coconut trees, vegetables and plantain crops. There is an open well and motor pump set wired properly at the plot. All the vegetation's, crops damaged and lost due to the non-availability of electricity in the last hard summer. My application was rejected by Assistant Secretary, TCED on 24/4/2024 (Copy Attached) without mentioning any regulation. I have approached the CGRF at TCED and forum also rejected my request for electricity connection for agriculture purpose alleging that there is no orders by Government. The CGRF at TCED has also ordered that LT 7 A (Commercial) connection is to be given (on my request) to my agricultural land with Cocunut trees, vegetables and plantain. Release of commercial connection instead of agricultural connection request is not provided under any regulations of Hon'ble KSERC.

Agriculture is the backbone of our Nation. It helps in many ways such as food and security especially in times of crisis such as droughts pandemic and wars. Undoubtedly one can say that it helps in balancing the eco system also providing food and shelter for animals regulates water, resources. The role of agriculture in providing employment opportunities to the rural sector is of paramount importance. It also plays an in international business as far as food grain export import are concerned. Here the negative attitude taken by the TCED is against the spirit of the above narration. Availing 30 cents of land within the hearts of the city where the TCED has jurisdiction is impossible and unrealistic. The stubborn attitude of the TCED in sticking on the minimum 30 cents of land for giving agriculture connection is clearly with an intention in helping the landlord giving scant respect to the common man.

Honourable Kerala State Electricity Regulatory Commission has issued direction on 08/07/2019 which is contained in OA No.15/2018 for the orders in the petition filed by KSEB Ltd. for the approval of ARR, ERC(2018-2019 to 2021-2022) (Copy Attached). This direction clearly favors consumers with minimum land holdings. The Commission examined the proposal of KSEB Ltd. As per the Section 62(3) of the Electricity Act, 2003, the Commission is empowered to re-categorize consumers based on the purpose of usage. The minimum land holding specified by the State Government, cannot be considered as a criterion for assigning agriculture tariff. If the licensee convinced that, the pumping water is for agriculture purpose, irrespective of the land holdings prescribed by the Government, agriculture tariff can be assigned to such consumers.

As directed by KSERC, KSEB Ltd has issued B. O (FTD) No 178. /2020 [No. D (D&IT) / D6 AE3/ Ease of doing business/ 2019 -2020/] Dated, Tvpm 13.03.2020 (copy enclosed) to release connection for agriculture purpose to consumers with minimum land holdings. Thus KSEB has relaxed the minimum land holding for giving Agriculture connection allotting special agricultural tariff without subsidy having slight higher rate than the normal agriculture connection. Since the biggest licensee in Kerala with 1.40 Crore consumers whose area of jurisdiction spreads in the entire state can adopt such a lenient view, TCED's stand is contrary to the general aim envisaged.

No subsidy is requested by me but only an electricity connection for agricultural purpose. In this context I humbly request that necessary orders may kindly be issued to release agriculture connection without sticking on the minimum thirty cents of land so as to help the small and marginal farmers like me in the production of agriculture products. Towards the remark (3), submitted above, {Decision of CGRF TCED to give LT 7A Commercial connection}, Hon'ble Ombudsman may kindly note that, no commercial activity is going on in my agricultural land. All the facts stated above are true.

Analysis and Findings

The hearing of the case was conducted on 08/11/2024 at 11:00 a.m. in the O/o The Deputy Chief Engineer, Ele. Circle, Kottappuram Rd., Thrissur(Dist). The hearing was attended by the appellant's representative Sri. Joy K.A and the respondent's Advocate.

The Thrissur Municipal Corporation is the distribution Licensee in Old Municipal area of Corporation. The appellant is a Consumer of the Licensee TCED. The appellant owns a land measuring around 7.75 cents (3Are 10 sq.m) in Survey no.1843/1-15 at Chakkamukku, Punnamm, Thrissur City which is under the Licensee. The appellant is cultivating Vegetables & Plantain in that land. He had constructed an open well and installed an electric pump set to irrigate the cultivation. The appellant had applied for the Agricultural Service Connection to the Licensee for properly irrigating the land on 28/02/24. The application was rejected by the Licensee on 24/04/2024 stating that the appellant is not eligible for Agricultural Connection. Then he approached the CGRF and the order of CGRF is also not in favour of the appellant.

It is pertinent to examine the orders, rules and regulations connected with the Agricultural Connection.

The tariff order applicable for the KSEBL and all other Licensees states as follows.

Low Tension - V - Agriculture

(a) LT V Agriculture (A) (LT.VA)

This tariff applicable to the use of electricity for

(1) Pumping, dewatering and lift irrigation for cultivation of food crops, fruits and vegetables.

(2) Pumping, dewatering and lift irrigation for cultivation of cash crops such as cardamom and coffee and for the cultivation of crops such as coconut, arecanut, pepper, nutmeg, cloves, cocoa and betel leave as pure crop or as inter crops.

In the tariff order mentioned above it is not mentioned about the extend of land required or any other conditions and also not referred any Government Order as a precondition of Agricultural Connection. The respondent had mentioned about the G.O dtd 06/11/2006 which stipulate the minimum area of land for agriculture connection.

- i. Not less than 30 cents of which 75 % of area to be used for cultivation in case of Agriculture Crops.
- ii. Not less than 10 cents in case of Vegetable and fruits.
- iii. Not less than 5 cents in case of betel vine.

The copy of the order has not been produced. The Advocate who attended the hearing on 8/11/2024 had agreed to submit the copy of the G.O dtd 06/11/2006 and other statements on or before 15/11/2024 and the Licensee has not submitted the same. The approach of this Licensee to the Statutory Grievance Redressal Mechanism is highly irresponsible and this is to be viewed seriously.

It is understood that the said Government Order is for getting the Government Subsidy for the Agricultural Connection and not the condition for getting the Agricultural Tariff. As per the Section 62(3) of the Electricity Act 2003, the tariff is to be decided by the Regulatory Commission and not the Government. Here in this case the appellant is not requesting for the subsidy for the connection.

Further, the Order of KSERC on petition OA No.15/2018 states as below.

“ Tariff applicable for agriculture pumping without adequate land holdings.

KSEB Ltd submitted that, presently, the minimum area prescribed by the Government for agriculture connection as per the Government order dated 06.11.2006 is as follows:

(i) Agriculture crops - not less than 30 cents of which 75% of the area to be used for cultivation.

(ii) Vegetables - not less than 10 cents

(iii) Betel vine- not less than 5 cents.

The consumers holding land as above are now being provided with LT V (A) Agriculture tariff. Presently, there is no uniformity across the State in assigning tariff for consumers (for agriculture purpose) having their land holdings below the prescribed limit as specified above. Hence, KSEB requested to categorize these group of consumers under LT IV (A) tariff, being motor/power load”.

Opinion of the Commission

“The Commission examined the proposal of KSEB Ltd. As per the Section 62(3) of the Electricity Act, 2003, the Commission is empowered to re- categorize consumers based on the purpose of usage. The minimum land holding specified by the State Government, cannot be considered as a criterion for assigning agriculture tariff. If the licensee convinced that, the pumping water is for agriculture purpose, irrespective of the land holdings prescribed by the Government, agriculture tariff can be assigned to such consumers”.

The order issued by the Commission is generally applicable to all Licensee. Then KSEBL has taken a decision in this regard and issued are order dtd. 19/3/2020. The decisions of the KSEBL are follows.

“ Resolved to release agriculture connections under LT V (A) tariff category to applicants on production of two documents along with the application, one regarding proof of ownership and the other regarding proof of identity, after ensuring that the purpose for which the connection is sought is included in the list of activities under the category LT V (A) in the prevailing tariff order, irrespective of whether the applicant has produced letter of authorization or certificate from the concerned authority in Agriculture department or the land holdings of the applicant is not in conformance with the relevant stipulations of the State Government.

Further resolved to limit the subsidy of 0.85/ Unit being provided by the State Government for agriculture consumers under LT V (A) category only to those consumers who produce letter of authorization or certificate from the concerned authority in Agriculture department and have land holdings conforming to the stipulations of the State Government.

Further resolved to insist that an applicant requiring agriculture service connection but do not produce letter of authorization or certificate from the concerned authority in Agriculture department and have land holdings which is not in conformance with the relevant stipulations of the State Government shall furnish an undertaking in plain paper that he/she would raise no claim on the State Government subsidy given to agriculture consumers for the energy consumed.

Resolve to instruct the Chief Engineer (IT, CR & CAPS) to effect suitable changes in the Oruma Net software to enable capture of data as to whether the applicant has produced letter of authorization or certificate from the concerned authority in Agriculture department that the land holdings of the applicant conforms to relevant State Government stipulations, in the case of agriculture connections provided under the tariff category LT V (A)”.

The KSEBL has issued order as per the decision of KSERC. It is very clear that for Agricultural Connection the minimum land requirement is not a criteria and the criteria is applicable for getting subsidy only.

State Government is taking all efforts to promote Agriculture production in the state. The KSERC has taken decision as mentioned to accelerate the cultivation in state. Accordingly, KSEBL has also taken decision. It is the responsibility of all Licensees too take action to promote cultivation.

Then another important point is to be considered is that the appellant is not getting the natural justice. When all other consumers in the state, who are consumers of KSEBL is getting this facility, the appellant's request is denied only because he is in the distribution area of this Licensee. This is against the natural justice. Further the Licensee has offered connection to the appellant under tariff LT 7 A. The reason by which this offer is made is not justified. CGRF also issued order to avail connection on tariff LT 7A without any proper reason. The tariff LT 7 A is for commercial requirement such as Shops, Showrooms, Hotels, Private Lodges & Hostels, Freezing Plant, Cold Storage, Service Stations etc. The cultivation of fruits & vegetables are not included in this category.

Then it is very clear that the appellant is eligible of Agricultural Service Connection under tariff LT V A. The appellant is eligible for the compensation as per KSERC (Standard for Performance of Distribution Licensee) Regulation 2015. As per Schedule I of this regulation he is eligible @ Rs 50/- per day of delay. Here the application for service connection have been submitted on 28/02/2024. The connection would have been given on or before 28/03/2024. Then the total delay is 258 days and compensation applicable is $258 * 50 = \mathbf{12,900/-}$.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. I hereby set aside the decision of CGRF.
2. The Licensee have to give Agricultural Connection to the appellant under tariff LT V A.

3. This decision is to be executed within 7 days of receipt of this order and compliance report is to be submitted.
4. The appellant is eligible for the compensation for the delay in getting the connection as per KSERC (Standard for Performance of Distribution) Regulation 2015 for 258 days works out to Rs. 12,900/-.
5. The compensation payable to the appellant is to be recovered for the officer who is responsible for not giving connection.
6. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/067/2024/_____ dated : 29/11/2024.

Delivered to:

1. Sri. Arun. C ,Arun Jyothy, Chakkumpuram Line Naickanal, Thrissur (DT)
2. The Assistant Secretary Vydhyuthi Vibhagam, Thrissur Corporation, Thrissur (DT) - 680001.

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, Thrissur Corporation, Thrissur - 680001.