

THE STATE ELECTRICITY OMBUDSMAN
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REVIEW PETITION No. 02/2020 IN APPEAL PETITION NO.

P/024/2016

(Present: A.S. Dasappan)

Dated: 29th September 2020

Review Appellant : Sri. Sunil Kumar. P.,
Padmanabha Soudam,
Uchakada P.O.,
Thiruvananthapuram.

Review Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division, Parassala,
Thiruvananthapuram.

ORDER

Sri Sunil Kumar P. filed an appeal petition before this Authority on 13-04-2016 in P/024/2016 requesting to cancel the service connections issued on the basis of forged ownership certificate by Sri Prabhakaran and others. The Appeal petition was dismissed as it was not maintainable. The review appellant had filed this review petition on 1st July 2020 against the orders issued by this Authority in appeal petition No. P/024/2016 dated 20-07-2016.

The fact of the case is as follows.

Sri Prabhakaran, Kurumbi Veedu, Attapuram, Kulathoor, Uchakada and five other consumers with consumer Nos. 10407, 10651, 10655, 10581, 10686 and 10748 under Electrical Section, Parassala had approached CGRF (South), Kottarakkara with a petition stands numbered as 1622/2015 requesting not to disconnect their service connections until the disposal of OS 456/2010 by the Munsiff Court, Neyyattinkara. The service connections were given to the above consumers on the basis of ownership certificate issued by the Secretary, Kulathoor Grama Panchayath. Meanwhile, Sri Sunil Kumar, Padmanabha Soudam, Kulathoor, appellant in this petition, raised a complaint on 26-09-2014 before the Deputy Chief Engineer, Electrical Circle, Kattakkada stating that the service connections in question were obtained illegally on production of fake ownership certificate. Hence he requested to dismantle the service connections mentioned above.

The following facts were disclosed in the enquiry.

The grievance of the appellant herein is to dismantle the service connections issued to consumer No. 10407, 10651, 10655, 10581, 10686 and 10748. It is revealed that there exists some disputes between the appellant Sri Sunil Kumar and Sri Prabhakaran and 5 others, who are the petitioners in OP No. 1622/2015 before the CGRF (South) Kottarakkara. From the averments and the documents produced it is clear that there exists a civil dispute with respect to 80³/₄ cents of property at Kulathoor village as that is stated in the petition No. 45/2016 filed by Sri Sunil Kumar, which was pending before CGRF (South) Kottarakkara. There were previous litigations before the Hon'ble Munsiff Court, Neyyattinkara (OS 164/93) and before the Hon'ble High Court of Kerala (WP (C) No. 38155/2015). It is also revealed that a complaint filed by the appellant's brother Sri P. Santhosh Kumar before the Lokayuktha for the same set of reliefs was rejected vide order No 21/2011C.

In the appeal petition, this Authority had decided and issued orders on 20th July 2016 that the petition is not maintainable on the basis of the following conclusions.

The appellant does not satisfy the definition of complainant. Regulation 2 (f) of Kerala State Electricity Regulatory Commission (CGRF & Electricity Ombudsman) Regulation, 2005 stipulates the nature of complaint whereby it construed that only such complaint of consumer can be entertained by the Forum and Electricity Ombudsman.

In this state of affairs, the pendency of appeal No. 45/2016 and a case pending before the Hon'ble High Court of Kerala (WP (C) No. 38155/2015) is a bar for this Authority to entertain a similar matter as per Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005.

An online hearing of the case was conducted on 08-09-2020 as per prior information to both the review appellant and review respondent and with willingness of them. Sri. P. Sunil Kumar, the review appellant attended in the hearing and Sri. Ramesh, Assistant Executive Engineer, Electrical Sub Division, Parassala for the review respondent's side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The arguments raised by the review appellant are the following:

The review appellant has requested to cancel the CGRF order on the strength of the verdict of Hon. Court in OS No. 456/2010 in favour of him. Moreover to direct the Police Department and Vigilance Court to initiate action against the Assistant Executive Engineer Sri. Sivakumar and Assistant Engineer Sri. Sanal kumar.

The review respondent has submitted the following statement of facts in reply to the review petition.

As per the review respondent, the licensee has no power to dismantle the service connection effected as the consumers have been paying the electricity charge without any default. Moreover, two cases are pending in the Hon. Munsiff Court and in the Hon. High Court of Kerala and all the six present consumers have been using electricity from the electric connection years back.

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. This Authority has considered all the arguments while disposing the appeal petition. A decision once rendered by a competent Authority/Court on a matter in issue between the parties after a full enquiry should not be liable to be agitated over again before the same Authority/Court.

As per regulation 27A of the KSEERC (CGRF & Electricity Ombudsman) Regulations, 2005, an application for review shall be filed within a period of fifteen days from the date of receipt of the order. In this case the review petition against the order in appeal petition No. P/24/2016 dated 20-07-2016 was received only on 01-07-2020. Hence, it is found that the review petition is time barred by limitation and hence rejected. Having decided as above, it is ordered accordingly.

ELECTRICITY OMBUDSMAN

RP/02/2020/_____ dated _____.

Delivered to:

1. Sri. Sunil Kumar. P., Padmanabha Soudam, Uchakada P.O., Thiruvananthapuram.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Parassala, Thiruvananthapuram.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.