

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

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APPEAL PETITION No. P/063/2022**(Present: A. Chandrakumaran Nair)****Dated: 08th November, 2022**

Appellant : Sri. Joe. I. Mangaly,
Managing Partner,
M/s. Mangaly Timber & Furniture,
B.O.C. College, Bye-Pass Road,
Palakkad Dist. 678014

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kalpathi, Palakkad Dist.

ORDER

The appellant filed the appeal petition to this authority against the order of Consumer Grievance Redressal Forum, Northern Region dated 30-09-2021. The order has been despatched from the Consumer Grievance Redressal Forum office on 30-09-2021 itself. The appeal petition filed on 24-08-2022 after a lapse of around 11 months. The reason explained by the appellant is that the order of CGRF was not received and finally received by e-mail only on 10-08-2022.

The appellant has filed petition to the Hon'ble High Court of Kerala vide WP(C) 1450/2021 with same averments, same grounds and same prayers of this appeal.

The Section 22 (1) (d) of the Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005 – "Maintainability of the complaint" states as follow:

22 (1) No representation to the Ombudsman shall lie "(d) in cases 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.”

The appellant has submitted “Form B” along with the appeal petition in which it is mentioned that this matter is not under sub-judice / under arbitration. Filing the appeal petition by concealing of fact / suppression of fact is a great offence.

Further, the same matter has been heard by the Electricity Ombudsman and the order has been issued on 16-06-2020. The prayer is same in this petition also.

The Section 10 of the Code of Civil Procedure 1908 states as “Stay of Suit”: “No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties”.

The WP (C) 1450/2021 is pending in the Hon’ble High Court of Kerala and hence, this petition could not be accepted.

The appeal petition filed by the appellant is disposed of accordingly.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/063/2022/ _____ dated _____.

Delivered to:

1. Sri. Joe. I. Mangaly, Managing Partner, M/s. Mangaly Timber & Furniture, B.O.C. College, Bye-Pass Road, Palakkad Dist. 678014
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Kalpathi, Palakkad Dist.

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.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode