

STATE ELECTRICITY OMBUDSMAN

Thaanath Building Club Junction Pookkattupadi Road Edappally Toll

KOCHI 682024

www.keralaeo.org

Phone 04842575488 +919447226341 Email : info@keralaeo.org

REPRESENTATION No: P 128/10

Appellant : Sri P.R.Vidyadharan

Thattakkattil House, Gurunathanmannu (Po) 689667

Pathanamthitta Dt & 3 others

Respondent: Kerala State Electricity Board

Represented by

The Assistant Executive Engineer

Electrical Sub Division, Vadasserikkara, Pathanamthitta Dt

ORDER

Sri P.R.Vidyadharan & 3 others , who are members of Sabarimala-Pamba Contractors & Merchants Association (Reg No P460/99) submitted a representation on 22.3.2010 seeking the following relief :

1. *Set aside the order dated 30.01.2010 of CGRF Kottarakkara*
2. *Revise the bills already issued and limit the demand only for the days of actual functioning of business*
3. *Refund /give full credit to the remittances already made by the petitioners.*

Counter statements of the Respondent was obtained and hearing conducted on 26.5.2010 and 10.6.2010.

The Appellants had auctioned stalls in the Pamba –Sabarimala region from Travancore Devaswom Board during the year November 2008 to November 2009. They were allowed to run business in the stalls during prescribed periods only. They had to close down the stalls on several days in the year as directed by the Devaswom Board in accordance with a calendar prepared by the Devaswom Board. They had virtually no access to the stalls and the area on the closed down periods in the year. The total number of days on which they could run the stalls were only 141 between 15.11.2008 and 21.10.2009 as per the certificate dated 16.6.2010 issued by the Executive Officer of the Sabarimala Temple.

Since the stalls were either temporary structures or buildings without numbers from Panchayath , KSEB provided only temporary service connections to them . Tariff applicable was LT III wef 1.1.2009 as per the order dated 20.12.2008 and 5.5.2009 of the KSERC. KSEB effected temporary connection in November 2008 under LT III tariff for a period of one year. Respondent claim that the Appellants had executed agreements

with KSEB for the services. The LT III tariff applicable from 1.1.2009 provides for flat rate of energy charges at Rs 12/- per unit or Daily minimum of Rs 120/- per KW of the connected load which ever is higher. The Respondent billed the consumers for the whole one year under the tariff even though they could use power for 141 days only. This resulted in heavy financial burden to the consumers. They agitated against this and approached the Hon:High Court. The Hon:High Court directed them to approach the CGRF . The CGRF upheld the billing done by the Respondent by a majority decision. The representation with the pleas noted above is submitted to the under signed in the above back ground.

The Hon:High Court in the judgment dated 12.8.2009 on WP(C) 21714/09-H filed by the Appellants had observed that '*this is a special case where distinction may have to be made*' since the business is conducted only on the days which they are authorized by a statutory authority but the service connection is supposed to be retained for the whole year. It is undoubtedly clear that electricity is utilized for the days for which they are authorized to do business. On the remaining days no one is allowed even to enter the area. The authorized days are spread out to all months of the year. The actual days on each month may vary. The proper course of action would have been to limit the temporary connections to the days of business and to disconnect the service after the business days. Instead of this the Appellants chose to write down the period of requirement as 'one year' in the documents and the Respondent allowed it without considering the practical difficulties.

In the counterstatement the Respondent KSEB had not provided any rationale for giving temporary connection for 365 days *contrary to the provisions in section 23 of the Terms & Conditions of Supply of KSEB*. They have not submitted any details of taking periodical readings and assessing the actual consumption from time to time. The counter statement was silent on the question whether the connections were actually maintained/retained live on the off-season days. It is not known whether the services were actually disconnected during the periods when people , pilgrims as well as the traders were not permitted to enter the area. The claim for 365 days daily minimum charges will not be justified if the service connections were kept disconnected for the off-season periods.

Respondent was not present for the hearing on 26.5.2010. Hence one more sitting was conducted on 10.6.2010. The Respondent KSEB had not presented any effective defence and the representative of KSEB who had attended the hearing on 10.6.2010 was totally unaware of any issues related to the case. He could not answer any queries related to the Applications for the connection, documents submitted by the Appellants and the agreements executed. The Respondent produced none of the documents related to the connections which should normally be available in his office. He was even unaware of the procedures by which the temporary connections were kept disconnected during off-seasons, how periodical readings were recorded etc. Later an argument note was submitted by the Respondent on 22.6.2010 which was nothing but a repetition of the vague reasons and points made earlier.

Respondent could not answer the query as to how the temporary connections were given for a period of one year contrary to the provisions the Terms & Conditions of Supply of KSEB. Respondent could not answer the query as to whether the power supply was *maintained continuously on all days in the year in the premises* so also on the periods

when entry to area was kept banned by authorities. The Appellants informed that the KSEB officials used to disconnect the power supply during the off-season days and reconnected the same when the pilgrimage days start again. They claimed that even the distribution transformers were kept switched off to avoid accidents on unattended lines. In the absence of any evidence or details to the contrary furnished by the opposite party I am inclined to accept this information given by the Appellants on the face value.

The natural conclusion would be that the Respondent had not maintained / retained the service connections live on the off-season days. That is the Appellants were not using the temporary connections on days other than the days prescribed by the Devaswom Board. Hence it is clear that the Appellants were prevented from using the service connections on 365 days , not due to their faults, but due to the orders of a statutory authority on larger grounds and considerations.

Hence it would be only fair to limit the demand for the daily minimum charges payable by the consumers to 141 days as per the calendar of the Devaswom Board as I respectfully concur with the views expressed by the Hon:High Court that ‘this is a special case where distinction may have to be made’ .

The Respondent shall revise the demand towards the charges payable by the Appellants and other temporary consumers of the area limiting the application of LT III tariff and daily minimum charges as per the above tariff to the actual business days prescribed by the Devaswom Board after 1.1.2009. The Respondent has to raise the demand from the dates of connection in November 2008 to 31.12.2008 as per the earlier tariff order dated 12.11.2002 .There after , that is, from 1.1.2009 onwards, the Respondent has to revise the demand as per LT III tariff under tariff order dated 27.11.2007, for the actual business days prescribed by the Devaswom Board . The excess payments if any shall be refunded to the consumers.

During the hearing the Appellants pointed out that a lot of delay is being experienced in settling the accounts of the temporary connections from the KSEB offices. All concerned are advised to avoid such delay and to avoid such grievances in future.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

- 1. The order dated 30.1.2010 on OP 417/09 etc. filed by the Appellants and others by the CGRF Kottarakkara is set aside.*
- 2. The Respondent shall revise the demand towards the daily minimum charges payable by the Appellants limiting the application of LT III tariff to the actual business days prescribed by the Devaswom Board after 1.1.2009*
- 3. The excess amounts collected if any shall be refunded after settling the accounts of temporary services within THREE months from the date of this order.*
- 4.No order on costs.*

Compliance :

If the Licensee do not comply with the above orders the Appellant may report the matter to the undersigned with copy to the Compliance Examiner, Kerala State Electricity

Regulatory Commission, KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010

Dated this the 8th day of July 2010,

P.PARAMESWARAN
Electricity Ombudsman

No P 128/2010/ 614 / dated 8.07.2010

- Forwarded to:
1. Sri P.R.Vidyadharan
Thattekkattil House, Gurunathanmannu (Po) 689667
Pathanamthitta Dt
 2. Sri O.Majeed
Marangattu House, Memana,Oachira
 3. Sri Devaprakash
Kannamkara Veedu , Payyikkuzhi , Oachira
 4. Sri P.Omanakkuttan, Valliath House, Sooranad North (Po)
Kollam
 5. The Assistant Executive Engineer
Electrical Sub Division, Vadasserikkara, Pathanamthitta Dt

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
- 3 The Chairman , CGRF,KSE Board ,
Vaidyuthi Bhavanam , Kottarakkara

Copy communicated to: Adv: Joson Manavalan , M/s Menon &Pai, Advocates,
I.S.Press Road , Ernakulam 682018

Visit the website www.keralaeo.org for forms, procedures and previous orders
