

STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamngalam-Anchumana Temple Road
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024
www.kerala.org Ph.0484 2346488 Mob: +91 9567414885
Email:ombudsman.electricity@gmail.com

Appeal Petition No :P/170/2010.

(Present T.P.Vivekanadan

Appellant : M/S Heera Castle Owners/Residents Association,
Marappalam Road, Plamoodu, Pattom Palace P.O, Thiruvananthapuram-4.
Respondent : The Assistant Executive Engineer, Electrical Sub Division, KSEBoard,
Kesavadasapuram, Thiruvananthapuram.

ORDER.

Background of the Case.

The Appellant is a registered Residents Association, representing the owners/residents of Heera Castle at Pattom, under electrical section, Kesavadasapuram, with consumer Nos 4516010607 and 10571 to 10606, out of which 10607 is for Common services of the Flats and others belong to the 36 Nos of Residence apartments under LTI(a) Domestic tariff. The 250 KVA indoor Transformers cater the whole load of the High rise Building, which is being fed through a 11KV UG Cable originating from the 11 KV Structure of KSEB erected at Marappalam. On 26.03.2010 evening, this indoor Transformer located at the consumer's premises failed and is alleged to be due to flashover in one of the windings at the time of heavy rain and lightning. The case of appellant is that, it is due to the removal of LA's installed for the lightning protection at the 11KV Structure, the consumer's indoor Transformer was subjected to surge voltage due to lightning and caused the flashover at the windings of transformer, causing irreparable damage. Upon failure of the transformer they requested KSEB to provide a token LT Supply of 60 KVA for energizing the apartment's one room each with light till the new Transformer is charged but to no avail. The Appellant replaced the damaged Transformer after ordering with a new one at their cost on 8.4.2010. It is alleged that KSEB is responsible for the failure of the Transformer and claims the total replacement cost of transformer as compensation, which is estimated at Rs.7,04,496/= under various heads. This is the basis of the case.

Appellant's Arguments :-

The Residents/Owners Association is responsible for the administration of M/s Heera Castle, Pattom, which is a residential Flat, housing 37 individual consumers. The Appellant adduced the following reasons for the failure of Transformer and alleges deficiency of service on the part of the Respondent, KSEB;

1). During the initial period of Commissioning of the Transformer in April, 2004, 11KVLightning arrestors and 11KV DO fuses were provided to the protection of the 250 KVA Indoor Transformer at consumer's cost. Later in the year 2009, DO fuses and Lightning arrestors were removed by KSEB, when the 11KV Structure was shifted as part of road widening works. Subsequently there was heavy rain and lightning

at Pattom area on 26.3.10 night and the Transformer failed due to interturn short in the Transformer windings as there was no Lightning protection. Hence there was deficiency in service on the KSEB side. 2). Further it is argued that KSEB did not provide alternate LT supply to the 37 domestic consumers of M/s Hera castle Flats, from 26.03.2010 to 08.04.2010 even though it was technically possible, with some load restrictions imposed on the Heera castle residents. The reason is that the existing 500 KVA Transformer at Marapalam was not overloaded and it was possible to cater a part of the load of the 37 consumers through the existing LT lines.

3). The argument of KSEB that as per clause 13(j) of Terms and Conditions of supply and clause 8(5) of Supply Code, alternate supply cannot be arranged is not true. Actually, Section 43 (2) of the Indian Electricity Act 2003 clearly states the duty of the licensee is to provide supply to the consumers. The explanations are given in section 44 of the Act and none of the reasons given in section 44 of the Act 2003 is pertaining to the present case under consideration.

4). Further the 37 LT Domestic consumers of Heera Castle should be compared with the other domestic consumers of the nearby buildings under the same tariff. The section 45(4) of I E Act 2003, states that no undue preference shall be given to any consumer. This is a clear case of discrimination violating the provisions of Section 43-2 of Indian Electricity Act, 2003.

Another argument of the Appellant is that in the case of KINFRA projects, the Transformer and other equipments purchased and commissioned by KINFRA was later handed over to KSEB. The warranty period offered by KINFRA was for 18 months only and after this period, KSEB was responsible for the maintenance works. This benefit was not extended to the residents of M/s Heera Castle Flats.

The Petition submitted before CGRF, Kottarakkara, vide OP No 544/2010 , was dismissed by the order dated 12/10/2010. The Appellant alleges that this was done without going into the merits of the case, saying CGRF lacks jurisdiction in awarding compensation. According to the Appellant, section 57 of Indian Electricity Act 2003 stipulates the standards of performance of Electricity Licensees and mention about the compensation to be paid to the consumers. As per the opinion of the Appellant, the matter is within the jurisdiction of the various Grievances Redressal Forums coming under this Act, and is meant to order the Licensees to pay compensation to the consumers, if found genuine.

Argument by the Respondent :-

The Respondent has filed the following arguments countering the Appellant's allegations.

The Respondent denies the incidents as alleged in the petition. The Respondent was not given notice before conducting inspection of the faulty Transformer by the contractor. The contractor is not competent to ascertain the condition of the Transformer.

One no. of 500 KVA outdoor Transformers was installed at the 11 KV Marappalam Structure, from where the petitioner's 250 KVA Indoor Transformer is being fed and supply is also extended to two other indoor Transformers situated at the premises of M/S Heera Point and M/S Fortune Plaza from the same Structure. No damages other than that of M/S Heera Castle were reported on 26.03.2010.

The Respondent further questions the credibility and genuineness of the report submitted by the Contractor who inspected and reported that the Transformer failed as a result of the flash over in one of the windings at the time of lightning. The failed Indoor Transformer was not tested at any accredited laboratories and the report by an interested party can not be relied upon, for ascertaining the actual cause of failure because the same contractor has taken the works of dismantling, removing the existing Transformer and then supplying, installing, testing and commissioning of a new 250 KVA Transformer in

its place. No due notice was given to the Board while arranging testing by the Contractor to ascertain the actual cause of fault of the Transformer. Testing was not done in the presence of KSEB's officials.

The Respondent has denied the allegation of negligence on the part of KSEB. They states that damages were not reported, either in the outdoor Transformer at Marappalam Structure or on the other two Indoor Transformers fed from the same Structure. The failure of the indoor Transformer has occurred due to the lack of proper maintenance of protective devices at consumer's premises which was the responsibility of the petitioner itself.

The allegations that LA and DO Fuses were not installed at the tapping point of the Structure and this caused failure of the Transformer is factually incorrect and hence denied by the respondent. According to the Respondent, if the Lightning arrestor and DO fuse were not provided at the time of fault in the Structure, then the 500 KVA outdoor Transformer erected at the Structure itself would have failed first, before the failure of the Appellant's Transformer which is around 200 meters away from the Structure. Two other indoor Transformers fed from the same Structure also remained intact. This fact disapproves the allegation of negligence of KSEB and hence KSEB has no liability to compensate the Appellant.

The relevant provisions under clauses 4 (1), 5 (1)(c), 13(j), 13(2) and 11(2) of the Terms and Conditions of supply, 2005, read with clause 8(5) of Kerala electricity supply code,2005, clearly indicates that for loads of 50 KVA and above connection shall be effected only after installation of a separate Transformer of adequate capacity by the owner/occupier. Further it is the responsibility of the promoter/owner to maintain the Indoor substation and associated equipment installed at the premises of the consumer. The Respondent argues that KSEB can not be held responsible for the failure of the consumer in protecting the equipments in his premises by providing adequate protective devices which he was bound to do so, as per rules.

It is pointed out that the Hon: CGRF has rightly held that the complaint is not maintainable and has dismissed the complaint against it. KSEB is not responsible to pay compensation for failure on the part of consumer and prays to dismiss the appeal as ab initio unsustainable.

Analysis and Findings:-

The Appellant is alleging deficiency of service on the part of KSEBoard, and is claiming a total cost and compensation of Rs.7,04,496/= under various heads.

Both the parties were heard on 10.5.2011 at KSEB IB, Paruthipara, Trivandrum. On perusal of the Petition filed by the Appellant, counter submitted by the Respondent and the arguments put forward by both parties and considering the circumstances of the case, I come to the following conclusions after a detailed analysis which is recorded here. The following points need to be decided based on the said analysis and conclusions.

(1). Whether the failure of the indoor Transformer at the consumer's premises on 26.03.2010 night was due to negligence of KSEB by not providing the 11KV DO fuse and Lightning Arrestor in the tapping point of the cable at the 11KV Structure and there by occurred the deficiency on the part of KSEB?

(2). Whether KSEBoard has failed to provide alternate supply to LT domestic consumer at M/s Heera Castle during the period from 26.03.2010 to 08.04.2010?

(3). Whether the request for compensation is maintainable?

Regarding the first point, the Respondent has not disputed the fact that there was heavy rain and lightning on the night of 26.03.2010 at Pattom area in Thiruvananthapuram city. But they have denied the contention of the Appellant that the indoor Transformer was failed due to the removal of protective

devices of DO fuse and Lightning arrestor provided at the tapping point of the Cable to the Heera's 250 KVA Indoor Transformer from the Structure at Marapalam. The Appellant completely rely his argument based on a report submitted by an Electrical contractor. As per the opinion of the contractor the cause for Transformer failure is due to flashover in its windings due to lightning surge voltage. This version of the contractor for the failure of the Transformer was not admitted and is challenged by the Respondent. The Respondent states that the contractor is incompetent to ascertain the condition of the Transformer and argues that the failed Transformer was not tested at any accredited Laboratories. It is also argued that, other indoor Transformers fed from same 11 KV Structure, remained intact and no damage was reported on the same on that day. There was lapse on the part of the Appellant in not giving due notice to Board while opening and testing done by the Appellant's contractor to ascertain actual cause for damage of the Transformer, argues the Respondent and states that without the presence of Board's officials the claim of cause of failure cannot be admitted.

The Appellant's averment that 11 KV DO fuses and Lightning arrestor were removed from the circuit by KSEB during the year 2009, when the 11KV Structure was shifted to a new location consequent to road widening, was also denied by the Respondent. They further point out that the cause of failure of Transformer was not due to Lightning flashover but due to poor quality Transformer and lack of its maintenance. They assert that, had the Lightning arrestor and DO fuses were not present at the time of fault as alleged in the petition, then the 500 KVA outdoor Transformers erected in the 11KV Structure itself would have failed first as it was nearby, before the failure of the Appellant's Transformer, which is installed around 200 meters away from the Structure. The two numbers of other indoor Transformers fed similarly from the same Structure, other than M/sHeera Castle, also remained healthy in the Lightning, they argue.

The Respondent's argument that the Lightning will strike first the 500 KVA Transformer erected in the Structure, before the indoor Transformer at Heera Castle existing 200 meters away from it, is not technically correct. The 11KV cable or the Transformer or any equipment/appliance or line, which has the weakest point of insulation, on the path of overvoltage (surge voltage) due to Lightning, will breakdown first on the impact of lightning waves as per the "travelling wave theory". To protect against the Lightning surge voltages, Lightning Arrestors (LAs) are provided at the beginning of the circuit Line. Normally the LA's will have a lower impulse voltage rating than the cable or the equipment's impulse voltage rating. And also LA's has the characteristic of its insulation value decreasing when subjected to over voltages. Hence the Lightning arrestors will carry the burden of surge voltages accompanying the Lightning and will discharge it to earth thus protecting all the other valuable cables, Lines or equipments etc. connected in the circuit.

But it has not been established by the Appellant that the LA's and DO fuses were absent on that fateful day of 26.3.2010. No evidence is there to prove that LA's and DO fuses were absent on that day or were remained in removed condition from the 11KV structure way back in 2009. Without any reliable document or deposition from authorized persons of the same, mere statement of the consumer based on a private contractor's Report, to the effect that the LA's were absent in the 11 KV Structure, is not enough and cannot be accepted since the Respondent equally swears that the LA's and DO fuses were not in removed condition. Moreover, no complaints of over voltage due to lightning were received from any consumer in the Pattom area other than the Appellant, because normally when lightning strikes the chances are more to affect others also. In short, I do not find any ground to support the argument of the

Appellant that the Lightning arrestors were in removed condition on that day which caused the failure of the consumer's Indoor Transformer. The averment of the respondent that the failure of Transformer was due to, poor quality of Transformer or due to lack of proper maintenance and upkeep of the Transformer and its associated equipment, are also probable causes for failure of Transformer. The actual cause for the failure of the indoor Transformer is not seen established. The investigation report of the Contractor who has supplied the Transformer will naturally try to save his side and will find fault with others. Hence the verification report of an independent authorized agency preferably after issuing notice to the opposite party, investigating about the cause of failure or report of the Electrical Inspector, can only be accepted as reliable evidence and the present report of the contractor is not acceptable as he is an interested party in the case.

Secondly, the Appellant argues that the 500 KVA 11 KV/433 V Distribution Transformer of KSEB installed at Marappalam is not overloaded during this period and it was possible to provide LT supply to the metering points of 37 individual consumers of Heera Castle, through the existing lines. KSEBoard did not provide alternate LT supply to the residents of M/s Heera Castle, Pattom, from 26.03.2010 to 08.04.2010. Vide Clause 13(j) of KSEB Terms and Conditions of Supply, 2005, stipulates that *"The 11 KV Indoor Substation, rising mains, Switch boards and Switches etc. coming before metering will have to be erected by the owner of the building. The owner of the building shall also be responsible for the maintenance of these installations and replacement and these shall be carried out with the concurrence of the Assistant Engineer....."*. As per rules, in the case of consumers like Flats, Apartments, Hotels, Business establishments etc who require Bulk Power loads say 100 KVA and above, they are required to provide their own Transformer of required capacity at their premises and the KSEB extends the Power supply up to that only. In case of failure of the consumer's Transformer, the consumer himself has to take action to rectify the defect or replace it with a new one and then avail the supply. Alternate supply for feeding a small portion of load (part load) of the consumers (as demanded by the appellant) from Board's transformer is not envisaged in the rules. For bulk Power consumers, once the transformer fails they have to replace it or repair it. At the most the consumer can request a Transformer of required capacity on rental basis from the Licensee, if spare is available. The Hon: KSERC has made the Regulations as per IE Act, 2003, after detailed study, considerations and conducting Public hearings and collecting opinions on the proposed rules before finalizing it.

The Electrical energy requirements of the Residents of M/s Heera Castle were catered by an Indoor Transformer of 250 KVA capacity till its failure. That means the total load requirement of M/s Heera residents may be, say, around 200 KVA. The Appellant needs minimum 60 KVA to light one bulb each of the Flat by providing single phase supply. Extending 60 KVA single phase supply (which may go high as per the energy use of residential Flats) from a 3- phase Transformer is technically not recommended as it may cause unbalanced loading and thus heating of the Transformer and may end up in the breakdown of the Transformer. This step is against the safety standards of Indian Electricity Rules. In view of what has been stated above, I hold that the Licensee was not required to extend alternate supply to M/s Heera Castle, Pattom, from 26.03.2010 to 08.04.2010, and hence they are not to be find fault with on this ground. Hence it is concluded that the request for compensation is not maintainable.

Decisions.

From the analysis done above and the findings arrived at, I take the following decisions.

Since the Inspection and Testing of the failed Indoor Transformer at M/s Heera Castle, was done by a Private Contractor who has undertaken to carry out the installation and commissioning of a new Transformer in its place, their verification Report for the cause of failure of Transformer cannot be accepted as it was done without giving notice and prepared in the absence of the Respondent and also the Contractor being not an authoritative independent Agency. Here, the Electrical Inspectorate's Inspection and assessment would have been the best option or if any outside agency is doing the said work, it should have been done after intimating the opposite party. Hence it is not proved that the cause for failure of the Cast Resin Indoor Transformer at M/s Heera Castle was due to the removal of LA from the 11 KV Structure and consequent flash over of Lightning, since the failure of Transformer can occur due to various reasons. The allegation that the Lightning Arrestors and DO fuse provided in the structure were removed during the shifting of the structure was also stand not proved. Hence the charges of negligence and thereby deficiency of service on the part of KSEB is not found maintainable.

Secondly, the allegation of failure to provide alternate supply to M/s Heera Castle from the KSEB's Transformer is also not maintainable since the party itself is required to maintain his own equipments of Transformers and accessories to avail the Supply of power as he belong to the group of consumers of bulk power establishments like Commercial complexes, large scale Apartments, Residential Flats, Star Hotels, Factories, etc. As per the Hon: KSERC Regulations these consumers are required to provide their own Transformers to avail supply.

Moreover, technically speaking it is not acceptable the demand for alternate supply of 60 KVA for lighting one bulb of each Residential Flats, as it is not safe and against rules to provide continuously 60 KVA load under single phase supply, as it will lead to unbalanced loading and heating of the transformer. Further, nobody will be able to control or limit the energy usage of consumers to 60 KVA, once power is made available to them, and they will be using energy as per their requirements, which may ultimately lead to overloading and is detrimental to the Transformer.

Hence, even though 'Electricity' has become a part of our normal Life, I believe that KSEB has acted as per the existing rules only and as such no compensation need be payable by them to the Appellant for the above said actions.

Having concluded and decided as above, the Appeal Petition filed by the M/s Heera Castle Owners/ Residents Association stands dismissed for the reasons stated above and is ordered accordingly. No order on Costs. Dated the 9th January, 2012,

Electricity Ombudsman.

No.P/170/2010/1083/ Dated 10.01.2012.

Forwarded to: (1). M/S Heera Castle Owners/Residents Association.Marappalam Road, Plamoodu, Pattom Palace P.O, Thiruvananthapuram.

(2).The Assistant Executive Engineer, Electrical Sub Division, KSEB, Kesavadasapuram, Thiruvananthapuram.

Copy to: (1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10

(2). The Secretary, KSEBoard, Vidyuthibhavanam, Pattom, Thiruvananthapuram-4.

(3). The Chairperson, CGRF, KSEBoard, Vidyuthibhavanam, Kottarakkara.