

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/213/2011.

(Present: T.P. Vivekanandan)

APPELLANT : Smt.Sajitha.P.Koorarth
Akash Nivas (H), Purameri P.O
Nadapuram, Kozhikode Dt. Pin: 673 502.

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard, Kallachi.P.O.
Nadapuram, Kozhikode Dt. Pin: 673 506.

ORDER.

Background of the case: -

The appellant has applied for 4 Nos of electrical service connection to her newly constructed shops, numbered from Local Panchayath vide, PP- 2/494-B, 2/ 494-C, 2/494-D and 2/494-E, to the Asst. Engineer, Electrical Section, Edacheri, on 13. 10.2010. The appellant was issued a Notice asking her to pay Rs. 3213/- to reroute the weatherproof (WP) wire to her residential building, by the AE, as the WP wire drawn to her house was found touching the nearby commercial building roof. This caused much delay for registering the electric service connection. The complainant then filed a Petition before the CGRF on 17.12.2010, against the delay in getting registered the electric service. The CGRF vide its order dated 14.3.2011 found no laxity on the part of the respondents and ordered the KSEB shall shift the service wire by providing a support post, and connect the WP wire directly to the meter, at the complainant's cost and also directed the KSEB to effect the service connections to all the shops under LT VII B tariff. The respondent has to accept the cash deposit for new electric connections immediately after remitting the amount for shifting the WP wire by the complainant. It was also directed by the CGRF that the consumer should ensure that there is sufficient ventilation in the shops near the staircase. The Petition was disposed of with out any say on compensation. The party aggrieved by the said order, has filed the Appeal Petition before this Authority. This Forum has issued the interim order dated 3/2/2012, directing the respondent to register and effect the service connections with out waiting for the disposal of the Petition and the same connections were seen effected on 22.2.2012.

Arguments of the Appellant: -

The appellant has raised the following contentions in her Appeal Petition.

The appellant applied for electricity connection to the shops numbered, PP-2/494-B, 2/494-C, 2/494-D, and 2/494-E, to the Assistant Engineer, Electrical Section, KSEB, Edacheri, on 13.10.2010. The Assistant Engineer, issued a notice to the complainant to pay Rs.3,213/- to reroute the WP wire to the residential building of the complainant by providing a support post, as a condition to give electricity connection to the shops against application dated 13.10.2010. The complainant replied by letter dated 22nd November, 2010, that the I E Rules quoted under the Electricity Act applies only to a bare conductors and not applicable to weatherproof wires. The complainant alleges that her priority for connection is overlooked by the Asst. Engineer, Edacheri, and produces a letter dated 09.11.2011, addressed to Mr. Lakshmanan P by the Assistant Engineer, as documental proof obtained under the provisions of the Right to Information Act.

The Electrical Inspector, Kozhikode in his letter dated 06.01.2011, addressed to the Assistant Engineer, Electrical Section, Edacheri, has stated that the provision quoted in the notice of the AE was wrong since the said provision applies only to bare conductors. He also directed the Assistant Engineer to give the electrical connection to the appellant.

The appellant argues that the CGRF has delivered the order in the Petition against the respondents in a partisan manner, even ignoring the direction of the Electrical Inspector, Kozhikode to give supply immediately. The CGRF under regulation 10 was bound to insist on a para wise comment of the respondent in answer to the points raised in the complaint. The CGRF has referred to a direction, said to be issued by the Electrical Inspector, Kozhikode, directing the AE to send a letter to the contractor. No such letter was sent by the Electrical Inspector, Kozhikode, to the AE. The document referred to as Ext D3, had never seen light, during the hearing before the CGRF.

The CGRF has introduced considerations of possibility of tampering of meter in the order, which was never a ground for the AE to refuse or delay electricity connection. The delay was caused by the negligence of the Assistant Engineer, Electrical Section, Edacheri. The conduct of the Assistant Engineer, Electrical Section, Edacheri was improper is proved by the letter from the Electrical Inspector, Kozhikode, by the statement to forthwith give electricity connection. The CGRF's order is unjustified in enforcing a condition to replace a weatherproof wire which is found to be not at all necessary by the Electrical Inspector, Kozhikode under Annexure 1 as condition to give electricity supply to the complainant. According to him, the order is vulnerable to correction for the following reasons:

(a). Rule 79 (2) of the Indian Electricity Rules, 1956 is an exception and all that is required is the conductor should be insulated. The distance rule applies only to a bare conductor. The wire is weatherproof in the present case. The Electrical Inspector has made it clear and has directed under annexure 1 order dated 06.01.2011 to give electricity supply. This is flouted by the Assistant Engineer, Electrical Section Edacheri. This point is wrongly decided by the Consumer Grievance Redressal Forum.

(b). The Consumer Grievance Redressal Forum in its order has wrongly referred to direction said to have been made by the Electrical Inspector, Kozhikode to issue notice to the contractor. It can be verified from the office of Electrical Inspector, Kozhikode whether such a direction is ever there. Annexure 1 shows that the direction was only to give electricity supply to the complainant.

(c). The Consumer Grievance Redressal Forum found that tampering is likely to take place to the residential building which is never the case of the Assistant Engineer, Electrical Section, Edacheri to refuse connection. The finding shows that the Consumer Grievance Redressal Forum was partisan in deciding the case.

During the hearing day the appellant deposed that she was forced to return with interest, the 'advance collected from the prospective leaseholders' with whom she has executed agreements for giving the shops on rent. She was humiliated before the local people as the vigilance had inspected her house and recorded her statement upon a complaint from the respondent's side against her. Besides her husband working in a Co-operative Bank was forced to take 45 days of 'leave of absence from duty' to attend for the cases involved and also KSEB's offices for getting the connection.

The relief sought is that the complainant may be provided electricity connection together with compensation of Rs.50, 000/- for denial electricity supply in time. She is eligible for the expenses incurred to conduct cases at various offices and Forums.

Arguments of the Respondent: -

The respondent denies all the averments and allegations contained in the petition except to the extent he has specifically admitted in his written statement.

The respondent has admitted that the complainant had applied for new Electric connection to the said premises on 13.10.2010. But when Assistant Engineer and Sub Engineer of Edachery Section visited the site of the petitioner, they found that a WP wire was drawn to petitioner's house touching the commercial building. For providing safety clearance from the said building an estimate was prepared under deposit work basis costing to Rs. 3213/- and a notice was issued to the petitioner to the same effect.

The Assistant Engineer, Edachery, issued a notice on 01.11.2010 under Rule 82-(2) (b) of Indian Electricity rule 1956. The complainant replied by letter dated 22.11.2010 that the provisions quoted to enforce conditions for supply of electricity under Act applies only to a bare conductor and not weatherproof wire. After receiving this letter, in order to clarify this rule, Assistant Engineer has referred this matter to Electrical Inspectorate Kozhikode on 17.12.2010.

As per the request of Assistant Engineer, the Electrical Inspector-Kozhikode has visited the site and gave directions on 06.01.2011 to take necessary action to provide the supply at the earliest. As per the directions from Electrical Inspector, the AE has issued a letter to the party for making payment for registering the service connection, as per rules and regulations of KSEB, to shop Nos PP- II/494 B, C and D. In the case of PP- II/494-E, the wiring was incomplete at that time, and so directed the consumer to complete the same and report. But the complainant send a reply dated

3. 2. 2011, to Assistant Engineer stating that the CD amount noted in the AE's letter is high which is not applicable to her shops because her shops will come under small bunks & shops category and she is ready to pay only Rs.450/- per shop as CD amount.

Meanwhile the complainant has approached CGRF on 17.12.2010 for getting correct direction. As per this, CGRF conducted hearing on 24.02.2011 and site visit was done on 07.03.2011. On-site inspection, the CGRF noted additionally that the existing WP wire to the residential building of the complainant is not connected directly to the meter and instead it is routed through some pipes. Actually this fact did not come to the notice of Assistant Engineer while giving notice for deposit work costing Rs.3213/= in the first time. The same 'indirect connection of WP wire to her residence' was also noted by Electrical Inspector and it was instructed to AE by words for considering this.

The Assistant Engineer has never refused or delayed the electricity connection to the appellant on the ground that CGRF has introduced considerations of possibility of tampering the meter. The electricity connection to the complainant is delayed only due to above reasons and not due to negligence of Assistant Engineer, Edachery, as alleged by the appellant.

The Assistant Engineer gave letter to the party for making CD payment as per rules and regulations of KSEB. The AE has never refused the electricity connection to the consumer on the ground that CGRF has raised an apprehension of possibility of tampering the meter. The real issue starts in connection with shifting of the above said Weather Proof wire and hence at the time of site visit CGRF checked completely the whole WP wire and found out the anomaly or the irregularity and so made order for the good of KSEBoard.

The service connection to petitioner's commercial building is withheld due to above reasons and not a purposeful act. So compensation to petitioner cannot be admitted. The respondent has also submitted a detailed argument note denying the arguments raised by the appellant during the hearing conducted on 23/3/2012. The appellant claims that the delay occurred is not due to the AE's action but due to applicant's attitude towards KSEB Edacherry employees.

Analysis and Findings: -

The Hearing of the case was conducted on 23.02.2012, at Kozhikode. Smt Sajitha P, the appellant and Smt. KG Rajani, Advocate, represented the appellant's side and the respondent was absent. The AEE, Electrical Sub division, Nadapuram, met me in the afternoon and briefed me the reason for not attending the hearing in time and promised to file an argument note with in 15 days time and filed the same on 21.3. 2012. On perusing the Petition, the counter of the Respondent, the documents filed and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The main relief sought for by the appellant is to provide electric connection to his premises and secondly to award a compensation of Rs. 50000/-, for the sufferings she was put to by the opposite party. In an interim order issued by this Forum on 03.02.2012, it was ordered to effect the electric connections to the appellant's shops immediately, subject to the decision of the Appeal Petition. Accordingly the appellant got connection on 22.2. 2012 and he admitted this during the hearing.

The second point relates to awarding of compensation for the delay alleged by the consumer on the part of the respondent in providing the electric connection in time and is to be decided based on, whether there was any deliberate deficiency of service or willful delay from the respondent's side warranting such penalization?

There is no dispute regarding the date of submission of the application for new electric connections by the applicant, i.e. 13/10/2010. As per Regulation 6 of the Kerala Electricity Supply Code 2005, *"the licensee shall provide electricity connection to the owner or occupier of any premises requiring supply as per the time frame under clause 8 subject to the payment of required fees, charges and security and satisfying the conditions stipulated in the approved 'Terms and Conditions of supply' of the Licensee by such owner or occupier of the premises:*

Provided that, the Licensee shall not be responsible for delay, if any, in extending supply, if the same is on account of delay in getting statutory clearances, right of way, land acquisition or the delay in consumer's obligation to provide necessary clearances or payment of required cost of work as per clause 7 and security deposit as per clause 13, or for any other similar reasons beyond the reasonable control of the Licensee. In all such cases, the Licensee shall take all reasonable steps to avoid delay:"

The first step, as per the time frame stipulated, is to inspect the applicant's premises and prepare cost estimates including initial security deposits and notify the applicant within 7 days from the date of application. But the respondent issued a demand notice on 1/11/2011 to the applicant, directing her to remit an amount of Rs. 3213/- for shifting the WP service wire provided to her house building on the charge under I E Rules, 1956, alleging that the statutory safety clearance has been violated. The complainant replied by letter dated 22nd November, 2010, that the provisions quoted under the Electricity Act applies only to bare conductors and not to weatherproof wire. Then the AE, Edacheri, referred the matter to Electrical Inspector, Kozhikode after a lapse of one month i.e. on 21/12/2010. Since the appellant clearly clarified the provision on this matter in her reply, it seems the AE was not convinced and referred to the Electrical Inspector. The Rule 79(2) clearly says that in case the safety clearance is less it should be adequately insulated and supported. Why the AE has not consulted his superior officers for clarification and instead opted for reference to the Electrical Inspector was also not explained. In such a situation the action of the AE in referring the matter to Electrical Inspector can only be considered as a delaying tactics from his side.

The party relied on the information received through the RTI Act provisions to substantiate her claims on the related matter. The Electrical Inspector had given direction for effecting the Electric connection on 6.1. 2011, but the intimation regarding the payment of CD and other fees as per rules, was issued to the applicant only on 31.1.2011. On receipt of the same notice, the applicant challenged the amount of CD to be remitted citing it as a higher sum than the normal. But the KSEB circular has specified the minimum amount to be collected as Deposit while registering the service connection which suggest that the normal CD amount was Rs 1000/- itself for commercial service connections. Hence the action of the AE was correct. The appellant's argument that only Rs 450/- need be collected as CD is without any basis and is found as having no merit.

Even otherwise, to avoid the delay in getting the electric connection, the appellant could have remitted the CD as proposed by the AE, and obtained the electric connections and thereafter file her genuine grievances, if any, before the appropriate Forum for its redressal, would have been the best option. But instead of remitting the amount, as demanded by the AE, the consumer preferred to lodge the complaint, which caused further delay. Hence the respondent is only responsible, if at all for the delay up to 1/2/2011 only i.e. the day of issue of notice by the AE to the consumer, asking her to make the payments at the KSEB office, for the Electric connections applied for by her.

In this case, the respondent is found responsible for the delay of two months for registering the service connection. That is, from the date of receipt of the appellant's letter dated 22.11.2010, (say, with in a weeks time), replying the AE's objection Notice dated 1.11.2010 to 31.1.2011, the date of issue of intimation by AE to the applicant asking to remit the required fees for providing the electric connections. Considering the facts and circumstances of the case, this Authority finds that the issue is squarely covered in favor of the appellant to the extent stated above. The appellant is entitled to get compensation for the delay occurred to her, to get her electric connection in time, as per rules.

DECISION: -

After doing the analysis of the case under dispute detailed above and reaching the findings and conclusions, I come to the following decisions;

The Appellant has applied for 4 Nos new electric service connections and the respondent is legally bound to inspect and if found any deficiencies in the electrical work, intimate the applicant accordingly for rectification works with in 7 days. The inspection was done as per rules but it is seen that the consumer was issued a notice asking to remit a sum of Rs 3213/- towards Deposit work, for shifting the WP wire pertaining to another existing service connection of the applicant. This is highly irregular as the respondent can proceed against the consumer, as per Law, if any irregularities are detected on a different electric connection of the applicant. It should not be clubbed with the processing of the application for new electric connections. There was no need, for delaying the registration of new electric connections applied for, when the anomaly pointed out was for another existing connection of the applicant. Moreover, the anomaly alleged was found totally incorrect.

Secondly the appellant has given reply to the notice issued by the AE in which it was pointed out that there is no case of IE Rules violation as it was a WP wire. Even after getting informed that there is no defect as stated in the notice, the AE without verifying the same, resorted to take up the issue with the Electrical Inspector, which can be conceived only as a delay tactics. Further, the defect noted in the Notice, by the AE was confirmed as not maintainable, by the Electrical Inspector.

Hence I am convinced that there was surely deficiency of service to the appellant from the side of the respondent in registering the electric connections in time and hence the Licensee, is bound to pay compensation at the rate of Rs 50/- per day of delay for 60 days for registering the service connection, i.e. Rs.3000/- to the appellant, as per KSERC (Licensee's standard of performance) Regulations, 2006, under clause 57(2) of the IE Act 2003, with in 90 days of this order. A sum of Rs

250/- shall also be paid as litigation costs to the appellant and the Licensee shall recover the said amounts from the concerned erred officials.

For the above reasons, the Order of the CGRF, Kozhikode, dated 14.3.2011 has to be set aside. Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant stands allowed to the extent ordered as above. Dated the 21st of June, 2012,

Electricity Ombudsman.

Ref No: P/ 213/ 2011/ 1279/ Dated 22.06.2012.

Forwarded to: -

- 1). Smt. Sajitha .P. Koorarth
Akash Nivas (H), Purameri P.O,
Nadapuram, KOZHIKODE-673 502.

- 2). Assistant Executive Engineer,
Electrical Sub Division, KSEBoard, Kallachi.P.O
Nadapuram, Kozhikode-673506

Copy to: -

- (1). The Secretary, Kerala state Electricity Regulatory Commission,
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard,
Vydyuthibhavanam, KSEBoard, Pattom, Thiruvananthapuram-4
- (3). The Chairperson, Consumer Grievance Redressal Forum,
KSEBoard, Vudyuthibhavanam,Gandhi Road, Kozhikode.