

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P /251/ 2011.

(Present: T.P. Vivekanandan)

Appellant : Jyothi Prasad P
 41/81-A, 'Jyothi', Mullassery canal road,
 Kochi – 682011

Respondent : The Assistant Executive Engineer,
 Electrical Sub Division, KSEB,
 College, Ernakulam.

ORDER.Background of the Case: -

The Electric connections bearing Consumer Nos: 6987 and 6988, under KSEB College Section, Ernakulam, were originally stand registered in favour of Smt. Leela Parameswaran. The appelland, son of the former, after the death of his mother, had applied for the ownership transfer of the said connections in his name, on 20.5.2011. As per the "Standard of Performance" prescribed, by the Commission, the transfer of ownership is to be effected within a maximum period of 14 days of receipt of the application, if everything is proper. The complaint of the appellants is that even in the next electricity bill dated 2.8.2011, the connection was still shown standing in the name of previous consumer (his mother) itself. The appelland aggrieved by this delay, then approached the CGRF requesting to get the ownership changed and praying for compensation for the delay caused, as per rules. The Forum dismissed the petition and refused to award compensation, vide Order No CGRF-CR/Comp.34/2011-12 dated 24-9-2011. Aggrieved by the decision of the CGRF, the consumer has filed the Appeal Petition before this Forum.

Arguments of the Appellant: -

The arguments of the Appellant are based on the brief facts and circumstances which are narrated above. Further the Appellant has adduced the following arguments.

1). The Forum has overlooked facts and adopted an erring, partisan and totally illegal view in deciding the matter. According to the appelland, finding of the Forum that "important part of service to the consumer has been satisfied by making necessary orders for ownership change" is contrary to facts and not maintainable. In the statement, the AEE himself has admitted that the "name change could not be effected due to some omission in the office of the AE" and "the records were updated with retrospective effect after receiving the complaint raised by the complainant". This statement of the AEE is self-explanatory. A back dated proceedings, like the one here; can be made on any date. The AEE produced proceedings in respect of consumer No 6987 only. Even though a copy is seen marked in the appelland's name, the AEE admitted that the copy was not

despatched to the appellant. This was due to the reason that even though he could make a back dated proceedings and a back dated entry in the Register for Name Change, he could not make a back dated entry in the despatch register. Also in a hurry, he forgot to make a backdated proceeding in respect of consumer no. 6988.

2). He argues that the Forum has erred in finding out that the important part of 'service' is incomplete. A name change can only be said as complete, when necessary entries are made in the related records and registers as well as in the computer, and the consumer receive bills in his name. Even if the backdated proceeding of the AE is accepted, name change is incomplete. The AEE himself has admitted that "the records updated with retrospective effect after receiving the complaint of the complainant". It sounds funny and silly which is equal to a statement that current was given with retrospective effect, whenever a current failure occurs.

3). In the attempt to help the respondents, the Forum overlooked that the compensation fixed by Board is not for monetary loss, but for delay in service to the consumer and he did not suffer any monetary loss in any of the services in the 'Standard of Performance' prescribed by the Board for compensation for delayed service. And in this particular case, appellant argues, that he is not bound to remit bills issued in the name of Leela Parameswaran and as such monetary loss incurred in addition to delay in service.

4). The other points raised by the appellant are; (a). The Forum did not allow to cross examine the respondents, (b). It did not allow to inspect the related records and registers, (c). It did not record the statements during the hearing, (d).the Forum was prejudiced and pre-determined and has taken a partisan view and did not bother to consider the merits and demerits of the case. The Forum has even twisted and made mockery of the "Standards of Performance" prescribed by the Board, and (e). He alleges that the Forum has made a private discussion with the respondents before and after the hearing which is illegal.

Relief sought: -

Quash the CGRF's order dated 24.9.2011 and award compensation @ Rs 50/- per day for delay in service from 5/6/2011 continuously till the date of reply of AEE to the CGR Forum.

Arguments of the Respondent: -

The respondent has submitted the statement of facts opposing the contentions raised by the appellant.

1).The respondent denies the contention of the appellant that the application for ownership transfer was submitted to the AEE. It was submitted to the Asst. Engineer, Electrical Section, College, who is the concerned officer to act on it. All relevant papers for ownership transfer were received on 20-5-2011, along with essential fees. As the documents submitted were correct and appellant remitted necessary fees prescribed, the ownership of the consumer was transferred to the appellant with all assets and liabilities on that day itself as usual and proper entry was made in the ownership transfer register. But the ownership transfer details could not be effected in the computer's data base due to some omission from the office of the AE. After noticing the mistake taken place at the AE's office, from the complaint raised by the consumer before the CGR Forum, all corrections were made and update the office records with retrospective effect from 20/5/2011 which was the actual date of ownership transfer.

2). The respondent submits that the application of the appellant was processed in the same day and effected the ownership change that day itself. The ownership register kept in the section office has been maintained in 'date wise' and no improper entry was carried out. But the ownership change

was not updated in the Computer Database, so the subsequent bill was printed in the name of previous owner.

3). Another contention of the respondent is that the appellant has not suffered any loss due to the action of the respondent and as such no compensation is payable.

Analysis and Findings: -

A hearing of the Case was conducted in my chamber at, Edappally, Ernakulam, on 11.01.2012. The appellant, Sri P Jyothi Prasad and the respondent, the Assistant Exe. Engineer, Electrical sub division, College, represented by Sri. Ramesh Babu, were present and they argued the case on the lines stated above.

On perusing the Appeal Petition, the statement of facts filed by the Respondent, the arguments of both sides in the Hearing done on 11.01.2012 and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The point for decision is “whether the appellant is eligible for any compensation, for deficiency of service on the part of Licensee, by delaying the request of the consumer for change of ownership of Electric connection Nos. 6987 and 6988, standing in his mother’s name to his favour, even after the prescribed 14 days time, as per standard of performance notified by the Hon: KSERC?”.

The appellant had submitted applications for transfer of ownership of Consumer Nos.6987 and 6988, standing in his mother’s name to his name on 20.5.2011 and remitted the required fees for the same. This fact is not disputed by the respondent. In such a situation, the respondent is ought to have processed the application and made the necessary changes in the concerned registers and in the Computer Database within 14 days positively, if the documents submitted was found proper. The respondent does not have a case that the documents submitted are insufficient either. So it is clear that the appellant is eligible to get his request for Ownership change done within 14 days as prescribed by the Hon: Commission i.e. say by 5th of June 2011 or at most by 10th of that month, considering holidays and 3 days grace period usually given. The applicant is also eligible to get a copy of the Order of the Authority, who sanctioned the Ownership change, for his information.

The appellant has stated that he came to know of the deficiency of service of the respondent (not changed the ownership in his name) when he received the next electricity bill dated 2.8.2011, in which the electric connection was still shown standing in the name of his mother. The appellant then approached the CGRF requesting to get the ownership changed in his favour and praying for compensation for the delay occurred, as he did not get the ownership changed within the stipulated 14 days time, as per the ‘standard of performance’ of the Licensee prescribed by the Commission. According to the appellant, a backdated Office proceedings and a backdated entry in the Register for Ownership change was created by the respondent and produced before the CGRF. But actually the ownership was changed only after submission of his complaint before the Forum, he argues. The respondent has denied this allegation. They argue that the ownership change was done on the day of 20/5/2011 itself, but necessary entries were not entered in the computer database about the change of ownership which resulted in issuing the bills in the name of previous owner.

The respondent himself had admitted that some omission has occurred on the part of the local Section Asst Engineer (AE) in making the entries in the records and further there was failure to despatch the Office Proceedings regarding the ‘Ownership change’ to the appellant. The averment of the respondent that the Order No 14/2011-12/ 20.5.2011 and similarly order No 15/ 2011-12/ 20.5.2011, were issued on the same day of submission of application for transfer of ownership was made, does not seem to be correct as the Ownership change Order contains details of remittance

made on a later date i.e. ACD collected in August, 2011. This cannot happen, since the ACD details will not be known, had the Order was issued on 21.5.2011, (the application day itself), as argued by the appellant.

But there is nothing wrong in giving the effect of ownership change with retrospective effect, because 15 days time is given for completing the office procedures and hence the date of effect can be given from the date of collecting the fees after verification of records, if all other office works related to Transfer, were completed within this 15 days time stipulated. Even otherwise, if some omission or error has occurred which was detected at a later date, there is no harm in correcting it by giving a back date or retrospective effect, in the case of ownership change etc. This is because, an omission or error detected on a later date, has to be set right and for cases like the one under dispute, it does not cause harm to others. The analogy or the simile of 'Current failure' cited by the appellant in his averment No 2 above, for the 'back effect' given to the ownership change by the respondent, does not suit here and I feel the example cited is out of context.

The argument of the respondent that he is not responsible as the application was filed at Section Office and therefore it was the duty of the Asst. Engineer only does not deserve any merit, because both represent the same Licensee, and this Forum only checks whether there was any intentional or otherwise lapse or dereliction of duty or deficiency of service towards the consumer and want to set it right to mitigate the genuine grievances of the consumer, as per Law.

I am also of the view that the 'Standard of Performance', prescribed by the Hon: KSERC, is to ensure better service to consumers and compensation is fixed for deficiency of service or delay on the part of the Licensees in processing the Applications submitted before it. The monetary losses of the consumer due to delay, do have importance or weightage but is not an essential stipulation for this award of compensation. But it has to be ascertained whether there was any deliberate attempt from the Licensee's side for the deficiency or delay that has happened or whether the delay was occurred due to a human error/ omission or by oversight only and also whether the matter of delay has been brought to the notice of the concerned officials by the applicant.

On perusal of the statements from either side, I am convinced that there was lapse on the part of the respondent in effecting the ownership change to the appellant in time. The next point to find out is to determine whether it was a deliberate or intentional delay or a deficiency in service on the part of the respondent, in dealing with the request of the consumer. Here, I feel that the appellant should have issued a notice to the respondent or lodged a complaint with other superior Officer of KSEB, Licensee, at least once, to bring to their attention, that his 'application' is side lined or is pending decision indefinitely and he wish to pursue appropriate legal remedies, failing his request is not dealt with in a specified time. I think issue of a notice to the opposite party is primarily required, as per the 'natural justice' principles, before initiating any action. Otherwise it may lead to filing cases only. Here the appellant does not seem to have issued a notice to the other side but instead preferred a Petition before the CGRF. Once the notice from the CGRF was served on the respondent about the Petition, it is seen that the opposite side has acted on it and set right the things without any opposition.

DECISION: -

It is proved that, the respondent has failed to effect the 'ownership change' as requested by the appellant in time i.e. within 14 days period of the application dated 20.5.2011, as stipulated by the Hon: KSERC, in the "standard of Performance" prescribed for the Licensee, KSEB. It is also noted that the appellant failed to give any notice to the opposite party on noting the delay over his request

for ownership change, before resorting to other legal course of action. Moreover, once the Petition was filed by the appellant before CGRF in 8/2011 and notice was served, the respondent took steps and made the necessary ownership change in all records, with out raising any objection or waiting for the verdict of CGRF. This shows that the delay was not deliberate or the dereliction of service from the respondent's side was not an intentional one, and there is chance that it might be an error or omission by oversight as contended by them. Any purposeful delay tactics or harassment against the appellant, from the side of the respondent, is also not proved. Therefore I feel that, serving of a notice by the appellant to the respondent might have served the purpose of the consumer.

However, it is a fact that there occurred some delay in the transfer of ownership of Electric service connections. It is also a fact that there was no monetary loss to the appellant by the way of delay for ownership change. Further, I feel that an omission or error by oversight, occurred on one side, should not be taken for undue advantage by the opposite side, as far as penal compensation is concerned. Hence for the above reasons, I am inclined to award only a token compensation, at the rate of Rs.50/- per day for one week, for the delay caused in getting the Electric service connections transferred to the appellant's name. The KSEB shall pay the same amount fixed as above, to the appellant within 60 days of the date of this order. It is up to the Licensee, to fix the responsibility and decide whose fault has caused the delay in the ownership change and recover the amount from the concerned erred official.

Regarding the other points raised by the appellant against the CGRF actions like, 1). Not allowed to counter examine the respondents, 2). Not allowed to inspect the related records and registers, 3). Not recorded the statements of hearing etc., I do not find any infirmity in the actions of the Forum, since the KSERC (CGRF and Electricity Ombudsman) Regulations, 2005, clause 9(4) read as 'Subject to foregoing regulations and the need to observe the rules of natural justice the Forum may specify its own procedures' and also that the Forum has only quasi-judicial powers.

Having decided as above, it is ordered accordingly. The Appeal Petition filed by the consumer Sri P Jyothi Prasad, is found having some merit and is allowed to the extent as ordered above. The Petition stands disposed of. No order on costs.

Dated the 3rd of October, 2012,

Electricity Ombudsman.

Ref No: P/ 251/ 2011/ _____ / Dated

Forwarded to : 1). Sri. P Jyothi Prasad,
41/81-A, 'Jyothi', Mullassery Canal road,
Kochi – 682011
: 2). The Assistant Executive Engineer,
Electrical Sub Division, KSEB,
College, Ernakulam.

Copy to: : 1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.
: 2). The Secretary, KSEB,
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
: 3). The Chairperson, Consumer Grievance Redressal Forum,
KSEB, Power house Bldg, Cemetery mukku, Ernakulam-682 018.