

STATE ELTHEECTRICITY OMBUDSMAN

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Appeal Petition No: P/247/2011.

(Present Sri.T.P.Vivekanandan)

Appellant : Sri V.D.Vinod,
Managing partner, Neo Plast Industries,
Koovapady P O, Ernakulam Dt.

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

ORDER.

Background of the Case: -

Sri V D Vinod, the appellant is the Managing Partner, Neo Plast Industries, , has filed an Appeal Petition on 19.10.2011 before this Forum. The appeal is against the order dated 5.8.2011 of CGRF, Ernakulam, in the Petition no. CGRF-CR/Comp.15/2011-12, filed before it. The cause of dispute is that the appellant is having an industrial connection with consumer No. 12387 under Electrical Section, Koovapady and the connection was provided under Minimum Guarantee(MG) basis with DOC as 12/6/2002, and now having a connected load of 80 KW. The consumer had submitted an application for additional load of 54 KW on 15/5/2010 after remitting required fees at the Office. The additional load requested could not be sanctioned within the stipulated time due to non-availability of spare power capacity to cater the said load from Kanjirakkad feeder of Perumbavoor Sub Division. Meanwhile the APTS team of the Board inspected in the premises of the consumer and detected an additional load of 74 KW in the premises. A penal bill amounting to Rs.5,35,370/- was served upon the consumer. Later a revised bill dated 25/1/2011 amounting to Rs.4,95,089/- was served on the consumer since the actual UAL detected was only 65 KW. Against this bill, the consumer has filed a writ petition No. WP © 10951/2011 before the Hon High Court and the Court passed an interim order directing to remit the energy charges as per the invoices raised from time to time and also 1/3rd of the amount demanded in the penal bill and not to disconnect the supply on remittance of the said amount. The consumer had remitted Rs.178457/- in this regard. The consumer had executed a TOD agreement on 31/3/2011 with contract demand 80 KVA and the TOD meter was installed in the premises on 4/4/2011. Even after installation of TOD meter, TOD billing procedures were not started immediately by the respondent. It is learnt that the consumer had filed a petition before KSERC against non compliance of directives in this regard and KSERC redirected the complainant to approach CGRF for appropriate action and he acted accordingly.

The consumer filed the petition before the CGRF on 7/7/2011 with the following reliefs sought; 1) to direct KSEB, Koovapady Section to confirm the application for additional load as accepted from the 7th day of remitting Rs. 5000/- as required fees i.e. from 18/5/2010.2) to direct the KSEB to withdraw the site mahazar and subsequent bills. 3) to direct KSEB to repay entire amount collected as per the data based on site mahazar and subsequent disputed invoices. 4) to direct KSEB to pay Rs. 100000/- as compensation. The Forum had delivered the following orders on the complaint received.

“ Respondent to issue power allocation on petitioner’s application registered on 18/5/2010 from Aimury feeder of 33 KV Koovapady Substation. The power allocation to be issued within a period of two weeks from the date of receipt of this order. The MG work of the petitioner to be completed and the proposed load regularized within a period of three months from the date of execution of MG and submission of completion report observing clause 5(5) of supply code. Petitioners billing to be done as per TOD meter reading from 4/4/11 onwards and the normally issued bills from 4/4/11 to be revised and adjusted as per the tariff order. Petitioner to disconnect the unauthorized additional load connected to respondent’s system as early as possible. Forum is not taking decision on the additional demands raised based on the unauthorized additional load as the same id before the Hon’ble High Court.”

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.

The consumer had applied for additional load of 54 KW after remitting application fee Rs.10/- and Rs.5000/- towards advance. The KSEB is bound to give the connection/enhancement against payment of application fee and advance. As per Clause 5(5) of Supply Code “the Licensee shall acknowledge the receipt as and when the application is received. If an application is incomplete in any respect, the Licensee shall within 7 days of receipt of the application, inform the applicant of all deficiencies in writing”. Here the KSEB have not given any reply and instead of reply they have conducted inspection after 6 months and penalized the consumer. This is against the Supply Code.

Though the consumer had applied for TOD tariff after remitting the required fees and the meter installed, KSEB has not raised any bill as per TOD rules. This is a serious violation of Supply Code. The agreement was signed on 31/3/2011 and KSEB has to issue the TOD bill from April onwards. Instead of giving the TOD bill, the Board claimed normal Bill for Rs.2, 42, 465/- towards additional load. As per the TOD meter reading, the MD value is less than 80 KVA. If the billing was done as per TOD rules, there will not be any additional load or excess load for billing. The billing done without complying with the Tariff order and directions of the Commission is clearly non-compliance of its Directives. If KSEB had acted as per the Directives and informed the consumer any deficiency in application within 7 days the consumer would not have connected additional load. Instead, KSEB informed vide letter dated 4.4.2011 (after 11 months of application), the difficulties to provide 54 KW additional load. The KVA demand has never exceeded 80 KVA and hence the electrical line will never get over loaded due the appellant’s additional load. The feeder current of 195 A includes the appellant’s additional load also. Had the application was considered on 15.5.2010 as per the Supply Code, the Ampere loading of the Feeder, may have been much lower than 195 Amperes.

Argument of the respondent: -

The appellant is an industrial consumer running a Plastic Unit named Neo Plastic Industries with a connected load of 80 KW and availed the said connection on 12.6.2002. While so, he applied for an additional load of 54 KW on 11.5.2010 and since the 11 KV feeders supplying the Transformers, were already overloaded, it became necessary to construct fresh 11 KV line to cater the additional Load requested. Meanwhile, the APTS has inspected the appellant's premises on 21.1.2011 and detected that he was using the additional load, without sanction (unauthorisely) and hence a penal bill was issued for the same irregularity committed. The penal bill was questioned in the Hon High Court vide WP (C) 10951/ 2011, by the party and is pending for decision.

In the mean time, the consumer opted for the TOD facility (so as to facilitate more connected load with the same Contract Demand) and installed the TOD meter on 4.4.2011, after completing formalities as per rules. But the TOD billing from the next month, as per rules, was delayed as the System software installation in the Computer (for TOD billing) got delayed. Being aggrieved the consumer approached the CGRF and got orders to provide the additional load by constructing new 11 KV line and T'rfr under MG basis and accordingly the respondent acted and the work was under execution. The cause of delay for sanctioning the additional load has been conveyed to the consumer in person and he was fully aware of the same. Without getting sanction of KSEB, the consumer has no right to connect additional load to KSEB lines. Previously also, the consumer has connected unauthorised additional load to KSEB system and the same was detected (in 6/2004) and action initiated against him.

The respondent states that in compliance with the above orders of CGRF, estimate for line extension of 11 KV line has already been sanctioned for effecting supply after constructing 300 m of 11 KV line from Aimury 11 KV feeder of Kuruppampady 33 KV Substation and enhancing 100 KVA transformer to 160 KVA on MG basis and 75% work has been completed as of now. Further, the consumer's monthly bills are also now being issued adopting the TOD billing procedures.

Analysis and Findings: -

The Hearing of the case was posted on 11.01.2012 and the appellant was not present. But the consumer filed an adjournment request, citing he was indisposed and hence could not attend the hearing, which was allowed. The second hearing was done on 17.4.2012 and both parties were present. Sri V D Vinod, the appellant and his Representative, Sri. Shaji Sebastian appeared for the appellant's side and Sri. MP Poulouse, Asst. Exe. Engineer, Kuruppampady, for the opposite side.

The appellant has submitted the Appeal Petition on 19/10/2011 before this Forum with the same copy of petition filed before CGRF and he has not raised any other grounds or arguments in this Appeal Petition, other than what he pleaded before the CGRF. Since the main reliefs sought are based on the same issues that are pending before the Hon High Court for decision, I do not feel it appropriate to entertain the Petition on the ground that the Case is not maintainable before this Forum also, as per Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005. Hence this Forum declines to interfere with the orders of CGRF.

At this juncture it is to be noted that, the Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that;

“No representation to the Ombudsman shall lie in case 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”.

Since a Writ Petition filed by the respondent lies before the Hon High Court of Kerala and in the light of the above provision under 22(d) of KSERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by the appellant, need no further action at this Forum and hence needs to be rejected.

Decision: -

On the hearing day of 17.4.2012, the appellant has stated that the complaints on the Penal bills are pending before the Hon High Court and hence it is not pursued here. Further he informed that as of now, he has no specific complaints to argue and therefore, wishes to approach the Forum again with necessary modifications made in the complaint accordingly. This was allowed. But the consumer did not file any modified version so far. In the circumstances, the Order of the CGRF stands confirmed and it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of with the above directions. No order on costs.

Dated the 13th of February, 2013,

ELECTRICITY OMBUDSMAN.

REF No.P/247/2011/ 1581/Dated 13.02.2013.

Forwarded to : 1). Sri. V.D. Vinod,
Managing partner, Neo Plast Industries,
Koovapady P.O., Ernakulam
2). The Assistant Executive Engineer,
Electrical Sub Division, KSEB,
Kuruppampady.

Copy to : (1). The Secretary, Kerala state Electricity Regulatory Commission,
KPFChavanam, Vellayambalam Thiruvananthapuram-10.
(2). The Secretary, KSEBoard,
Vydyuthibhavanam, KSEBoard, Pattom, Thiruvananthapuram-4
(3). The Chairperson, Consumer Grievance Redressal Forum,
KESB, Power House Building, Ernakulam- 682018.