

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/353/2013.

(Present: T.P. Vivekanandan)

Appellant : Sri. Babu Chacko,  
Padinjareparambil, Madukka P.O,  
Mundakkayam, Kottayam-686 513.

Respondent : The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Kanjirappally, Kottayam (DT).

ORDER.

Background of the case: -

The appellants are said to be the occupants or tenants of a building, which is now owned by the SD Agency and having an electric connection with Con.No.11911, with the registered consumer as, Mr P K Kurian. While so, the SD agency requested the KSEB to dismantle the said electric supply for reasons best known to them. The respondent without verifying whether the connection is being enjoyed by someone else dismantled the service by cutting the Wire from the Post. KSEB could not recover the Meter as the building was in locked up condition. When the appellants raised objection against disconnection of service and requested restoration of supply, the respondent demanded to take a new connection with execution of an indemnity bond. Being aggrieved, he filed petition before the CGRF and not satisfied by its decision, the appellants have filed the appeal petition.

Argument of the Appellant.

- 1).The petitioner is the occupant of the building with Con no: 11911 with LT VII (A) –commercial tariff under Electrical Section, Kanjirappally. He was occupying the building for the last few years and the entire current charges were paid by him and original bills are available with him. The name of the registered consumer is Sri P.K. Kurian and at present he is not available. Although there was a change in the title deed, the consumer was not changed and is still Mr. Kurian.
- 2).The consumer had obtained a stay from eviction, from the Munciff Court, Kanjirappally. The stay was obtained on 21.01.2013 and Advocate Commission inspected the site on 22.01.2013. The Commission have witnessed the presence of electric supply in the connection and also confirmed the working of fan and light.

- 3). On 23<sup>rd</sup> January, without any information or notice, Sri. Raju, the Overseer, Kanjirappally, came and disconnected the supply after climbing over the post. At that time, the neighbors told him not to disconnect the supply. Ignoring the advice of the neighbors he disconnected the supply. Hence the consumer approached the CGRF for an interim relief of reconnections and CGRF released a final order without considering the consumer's grievance.
- 4). As per records, the date of dismantling is noted as 17.01.2013. But actual date of disconnection is 23.01.2013 afternoon. As per report, it is dismantling but the meter was not removed and only the disconnection was made from the post. After recording in the register that the connection is dismantled on 17.01.2013 and the meter not removed, how KSEB can collect energy charge on 18.01.2013 without adjusting the CD?.
- 5). As per records of KSEB, the register consumer is Mr. Kurian. The bill is also paid in the name of Kurian. Then how can KSEB declare that the society was the consumer on the disconnected date of 17.01.2013? The disconnection was done without confirming the ownership in the register.
- 6).The hearing that conducted on 26.02.2013 was only an interim hearing for reconnecting the supply. Instead of asking KSEB whether there is any objection for reconnecting the supply, CGRF treated that hearing as a final one. The hearing was done immediately on submission of the petition and CGRF also admitted that the petitioner approached for an immediate reconnection.
- 7). As per CGRF the statement of the respondent was submitted on 26.02.2013 but the copy was not handed over to the consumer.
- 8).The petitioner approached the Assistant Engineer on 24<sup>th</sup>. He was furious and asked why he approached him? Even though the consumer tried to explain he ignored.
- 9).The representative of the consumer, Sri.Shaji Sebastian also contacted the Assistant Engineer and Assistant Executive Engineer over phone and they told that the disconnection was done without their knowledge or permission. Though he asked KSEB to reconnect the supply, it was not done and instead send a letter stating that they will give a separate supply to the consumer.
- 10). All the original bills for the past five years are available with the consumer.
- 11).It is also surprising that even after dismantling the connection, KSEBoard did not take back the Meter but falsely recorded in the register that the meter is taken back.
- 12).Taking into consideration all above facts and also that the CGRF identified partially the lapses from the part of KSEB, especially the disconnection without intimation, the Hon Ombudsman may;
  - i) Direct an immediate reconnection
  - ii) Wave the fixed charge for the period of disconnection
  - iii) award Compensation towards expenditure of the consumer as prayed for in CGRF petition.
  - iv)Direct CGRF to have a detailed hearing and find out the culprits who have done the illegal disconnection by verifying the movement register.

Argument of the Respondent: -

- 1). The complaint is not maintainable either in law or on facts. The appellant has raised arguments other than that raised before the CGRF and hence those arguments may summarily be rejected.
- 2).The Con No: 11911 stands registered in the name of Sri.P.K.Kurian,Panamthanathu, Parathodu and now the building is under the control of Sustainable Development Agency, Kanjirappally. The

appellant has admitted in the complaint filed before the Hon CGRF that the building with electric connection belongs to SD Agency. The appellant has not produced any valid document to prove that he is a legal occupier of the building and so the appellant is not a consumer of connection no: 11911. So the appeal petition is not maintainable either in law or in facts. So it may be dismissed.

3). On 05.01.2013, Sri.V.C.Chandy, the Chairman of SD Agency has submitted an application for dismantling the electric connection No: 11911 and remitted Application Fee and work Deposit charge for the same. As per this request the electric connection was dismantled on 17.01.2013 and made entries on appropriate registers. Since the building was in locked up condition, the meter was not taken back and service dismantled by cutting the wire from the post. Since the building is in the compound of SD Agency and the applicant was not able to contact over phone the service connection was dismantled without taking the meter and this is also noted in the register.

4). On 24<sup>th</sup> January 2013, the appellant has enquired to the respondent about the present status of Con no: 11911 and was informed about the dismantling done and also requested to the appellant to file written petition if he had any complaint in this regard. On 26<sup>th</sup> he filed a complaint stating that he is using the building No.398/XVIII (Old No.43 A/III) of Parathodu Panchayath on rent basis and also he had filed a petition before the Hon Munsiff Court, Kanjirappally. He produced a copy of the injunction order dated 21.01.2013 and a copy of rent agreement. He stated that the electric connection was dismantled on 23.01.2013 without intimation to him. In the injunction order, I.A. No.147/2013 in OS No.22/2013 of Munsiff Court, the Hon Court has ordered restraining the defendants from evicting plaintiff from the property except under the due process of law until further orders and nothing mentioned about the Electric connection. The petition was filed before the Hon Munsiff Court on 21.01.2013 but the service connection was dismantled on 17.01.2013.

5). In the second commission report it is noted that the electric equipment like fan and light are working at the time of inspection, but did not mention how it is energized? The period of the rent agreement produced by the appellant was expired in the copy produced by the appellant. He is not a registered consumer of the electric connection no: 11911 and the appellant has not given any information regarding the rented use of the building or the use of carpentry machines for construction purpose in the section office. So no intimation was given to the appellant regarding the dismantling of electric connection. The service was dismantled on 17.01.2013 and the party turned up with a complaint only on 26.01.2013.

6). The appellant is not a registered consumer of the Con. no: 11911 and he has not produced any document stating he is the lawful occupier of the building. On taking a lenient view the respondent has sent a letter on 28.01.2013 to Sri.V.C.Chandy, Chairman of the SD Agency, who had requested to dismantle the electric connection that Sri.Babu Chacko has filed complaint against dismantling the electric connection to the building where he is staying on rented basis. Sri.V.C.Chandy on his reply dated 29.01.2013 intimated that Sri.Babu Chacko (Appellant) is not a tenant of the building No.43A/III with electric connection of Con No.11911. He also informed that former Chairman, Late Fr. Mathew Vadakkemury, had given consent for keeping the materials for his house construction in the adjacent compound and not on rented basis. He further disclosed that Sri.Babu Chacko has

agreed to remove his materials on or before 31.12.2012. It is also informed that the appellant has unauthorisely connected electric plainer machine to the electric connection for carpentry works. He further intimated that besides his own carpentry works, other carpentry works were also done with machinery. He stated that application for dismantling the supply was submitted on 5.01.2013 and the connection was dismantled on 17.01.2013 and the complainant has filed petition before the Hon Munsiff Court only on 22.1.2013. He disclosed that a notice was issued to Mr Babu Chacko in this regard on 04.01.2013. He objected in effecting the dismantled electric connection. Taking a lenient view, the respondent has intimated the appellant on 30.1.2013 that, as the SD Agency has objected in re-effecting the service connection; a connection can be effected on submitting a new completion report with execution of an indemnity Bond of Rs.100/-.

7). On 01.02.2013 the Chairman of the SD Agency have filed another objection stating that the building was in damaged condition with leakage and the wiring is also damaged condition. It is also intimated that the appellant is unauthorisely extending supply to plainer machine for furniture works and the Agency would have no responsibility for any accident and dues of electric charges.

8).All the points were discussed in detail in the hearing conducted in Hon CGRF on 26.02.2013 and the Forum has not accepted the argument of appellant that he being the tenant of the premise is the lawful consumer of electricity, but upheld the respondent's action of dismantling without giving advance notice. The Forum disposed the petition with direction to submit fresh application as per the letter dated 31.01.2013 of the respondent and also directed the respondent to grant the connection under special priority.

9).The building with Con no: 11911,has 3 or 4 rooms and the front side has extended truss work and sides are closed with welded mesh. The meter is placed in this truss work area of the building and machines and wooden articles are lying in the area. Since the locked up building lies in the compound of the SD Agency, the dismantling was done as per the request of the Agency, without further inquiry. Normally details from the dismantling register are copied to computer system in bulk, so the appellant was able to remit the bill on 18.01.2012.

10). It is learned from local enquiry that the appellant was an employee of the SDA and the copy of the rent agreement produced by the appellant was executed with Fr.Mathew Vadekkemury, which is now invalid and void. The appellant has constructed a two story residential building of about 3000 sq feet about 10 meters away from the registered office of the Agency. The materials are stacked in the said building for the construction of this building. Being an erstwhile employee of the Agency the appellant may be in possession of past electricity bills. This does not confer any right on the appellant with regard to the electric connection. Before the Hon CGRF the appellant has produced rent agreement with the SD Agency and tried to establish that he is a legal occupier of the building. In the complaint filed before the Hon CGRF the appellant accepted the ownership of SD Agency. The argument made by the appellant is contradicting.

11).The building owner also intimated that they are not responsible for any accident or dues in current charges. So the respondent has intimated the appellant that electric connection can be effected on new completion report with executing an indemnity Bond worth Rs.100/-. This

intimation was given in view avoiding the usage of electricity without proper installation and test certificate prejudicial to the safety of the appellant and public. The averments made in the appeal by the appellant are only to mislead the Hon Ombudsman. The opposite parties had acted only in accordance with the existing rules and regulations and it is prayed that this Hon Ombudsman may please be accept this statement and to dismiss the appeal petition.

Analysis and Findings: -

The Electric connection No. 11911 is found as being enjoyed by the appellant. This fact is not denied by anyone. As per clause 25 (a) of the Electricity Supply Code, 2005, the disconnection shall be done at the request of the consumer. In this case, appellant nor the SD Agency is the registered consumer. The appellant is the occupier of the building containing the said electric connection No. 11911. This is apparent from (i) the Injection order issued by the Munsiff Court, restricting the SD Agency from forcefully vacating the appellant from the building. (ii) the respondent has stated that they are ready to give connection to the appellant provided he submits an Indemnity Bond with a new completion report of wiring, (iii) it is noted that the SD Agency has intimated KSEB that they are agreeable to extend supply from an adjacent building and (iv) the KSEB could not retrieve the Meter from the building as it was locked up, probably by the appellant. All these factors suggest that the respondent should not have disconnected an electric service connection being enjoyed by a third party, before ascertaining the facts and issuing a notice. Here the KSEB has acted merely on receipt of a request from the SD Agency and not observing the rules laid down in Supply Code.

Even if a mistake (wrong disconnection) has occurred from KSEB's side, the respondent has the responsibility to rectify it, once it is brought to its notice. Here, the Respondent has argued the case as a party for the SD agency. This is because, the KSEB has brought in the arguments of the SD Agency that the building is damaged and the electrical wiring is dangerous condition etc. It is the duty of KSEB itself to inspect and ascertain whether the wiring is proper or not. They cannot rely on the argument of an unqualified out side party's statement that the electrical wiring is in bad shape. I feel many of the arguments of the respondents are in favor of the SD Agency only. The argument of KSEB that the appellant is not the legal occupier is not in order, as they are not supposed to decide on such issues, which the appropriate Civil Court can only decide.

Similarly whether the rent agreement is valid or not is not the concern of KSEB. The appellant has produced a copy of the Injunction order of the Munsiff Court, Kanjirappally, against eviction forcefully, which suggest he may be occupying the said building having the Electric connection. The allegation of unauthorized use of electricity by the party (raised by SD Agency) has to be verified and ascertained by the respondent itself after inspection and proceed as per rules.

Decision: -

The respondent is found to have disconnected a live Electric service connection, based on a request of SD Agency, without conducting an enquiry whether it is the registered consumer or not, whether the service connection is being enjoyed by other parties, whether the request made for dismantling a 'Live' Electric connection form part of a dispute between owner and occupier etc. The dispute becomes clear when it was not possible to take back the Meter of the dismantled

service connection. At least at that time, the Respondent could have made a local enquiry and verified facts and issued a notice to the occupant. Moreover, once an objection was filed, they could have restored supply since they have to act only as per Clause 25(b) of the Electricity Supply Code, 2005, in case of disputes between parties, which states as follows;

25- Disconnection of supply of electricity by Licensee-

.....(b) The Licensee is mandated to do so by a person with legal authority to issue such mandate, (Unless it is proved that there exist electricity arrears or the electric supply is posing a dangerous safety problem etc). Here no such electricity arrears or safety hazard charges are raised against the appellant. Moreover, the KSEB agrees to provide connection if applied with a fresh set of papers and execute an agreement. The Respondent cannot, first dismantle an existing connection and then offer to take a new connection in its place. This action of KSEB is found to be not in order.

Hence it is decided that the Electric service connection No.11911 shall be restored with in 24 hours of receipt of this order. After restoring the service connection, if the respondents demands, the appellant has to submit the required papers (wiring installation Completion report and other documents) and has to execute indemnity bond etc as per rules, which are applicable when the owner dispute in giving the electric connection to its tenant/occupier. The respondent has to give reasonable time to the appellant, to produce the documents, if any required.

Having concluded and decided as above, it is ordered accordingly. No order on costs. The related CGRF order No, CGRF-CR/Comp.158/2012-13 dated 1.3.2013 is set aside.

Dated the 19<sup>th</sup> of April, 2013.

## ELECTRICITY OMBUDSMAN.

Ref.No.P/353/2013/1700/ Dated 19.04.2013.

- Forwarded to
- 1). Sri. Babu Chacko  
Padinjareparambil, Madukka P.O, Mundakkayam-686 513.
  - 2).The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard, Kanjirappally, Kottayam (DT).
- Copy to : -
- 1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFC Bhavanam, Vellayambalam Thiruvananthapuram-10.
  - 2). The Secretary, KSEBoard,  
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
  - 3). The Chairperson, Consumer Grievance Redressal Forum,  
Power House, Ernakulum-682 018.