

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/386/2013.

(Present: T.P. Vivekanandan)

Appellant : Sri. Jayanthan Namboothirippad,
Managing Partner, M/S.Lotus Properties, D-1,
Sree Hari Apartments, Thripunithura P O,
Ernakulum Dt. Pin-682 301.

Respondent : The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Thripunithura P O, Pin-682 301.

ORDER.

Background of the Case: -

The appellant, Sri. M.D. Jayanthan Namboothirippad, Managing partner of M/s 'Lotus Properties', has filed a petition before the CGRF, Ernakulam, seeking Electric Power connection to his Building, without insisting on the installation of a Ring Main Unit (RMU) for his Apartment project. After conducting hearings, the CGRF dismissed the petition since it has found it devoid of merits. Being aggrieved by the said order the appellant has submitted this Appeal Petition.

Earlier, the appellant, had applied for power allocation on completion of construction of their Apartment project under Electrical Division, Trippunithura. The KSEB has fixed for Rs. 21,06,967/- the estimated cost of work for constructing OH Electric Line including installation of CTC type RMU under the supervision of KSEB officials and directed the appellant to remit Rs. 2,27,302/- towards the cost of constructing 11 KV OH line supervision charges by the Board. The appellant pointed out that the supply could be effected through OH line and the KSEB should not have insisted for a redundant condition of installation of RMU and thereby causing unnecessary financial burden on the appellant. Hence the appellant requests exemption from installation of RMU.

Arguments of the Appellant:

(1). The appellant pointed out that in respect of the completed project of Flats complex named Enclave at Thamarakulangara, Thripunithura, promoted by the appellant after a joint venture agreement with the land owner, Smt. Madura Meenakshi, consisting of 31 Residential apartments,

when the appellant applied for power connection after fulfilling all the technical requirements, the Respondent insisted installation of an RMU costing about Rs.5 to 7 lakhs, as a pre condition.

(2). The Appellant contends that since the supply was to be effected through over head line and he was to pay for drawing the Electric over head line and for putting up a DP, which all clearly meant that the supply would be effected through over head line and not through underground cable, the KSEBoard should not have insisted for a redundant condition of installation of RMU and thereby causing unnecessary financial burden on the appellant, when the supply was to be effected using over head line. The appellant also produced an order dated 12.04.2013 issued by KSEBoard CGRF enabling another builder group to obtain connection for their flat complex without installing RMU, but on furnishing an undertaking that RMU would be installed as and when it becomes necessary, i.e. when the over head supply line would be replaced by underground cables. In this context the true copy of the compliant with Annexure is produced and marked as annexure A.

(3). But instead of the valid contentions and the relief granted in identical matter in the same terms as sought by the appellant, the KSEBoard CGRF took a highly lopsided and discriminatory stand and dismissed the compliant.

(4). The requirements of RMU is confined only in respect of High rise building and the Appellant's Flat complex would not fall under the said category. He also understands that even this authority had on earlier occasion considered identical questions and essentially held that such instance would be impermissible especially when the supply is sought to be given through over head lines.

(5). The CGRF ought to have allowed the complaint as done in identical case vide its earlier order dated 12.04.2013. The CGRF ought to have taken an objective view to find that the technical requirements of RMU and it shall not be blindly insisted when the connection is to be given through over head line and where the RMU will be rendered redundant.

(6). The CGRF ought to have seen RMU is admittedly an expensive installation when the appellant is already compelled to pay for drawing over head line, he should not have been put to double jeopardy of installing a redundant RMU. There was not even an undertaking from KSEB that supply would be through underground (UG) cable within reasonable time. Under these circumstances, compelling the appellant to spend for a redundant but expensive RMU even without any time bound offer from KSEBoard would be highly prejudicial and discriminatory.

(7). The CGRF ought to have seen that installation of redundant RMU and its idling over for years without any genuine need would hamper the future life of RMU. The object of the circular insisting RMU in KSEB is to supply through UG and unless KSEB offers its readiness to give supply through

UG cable within reasonable time, the blind insistence to install a redundant RMU would be unfair, prejudicial and causing irreparable hardship and financial loss.

(8). The CGRF failed to apply discretion and principles of fairness while rejecting the compliant. The CGRF ought to have seen that it is not a part of KSEB, but a quasi-judicial body to redress the grievance of the customer after taking an objective, fair and impartial view based on principles of fairness and genuineness of justification.

(9). The appellant is prepared to give an undertaking, also binding his customers, that any time in future when supply is to be converted through UGC, the RMU would be installed, which condition was sufficient to protect the interest of KSEBoard also.

Arguments of the Respondent: -

The respondent has filed the statement of facts against the averments raised in the Appeal petition. The main contentions of the respondent are the following.

(1) The petitioner Sri. Jayanthan Namboodirippad, Managing Partner, Lotus Properties, D-1, Sree Hari Appartments, Thrpunithura, had applied for 160 KVA power to an apartment building named M/S.Povothil Enclave, near Thamarakulangara temple under Electrical section, Thripunithura. The petitioner is not a consumer but he is only a builder and the original property owner is Smt. Madhura Meenakshi. An estimate amounting to Rs.2106967/-has been sanctioned vide AS NO.2/13-14 dated 25.04.2013 on cost of providing supply, as per the request of the above petitioner. The works includes constructing of 70 meters of 11 KV OH lines by the Board and laying 50 meters of 11 KV 3X 185 sq mm XLPE UG Cable after erecting one DP structure CTC type RMU, 160 KVA indoor transformer, LT cables and accessories up to the metering panel, by the consumer under Board's Supervision. No provision is made in the estimate for PTCC or tree cutting compensation and if arises the same, has to be collected along with 10% supervision charges. The amount to be remitted by the party comes to Rs. 227302/- after deducting the advance amount remitted by the party. The cost of supply vary from that mentioned above on actual execution of works and the applicant is liable to pay the difference if any on demand and it was also mentioned on the intimation letter issued to the party on 25.04.2013.

(2). On getting the above intimation letter, the petitioner filed petition on 09.05.2013 before the Hon CGRF against the installation of RMU insisted on the sanctioned estimate without remitting the required amount as per the estimate. The petitioner has approached for 160 KVA power only after completion of his project even though his building is not a high rise building as reported by him, and even though he could have availed supply from an ordinary outdoor transformer, he installed his own indoor transformer and DP structure for tapping the 11 KV UG cable in order to maintain high profile standard of the project.

(3). The Board directed the appellant that the consumers requiring installation of transformers for availing supply with in APDRP scheme area shall be allowed to tap HT supply only through RMU and also during the conference held on 12.06.2012 at Electrical Circle, Ernakulum, decisions were taken for insisting RMU for giving connection to all high rise building where installation of indoor transformer is mandatory and for all HT connection under RAPDRP Scheme area with cost of suitable RMU may be included in the estimate with 10% supervision charge.

(4). The area under Electrical Section, Thrpunnithura is already included in the proposed RAPDRP scheme for converting the existing 11 KV OH lines into UG cable. Once the UG cable is laid the tapping has to be done through RMU for proper up keeping of the cabling system. Hence the planning and maintaining of electrical system like the installation of RMU for 11 KV Ring Main Unit net works for future development is also vested on the licensee.

(5). Here the petitioner already installed 160 KVA indoor transformer for the exclusive use of all consumers (31 residential Flat apartments) and hence the petitioner is bound to recover the expense from this consumer for the same. Here the petitioner is not a consumer, but he is only a builder for completing the construction of the above project and there after the entire apartments may be handed over to individual Flat owners (different consumers) and they will not take any responsibility for the installation of RMU in future.

Analysis and Findings: -

The Hearing of the case was done in my chamber at Edappally, Kochi on 10.09.2013. Sri. Suvin R. Menon, represented the appellant's side and Sri. K.V. Venugopalan, AEE, ESD, KSEB, Tripunnithura, appeared for the respondent's side. On perusing the Petition, the counter statement of the KSEB, the documents filed, the arguments in the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision.

The respondent insists to install the RMU in the Distribution system of KSEB, since this area is included in the Restructured APDRP (RAPDRP) scheme, proposed for major towns and cities of Kerala. The scheme is meant for providing uninterrupted electric supply by the betterment of the existing 11KV feeders from Sub stations, by converting the existing Electric overhead HT lines to UG cables. According to them, as per the decision of KSEB, the prospective consumers of electric power has to install RMU for getting electric connection to their High rise (Multi storied) buildings, where installation of an indoor transformer is mandatory. Similar is the case for other applicants for HT Power connections in the R-APDRP scheme area and in all such cases, the cost of an RMU

need be included in the estimate with 10% supervision charges. The respondent has not specified whether this decision was taken on the basis of any orders issued by KSERC or KSERC has approved the decision in this regard. It is true that the Hon KSERC has approved the installation of RMU's for providing the Electric connections to new applicants of HT connections, in the areas where the UG cables has been laid under the said scheme and where the Licensee has not erected it for the general purpose as a part of infrastructure development.

The appellant alleges that the cost estimate prepared by the Respondent incorporating an RMU equipment, in a place where no UG Cable has been laid by KSEB (under the R-APDRP Scheme), so as to collect the 'Cost of works required to provide Electric Supply' to the appellant, is against the rules and is arbitrary. The appellant has pointed out that the R-APDRP Scheme (Power supply renovation scheme for Cities) has not been commenced yet in Tripunithura area and it is only a proposal and till now no UG Cable was laid by the KSEB under the said scheme, which the KSEB also admits. The KSEB is compelling the appellant to pay the cost of the equipment called RMU, which is required to tap electric supply from HT Cables. This device has the provision for alternate feeding arrangement, i.e. to feed the Transformer from the other side, in case of failure of Electric supply on one side. The RMU is an electric plant, which is not under the control of consumer and hence its cost can be recovered by KSEB, at the rate approved by the Commission, if the same is needed to provide electric supply to the applicants for Power, in the areas included in the RAPDRP Scheme. Thus even if it is an authorised to collect cost of RMU in such areas, the same is not found justifiable in this case, as the UG cables have not been laid so far under the scheme so as to hook up with the RMU proposed by the respondent. Further, the appellant has a contention that he is willing to give an undertaking, incorporating his customers in his Flats/Apartments, so that at any time in future when supply is to be converted through UG cable and for which the RMU has to be installed, he will bear the cost at that time. Hence, I am of the opinion that such an undertaking is sufficient to protect the interest of KSEB.

DECISION: -

From the analysis done and the conclusions arrived at, I take the following decision.

The appellant is seen willing to give an undertaking in stamp paper, including his customers in the Flats where Power supply is sought, as binding to the said promise, that he individually or

severally shall pay the cost of RMU, in case the RAPDRP scheme is implemented in his area and he is required by KSEB to pay the amount required for the same on a latter date. Since the UG Cable under the R-APDRP scheme has not been laid in the disputed area or near the premises of the appellant, I feel the appellant cannot be compelled to pay the cost of an RMU now, where it is not possible to readily install the equipment (RMU) in the Distribution system of the Licensee. More over, I notice that the Respondent has earlier sanctioned electric connections to others, on obtaining such undertakings from applicants for HT Power, as promised by the appellant in this case. Hence I am of the view that the electric connections requested by the appellant in this case shall be released, by collecting all other estimate costs, as required as per rules, except the cost of a CTC RMU. But the appellant is required to submit an undertaking as applicable in KSEB for the said purpose and once the same is accepted and the estimate cost excluding RMU cost is also remitted, the respondent shall take all steps to provide the electric supply at the earliest.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent ordered and stands disposed of accordingly. The related CGRF order vide No. CGRF-CR/Comp. 19/ 2013-14 dated 07.06.2013 is set aside. No order on costs. Dated the 31st of October, 2013.

Electricity Ombudsman.

Ref. No. P / 386/ 2013/ 2030/ Dated 31.10.2013.

Forwarded to (1). Sri. Jayanthan Namboothirippad,
Managing Partner, M/S.Lotus Properties, D-1,
Sreehari Apartments, Thripunithura P O, Ernakulum-682 301.
(2). The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard, Thripunithura.

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, CGRF,
KSEB, Power House Buildings, Ernakulum, Cochin -18.