

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO.P/040/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 17th March 2015

Appellant : Sri A. Ramamoorthy
Secretary,
Sreevalsam Apartment Owners Association,
Sreevaraham,
Thiruvananthapuram - 695 009

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Ltd,
Beach, Chakkai, Petta P.O
Thiruvananthapuram

ORDER**Background of the case**

The appellant is the Secretary, Sreevalsam Apartment Owners Association representing the residents / owners of the multi storied building complex named as "Sreevalsam Apartments" under the Electrical Section, Sreevaraham. According to the appellant, electric supply to the building was obtained after remitting the entire cost as demanded by the Licensee. The building is a high rise building with a load 160 kVA and the electricity supply is given through 150 mm² underground cable for a distance of 260 Mtrs. The supply to the premises was disrupted on two occasions, and the repair and maintenance were carried out after realizing the expenses from the appellant. A total amount of Rs. 1,21,259/- was realized from the appellant towards the cost of repair and maintenance of the 150 mm service line cable. According to the appellant, it is the duty of the Licensee to maintain the 150 mm service line cable at their own expenses. The appellant, therefore, sought for the refund of the said amount with interest. According to the respondent, the permission to use 150 mm cable instead of 300 mm cable was issued upon the specific condition that its maintenance should be done by the consumer himself. The CGRF found no irregularities on the part of the respondent in demanding charges for restoration of supply and, hence dismissed the complaint. Aggrieved against the said order, this appeal petition was filed.

Appellant's arguments

"Sreevalsam Apartments" is a high rise building in which a 160 kVA, 11kV/433V transformer is provided and which is maintained by the appellant

association along with all electrical installations from the “point of supply” in the building. KSEB Ltd., supplies HT electricity to the building. The HT electricity is supplied through 150 sq. mm underground service line cable which is provided under along and across public roads. The HT electricity supply to the premises was disrupted more than once due to road making / repairing. In that connection, the appellant was compelled to remit the amounts which the licensee demanded and had to repair the service line at the appellant’s expenses under duress. Only after that, electricity supply through the service line was restored by the Assistant Engineer, Electrical Section, Sreevaraham.

The appellant’s argument is that it is the mandated duty of KSEB Ltd. to give supply up to the incoming terminal of HT electricity. It is also the duty of KSEB Ltd. to maintain good quality of electricity at the “point of supply” and to restore electricity supply within the timeframe prescribed under KSERC (Licensees’ Standard of Performance) Regulations, 2006, on the event of a failure in electricity supply. The conditions made applicable in laying underground service line to the appellant were conditions contained in a Board Order dated: 23/08/2000. The terms and conditions prescribed under Board Order dated: 23/08/2000 or in any subsequent Board Orders had no applicability or relevance at all on 25/06/2008, on which date, the underground service line cable was ordered to be laid or on subsequent dates. The builder of “Sreevalsam Apartments” (M/s Mansions) elected to provide the required service line subject to conditions provided under Clause 8 (9) of Supply Code. The conditions prescribed under any or all Board Orders are not applicable to M/s Mansions or to their successor, the appellant association. The installations up to the point of supply at the premises of any consumer is part of the distribution system of the Licensee even if it is provided by the applicant / consumer under Clause 8 (9) of Supply Code, 2005 or provided by KSEB Ltd. after collecting expenses under Section 46 of Electricity Act, 2003. Any distribution Licensee is duty bound under law to repair the damage, if occurred in the service line and to maintain it and the consumer is not at all mandated to repair the damage and to maintain the service line.

Respondent’s arguments

The promoter of the high rise multi storied building namely M/s Sreevalsam Apartments had applied for power supply of 160 kVA for the said building consisting of 16 separate flats which required 17 independent LT domestic connections. As per Regulation 8 (5) of Kerala Electricity Supply Code, 2005, for loads of 50 kVA and above connection shall be effected only after installation of a separate transformer of adequate capacity by the owner / occupier irrespective of category of consumer. The work was sanctioned by the Executive Engineer, Electrical Division, Kazhakoottam for an amount of Rs. 8,77,026/-. The amount was remitted on 18/07/2008 and the work was executed. After the energisation of the transformer, separate 17 Nos of LT connections were availed of by the appellant.

Considering the requests of the consumers, the Board has accorded sanction to the consumers to procure and lay cable on their own under supervision of Boards' officials on condition that the minimum size of the cable shall be 3 x 300 mm². On further requests of the consumers, the Board has ordered that the maintenance shall be done by the consumer, if the cable is laid by the consumers exclusively to their premises and if there is no possibility of further line extension by the Board. The size of the cable in such cases shall be determined based on the standard fault level calculation, load carrying capacity etc. The 150 mm² XLPE 11 kV underground cable was laid specifically for giving supply to "Sreevalsam Apartments" based on the conditions prevailed in Board Orders in Exts.R1, R3 and R4 which were agreed by the promoter of the building. The Deputy Chief Engineer, Electrical Circle, Thiruvananthapuram vide R6 letter had intimated the builder, the conditions of sanction for the cable laying work wherein it had been clearly specified that the maintenance and replacement of cable should be at the owner's cost and KSE Board would not be responsible for any delay in restoration of supply. Since the aforesaid cable has not been taken over by the KSE Board for further extension and giving electric connection to anybody till date, it has to be maintained by the occupier or the owner of the building. Since the promoter of the building had availed electric supply to her high rise building after accepting the conditions of the KSE Board, the appellant who represents the present owners and occupants who represents the present owners and occupants is bound to maintain the 260 m of 3 x 150 mm² XLPE 11 kV UG cable laid to the premises and the transformer and connected equipments installed thereat. All the expenses mentioned in the complaint were actually spent to fulfil the duties and responsibilities of the appellant. No amount is liable to be refunded by the KSEB Limited.

Analysis and findings

Hearing of the case was conducted on 23/01/2015 in my chamber at Edappally, Kochi. Sri Anandakuttan Nair represented the appellant. Sri Ajith Kumar K., Assistant Executive Engineer, Electrical Sub Division, Beach and Sri. Sakthidharan Nair, Advocate appeared for the respondent. Considering the arguments made by the parties and perusing the appeal petition, statement of facts, argument notes and other documents produced in support of their arguments, this Authority comes to the following conclusions leading to the decision thereof.

The only question to be decided in this case is as to whether the appellant was responsible for the repair and maintenance of the underground cable laid to give supply of electricity to the appellant's premises. It is an admitted fact that a total amount of Rs. 1,21,259/- was incurred / realized from the appellant for restoration of electric supply to his premises. The appellant prays for the refund of the said amount with interest. According to the appellant, it is the mandated duty of the KSEB Ltd. to restore electricity supply within the timeframe prescribed under KSERC (Licensees' Standards of Performance) Regulations, 2006, on the event of failure in electricity supply. But it has come to my notice that the Deputy Chief Engineer, Electrical Circle, Thiruvananthapuram had issued cable purchase sanction

vide letter No. DB2/Sreevalsam/08-09/205 dated: 07/07/2008. It has been indicated therein vide Para 8 of the said sanction that the maintenance and replacement of defective cable and termination for 150 mm² XLPE cable shall be done at the expense of the consumer and that KSEB is not responsible for any delay in restoration of supply, due to any defect in the cable or joints. It is seen that the appellant's predecessor who was the promoter of the above building accepted the cable purchase sanction with all the conditions appended thereto. He has no case that his predecessor raised objections to the said conditions while accepting the above order. It is crystal clear that the appellant is bound to abide the conditions so laid in the cable purchase sanction order. It is admitted that the respondent took prompt action in restoring electric supply to the appellant's premises, whenever supply was disrupted. The only grievance is that the respondent demanded charges for the same. The fact is that as per the conditions detailed above, the respondent was entitled to demand such charges.

Decision

In the above circumstances, this Authority find no reasons to interfere with the decisions of the Forum. The order of CGRF is upheld. The appeal petition is dismissed. No order as to costs.

ELECTRICITY OMBUDSMAN

P/040/2014/ _____ /Dated: _____

Forwarded to:

1. Sri A. Ramamurthy, Secretary, Sreevilasom Apartment Owners Association, Sreevaraham, Thiruvananthapuram-695 009
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Beach, Chakkai, Petta P.O., Thiruvananthapuram

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarkkara-691 506.