

THE STATE ELECTRICITY OMBUDSMAN

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REVIEW PETITION ON APPEAL PETITION NO. P/426/2013

(Present: V.V. Sathyarajan)

Dated: 26th June 2015

Review Appellant : The Assistant Executive Engineer,
Electrical Sub Division,
KSEBoard Ltd, Velloorkunnam,
Muvattupuzha, Ernakulam (DT)

Review Respondent : Sri T.H. Hameed
Thelamburam,
10, Kandanthara,
Vengola Panchayath,
Allapra P.O,
Ernakulam-683 553

ORDER**Background of the Case.**

The review respondent herein had approached this Authority by filing appeal petition dated 5-11-2013 against the order passed by the CGRF (Central) in complaint No. CGRF-CR/Comp.133/13-14 dated 28-10-2013. The assessment made in the case is without observing procedures to be followed during inspection, provisional assessment on detection of UAL/unauthorized extension etc as per guidelines issued by the Board vide order No. 2518/2013 dated 28-11-2013. The mahazar which is the crucial document is not seen produced by the respondent, even though it is claimed that it is prepared at the time of inspection. Hence this Authority has decided that the assessment is not sustainable before law and the appeal allowed. Now the review appellant contends that if the above dictum is applied, considerable injury will be resulted to review appellant i.e. the Licensee. Hence filed this review petition, with a plea to review the decision on the appeal.

Arguments of the review appellant

The review appellant has stated that the site mahazar was produced before the CGRF in complaint No.133/13-14 and the non production of the mahazar before this Authority is defect caused due to oversight. He now produced a copy of the mahazar along with the review petition. Also argued that penalization under section 126 of IE Act does not come under the purview of the CGRF and Ombudsman.

Arguments of the review respondent

During the hearing conducted on 11/06/2015, the review respondent has stated that the mahazar dated 27/09/2013 was prepared without observing the procedures and without convincing the consumer. Hence the site mahazar report cannot be considered as an official record of inspection.

Analysis and Findings

Hearing of the case was conducted in my chamber at Edappally on 11-06-2015. Sri Santhosh P Abraham., Assistant Executive Engineer, Electrical Sub Division, Velloorkunnam and Sri Tito V. William Nodal officer (litigation) Ele. Circle Perumbavoor appeared for the review appellant and Sri Shaji Sebastine and Sri. Mujeeb appeared for the review respondent. On perusing the review petition and arguments made during the hearing etc., this Authority comes to the following decisions thereof.

A copy of the site mahazar dated 27/09/2013 is seen produced by the review appellant along with his review petition. On a close reading of the mahazar is revealed that copy of the mahazar was not served on the review respondent or any authorized/responsible person. One person is seen signed in the mahazar whose details are not furnished. Hence the veracity of his acknowledgement in the mahazar is doubtful. The dispute involves an inspection conducted on 27/09/2013 in the premises of review respondent and assessment under section 126 of IE Act for penalization of unauthorized extension. The rule says *"A detailed site mahazar should invariably be prepared in the event of detection of unauthorized use or theft of electricity. The consumer/occupier, authorized representative present at the premises should be allowed to read the mahazar and to affix his signature in it. In case the consumer/occupier or authorized representative refuses to affix his signature in the mahazar, the fact shall be recorded in the mahazar. Two witnesses other than consumer/occupier, authorized representative should also sign in the mahazar. The official addresses of all inspecting officials including employee code as well as permanent addresses of witnesses should be recorded in the mahazar."*

In this case neither the consumer nor his authorized representative signed in the mahazar. Further no witnesses other than the licensee's representative is seen signed in

the mahazar report. Hence the inspection team has not followed the procedures to be taken during the time of inspection. *Every inspection conducted should be transparent, fair and free of prejudice.* Considering the above facts, the copy of mahazar produced by the review appellant cannot be taken as a valid document. In the absence of such document no assessment is sustainable before law.

Decision

In view of the above discussions, I find that no valid grounds are made out by the review appellant for interference in the order passed by this Authority. Therefore the review petition is accordingly dismissed.

ELECTRICITY OMBUDSMAN

Review Petition on Appeal Petition No. P/426/2013/ /Dated: _____

1. The Assistant Executive Engineer, Electrical Sub Division, KSEBoard Ltd, Velloorkunnam, Muvattupuzha, Ernakulam (DT)
2. Sri T.H. Hameed, Thelamburam, 10, Kandanthara, Vengola Panchayath, Allapra P.O, Ernakulam-683 553

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, KSE Board Ltd. Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018