

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/101/2015

(Present: V.V. Sathyarajan)

Dated: 11th September 2015

Appellant : 1. Sri. S. Syamkumar, Secretary,
2. Sri. M.P. Sivasankara Pillai, President
Perungottappan
Kshetra Bharana Samithi,
Puthoor, Kottarakkara,
Kollam

Respondent : The Assistant Executive Engineer,
KSE Board Ltd,
Electrical Sub Division,
Kottarakkara, Kollam.

ORDER**Background of the case:**

The appellants in this petition are the Secretary and President of Perungottappan Kshetra Bharana Samithi Puthoor, Kottarakkara, Kollam. The Kshetra Bharana Samithi constructed a building having no KP.VIII/1562 in the property belonging to the temple in resurvey no. 93/12 and obtained electric connection with consumer no.16492 under Electrical Section, Puthoor. Later this service connection was dismantled in pursuance of an order dated 31-12-2010 issued by the CGRF in OP No.591/2010 filed by one Sri Vijayakumar. The appellant approached the CGRF against the orders issued in OP No. 591/2010 for disconnection of consumer no. 16492 and the CGRF has ordered to maintain status quo in view of the pending civil suit No. AS No. 26/2014 and appeal before Tribunal, vide OP No. 606/2011 dated 26-03-2011. Disregarding the status quo order, the respondent had provided service connection in the same disputed building with consumer no. 18060, on submission of application by Sri. Vijayakumar, Chittedathuveedu, Mylakulam, Puthoor. Aggrieved by this, the appellant approached the CGRF, Kottarakkara with a petition in OP No.1293/2014 which was dismissed due to lack of merit and evidences, vide order dated 29-01-2015. Not satisfied with the above order, the appellant filed this appeal petition before this Authority on 02-03-2015.

Arguments of the appellant

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. The main contentions of the appellants are the following.

The respondent has provided electric connection with consumer No. 16492 to a shop building having building no. KP.VIII/1562 owned by Perungottappan Kshetra Bharana Samithi Puthoor. This connection was later dismantled in pursuance of an order issued by CGRF in OP No. 591/2010 based on a petition submitted by one Sri. Raj Mohanan, the power of attorney of Sri. Vijayakumar. The complainant in the said OP claims that the shop and building belongs to Sri Vijayakumar. The petition was disposed by the CGRF without allowing an opportunity for hearing the appellants. According to the appellant, the property and the shop building situated there belongs to the temple and the appellants have produced the ownership certificate and tax receipt to prove their argument in this regard.

Against the order of CGRF in OP No.591/2010, the appellant approached the CGRF in OP No. 606/2011 which was disposed by directing to maintain status quo in view of the pending civil suit. At that time a case in OS No. 635/2010 was pending in Munsiff Court, Kottarakkara. So the staircase room was kept closed without having an electric connection. As the situation prevails, the respondent has sanctioned an electric connection no 18060 in the disputed staircase room in resurvey no. 93/12 to Sri. Vijayakumar disregarding the orders issued by CGRF in OP No. 606/2011. The action of the respondent in giving the connection without obeying the order of CGRF to maintain status quo is highly illegal. The respondent has no right to sanction the connection, since a civil case in OS No. 635/2010 and another case in AS 26/2014 in Sub Court, Karunagappally are pending on the issue during the period. According to the appellants, Sri Vijayakumar has no property and building in survey no 93/12.

The CGRF has not considered the affidavit 29-01-2015 filed by the appellant before the Forum in OP No. 1293/14. Though the appellant has submitted the required documents like tax receipt and possession certificate etc of the property of resurvey no. 93/12, the Forum has not thoroughly examined the facts relating to the ownership of the disputed building. The CGRF has taken a decision based on a submission produced by the respondent which clarifies that the connection no. 18060 sanctioned was in building no. 1587 of resurvey no. 93/19 property.

The Forum has issued orders in OP No. 1293/2014 by concluding that the status quo order was passed in OP 606/2011 in connection with the Consumer No. 16492 in survey no. 93/12, in which the title was disputed by civil suits and the new connection effected by the respondent is in survey no. 93/12, and building no. 1587 with consumer no. 18060. No such unlawful order dated 29-01-2015 was issued by the Forum if the appellant would have given a chance to appear before the Forum. Sri. Vijayakumar has not produced any documents to prove his claims.

Sri Vijayakumar has owned 4.5 cents in resurvey Nos 93/13, 19, 23, 15, and he constructed shop rooms in the property having building Nos KP VIII/1585, 1586, 1587, and 1588. Building number KP VIII/1587 is the number allotted to a shop in the first floor of the building where the store room of 'Sree Boots' functioning. The connection sanctioned to this building no. KP.VIII/1587 was unauthorisedly installed in the staircase room owned by the

temple in survey no. 93/12. Though the property in resurvey no.93/19 and shop no. KP.VIII/1587 owns by Sri. Vijayakumar, the consumer no. 18060 was installed in the disputed property owned by the temple. The respondent intentionally not disclosed the fact that consumer no. 16492 was allotted to the same premises and later disconnected. Since Civil cases are pending on the dispute of the staircase in various courts, the action of the respondent sanctioning electric connection with consumer no.18060 to a disputed place ignoring the orders issued by CGRF in OP No. 606/2011 is highly irregular and not justified. Hence the appellants prays to dismantle the consumer no. 18060 from the disputed staircase room and to set aside the orders issued by CGRF in OP No. 1293/2014.

Arguments of the respondent:

The respondent has adduced the following arguments in counter statement filed by him. The appeal petition of Sri Shyam Kumar, Secretary, Perungottappan Kshetra Bharana Samithi, Puthoor is regarding the service connection (Con. No. 18060) provided to one Vijayakumar, Chittedathuveedu, Mylamkulam, Puthoor. This service connection was provided on 05-08-2014 to building No. 1587 of Kulakkada Grama Panchayath situated in survey no. 93/19 of Puthoor village.

Earlier in pursuance of an order in OP No. 591/2010 of hon. CGRF (South) a service connection bearing consumer no. 16492 in the name of Secretary, Perungottappan Kshetra Bharana Samithi, Puthoor was disconnected. Building number referred in that connection was 1562 of Kulakkada Grama Panchayath in survey no. 93/12. In another order in OP No. 606/2011 of CGRF (South) had ordered to maintain status quo regarding the disconnected connection. (Consumer No. 16492)

The new connection given by the licensee is for a room with different building number and survey number for which the consumer has submitted adequate documents as per the prevailing rules. The respondent has denied all the allegations against the Board officials since it is false and baseless.

Analysis and findings

The Hearing of the case was conducted on 15-07-2015, at KSEB Inspection Bungalow, Paruthippara, Thiruvananthapuram and Sri M.P. Sivasankara Pillai represented the appellants side and Sri G. Anilkumar, Assistant Executive Engineer, Electrical Sub Division, Kottarakkara represented the respondents side. On examining the petition, the argument note filed by the appellants, the statement of facts of the respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

The main issue to be decided in this case is whether the respondent has installed consumer no. 18060 in the same premises where consumer no.16492 earlier installed and later dismantled as per the orders issued by CGRF in OP No. 591/2010 and also ordered to maintain status quo in OP No. 606/2011?

The appellants contention is that the respondent had unauthorisedly installed the service connection to the building no. KP.VIII/1587 in the staircase room owned by the

temple in survey no. 93/12. Further stated that that civil cases are pending in various courts between Perungottappan Devaswam and Sri. Vijayakumar regarding the ownership of property comprising survey No. 93/12 in Puthoor village. The electric connection bearing consumer no.16492 to the room having building no. KP.VIII/1562 owned by Perungottappan Kshetra Bharana Samithi, Puthoor was effected during 2010. Sri Vijayakumar has approached the CGRF claiming the ownership of the said property and building, requested to dismantle the service connection from the premises. Without allowing a chance for hearing the appellants, the CGRF allowed the petition and ordered to dismantle the connection. Against this, the appellant approached the CGRF with another petition for reconnection. But that petition was disposed with a direction to maintain status quo since civil cases are pending in various courts regarding the ownership of the said property. Meanwhile Sri Vijayakumar applied for service connection to his room having building number KP VIII/1587 situated in resurvey no. 93/19 and provided the connection with consumer no. 18060. Hence the appellant's case is that this connection installed is in the disputed property i.e. in the staircase room where the dismantled connection no. 16492 existed previously. The appellant produced various documents like tax paid receipt, ownership certificate, building permit, sketch etc to substantiate his arguments.

The respondent submits that service connection with consumer number 18060 was provided to Vijayakumar, Chittedathuveedu, Mylamkulam, Puthoor on 5-8-2014 to building No. 1587 of Kulakkada Grama Panchayath situated in survey no. 93/19 of Puthoor village. In order to ascertain the genuineness of the facts this Authority has directed both parties to obtain and furnish the building numbers and resurvey numbers for which service connection 16492 and 18060 allotted. Neither the appellant nor the respondent produced the relevant documents proving the building no. given by the Panchayath to the disputed rooms bearing consumer number 16492 and 18060. The counter statements filed by the respondent say that the dismantled consumer no. 16492 is provided in the building no. 1562 and the present consumer no. 18060 is provided in building no. 1587. So with the available records I cannot come to a conclusion that the respondent provided the present service connection with consumer no. 18060 is in the same premises where consumer no. 16492 earlier installed and subsequently dismantled. The allegation and averments in the case shows that there are pending civil disputes in various civil courts between the present appellants and one Sri Vijayakumar with respect to the ownership of their rooms.

The new Supply Code, 2014 stipulates that **“Supply of electricity to an area or colony or building or any premises shall not be granted by the licensee, if any court or the government or any other competent authority has issued an order restraining or prohibiting such grant of supply of electricity.”** In case the consumer contravenes any one of the terms and conditions of supply or any one of the terms of the agreement, or any of the provisions of the Act or Rules, the Board will be liberty to terminate the contract and dismantle the service after issuing a notice in writing to the consumer. The usage of electricity for the premises or areas other than those for which the supply of electricity was authorized will comes under the purview of **unauthorized use of electricity**. Hence I am of the opinion that the respondent shall take immediate action to ascertain building number of the dismantled consumer no. 16492 and the details of the building number of KP.VIII/1587 where the consumer no. 18060 is to be actually provided. If any discrepancies or any malpractices are found the respondent has at liberty to take action against the concerned as per the prevailing rules and regulations.

Decision

In view of the pendency of the civil disputes with respect to the ownership, it is not just and proper for this Authority to make any authoritative decisions in this regard. The parties are left at liberty to approach this Authority or any appropriate Forum under the provisions in the Electricity Act, 2003 after settling the civil disputes, if they are so advised.

In the above circumstances, I do not want to interfere the decision of CGRF in OP No. 1293/2014 dated: 29-01-2015, at this stage. The petition is not allowed and disposed accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/101/2015/ Dated: _____

Forwarded to:

1. Sri S. Syamkumar, Secretary, Perungottappan Kshetra Bharana Samithi, Puthoor, Kottarakkara, Kollam
2. The Assistant Executive Engineer, KSE Board Ltd., Electrical Sub Division, Kottarakkara, Kollam.

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, Kottarakkara - 691 506.