

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208
Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/115/2015

(Present: V.V. Sathyarajan)

Dated: 28th September 2015

Appellant : Smt. Rema,
Seva Sadanam,
Kulasekharamangalam,
Vaikom.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Limited,
Vaikom

ORDER

Background of the Case

The appellant is a domestic consumer with Consumer No. 2404 under Electrical Section, Chempu. This service connection stands registered in the name of Smt. Rema, Sevasadanam with a connected load of 340 watts. While so, on 29-10-2014, the APTS, Kottayam conducted an inspection in the premises and detected unauthorized additional extension of supply and connected 645 watts load, to a poultry farm functioning nearby her house. On the basis of the site mahazar prepared, a provisional bill for Rs. 47,450/- was issued to the consumer, under Sec.126 of Electricity Act, 2003. Aggrieved against this bill, the consumer filed objection before the Assessing officer i.e. the Assistant Engineer who disposed of the petition by confirming the provisional bill after allowing a hearing. Still not satisfied, the appellant then lodged a complaint before the CGRF, Kottarakkara which was dismissed, vide order no. OP No. 1390/2015 dated 23-03-2015. Aggrieved by this, the appellant has submitted this Appeal petition before this Authority.

Arguments of the appellant

The appellant has stated that she started the business of broiler chicken hatchery for a period of 8 months prior to the inspection. Though the meter reader knows the unauthorized extension, no notice has been issued to the appellant for the disconnection of such extension. The sanctioned load of the appellant is 340 Watts. According to the appellant the respondent issued bill for Rs. 859.00 for a consumption of 275 units on 25-

12-2013, Rs. 540.00 for a consumption of 235 units on 25-04-2014, Rs. 366.00 for a consumption of 173 units on 28-08-2014 and for Rs. 225.00 for a consumption of 79 units on 26-12-2014. Prior to the day before the date of inspection by the APTS the respondent issued a bill for an amount of Rs. 698.00 for consumption of 230 units on 28-10-2014.

On 29-10-2014, when the APTS team Kottayam made surprise inspection at the premises of appellant, the shed which is said to have reared the broiler chicken was empty because all the live chicken were lifted. Therefore all the electrical equipments used for the purpose of rearing broiler chicken were in unused conditions. The hover in which 3 nos. of 200 Watts bulbs were fitted for lighting and heating of one day old chicks for the first three days, in off conditions during the period of surprise inspection. The APTS team who conducted surprise inspection was on presumption that the appellant was continuously used the 3 nos. of 200 Watts bulbs through the year. This is incorrect and against the facts. In fact, the life span of the broiler chicken lasts only 40 to 42 days. In order to give sufficient light and heat for the first three days, the farmers are using 1 Watt electricity for each chick. Thus the contention that the appellant consumed connected load at the rate of 645 throughout the year and imposition of electricity charge on that rate is unsustainable in the eye of law and facts.

The grievance of the appellant in short is that notwithstanding the facts, that appellant have remitted the electricity charge for the year 2014 regularly in time, the excess amount of Rs. 47,450/- levied upon the appellant on the assumption that 1 KW electricity taken as connected load for the period of one year by way of unauthorized extension may be rejected and disposed of accordingly.

Arguments of the respondent

The respondent stated that

1. On 29-10-2014 the APTS, Kottayam unit made a surprise inspection in the premises of Consumer No. 2404 with the Sub Engineer, Electrical Section, Chempu deputed by the Sub Engineer in Charge, Electrical Section, Chempu.
2. During the inspection, it was found that an unauthorized extension of Electricity was taken to a poultry farm having a connected load of 645 W. A site mahazar has been prepared during this inspection and a copy of the mahazar has been served to the consumer. Hence as per rules a provisional bill for Rs. 47,450.00 was issued to the consumer taking the connected load as 1 KW and the period of unauthorised extension as one year.
3. The consumer was given 7 days for filing appeal before the Assessing Officer. Hence the consumer filed an appeal. The Assessing Officer conducted a hearing and issued a final order. No sufficient documents were submitted by the consumer for revising the bill.
4. The consumption pattern of the consumer is available in the meter reading register. On examining the register it is clear that the consumption of the consumer is high when compared to the connected load. The consumer's registered connected load is only 340W.

5. The consumer filed a petition before the Hon'ble CGRF as OP No. 1390/2015. A hearing was conducted by the Forum on 07-03-2015 and the Forum issued an order No. 1390/2015 dated 27-03-2015 dismissing the case as the Forum has no jurisdiction.
6. The assessment is made after the conclusion that the consumer has indulged in unauthorized use of electricity under Section 126 of Electricity Act, 2003.

Analysis and Findings

The Hearing of the case was conducted on 19-08-2015, in my chamber at Edappally. The appellant was absent during the hearing. Sri Jayan K., Assistant Executive Engineer, Electrical Sub Division, Vaikom represented the respondent's side. On examining the petition, the argument note filed by the appellant, 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.

On a perusal of the documents it can be seen that the appellant was issued with a penal bill amounting to Rs. 47,450.00 under Section 126 of Electricity Act, 2003, for unauthorized extension. ***As per Regulation 154 of the Supply Code, 2014, extension of supply of electricity shall be reckoned as unauthorized if***

- (i) the extension is beyond the limits of the premises; or***
- (ii) the extension is for a purpose other than for which the supply is authorized whether or not such extension is within or outside the premises.***

Provided that in the case of domestic consumers, temporary extension within the premises for non domestic purposes shall not be reckoned as unauthorized extension if the load of non-domestic purpose is not more than twenty percent of the sanctioned load.

Here, in this case the appellant is a domestic consumer and extended the supply for a purpose other than for which the supply is authorized. Further the sanctioned load is 340 watts and the extension of supply for non domestic purpose is 645 watts which is more than the prescribed limit. Hence this is a clear case of unauthorized extension and consumption of electricity on account of unauthorized extension shall be assessed under Section 126 of the Electricity Act, 2003. Any such dispute or complaints are not maintainable before CGRF and Electricity Ombudsman by virtue of Clause 2 (1) (f) (vii) (1) of KSERC (CGRF and Electricity Ombudsman) Regulations, 2005. If the appellant is aggrieved by the final order issued by the Assessing Officer under Section 126 of the Act may within 30 days of said order file an appeal before the Appellate Authority under Section 127 of the Act after depositing with the licensee, in cash or as bank draft an amount equal to 50% of the assessed amount as per final assessment order.

Decision

When the regulations specifically exclude the jurisdiction of CGRF and Electricity Ombudsman on all disputes pertaining to bills raised under Section 126 of the Act on allegation of unauthorized use the only remedy available to the appellant against such bill is to file an appeal under Section 127 before the Statutory Authority. Hence I make it clear that the appellant is directed to approach the Appellate Authority for redressing his grievances as per Section 127 of Electricity Act, 2003. The appeal petition is disposed of accordingly. The decision in OP No. 1390/2015 dated 23-03-2015 of CGRF (South) Kottarakkara is affirmed. No order as to costs.

ELECTRICITY OMBUDSMAN

P/115/2015 Dated: _____

Forwarded to:

1. Smt. Rema, Seva Sadanam, Kulasekharamangalam, Vaikom.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Vaikom

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.