

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/154/2015

(Present: V.V. Sathyarajan)

Dated: 18th December 2015

Appellant : Sri Sany Francis, M.D.,
M/s Holy Faith Builders &
Developers Pvt. Ltd., CC No.
34/2353, Mamangalam,
Palarivattom P.O.,
Cochin -682 024

Respondent : The Asst. Executive Engineer,
Electrical Sub Division,
KSE Board Limited
Vytila, Ernakulam.

ORDER

The appellant is a builder & promoter of the M/s Holy Faith Builders & Developers (P) Ltd. and has applied for a power requirement of 820 KVA to a new residential project 'Tower of Faith' at Kakkanad under Electrical Section, Thrikkakkara, on 29-03-2012. The Licensee has demanded a sum of Rs. 19,10,600.00 computed @ Rs. 2,330/kVA as pro-rata transmission side development charges on per kVA basis from the appellant. The appellant approached the Hon'ble High court against the above demand by filing W.P. (C) 11888 of 2015. The Hon'ble High Court, vide impugned judgment dated 11/04/2015, ordered the appellant to approach the CGRF and also held that not to disconnect the supply pending final orders of the CGRF. Accordingly the appellant filed a petition before the CGRF which was disposed vide Order No. 21/2015-16 dated 16-07-2015, ordering that the demand raised by the respondent is correct and the petitioner is bound to pay the same. Challenging the decision of the CGRF, the appellant approached this Authority by filing this appeal petition.

A similar matter came up for the consideration of this Authority in appeal petition No. P/139/2015. This Authority after conducting an elaborate hearing in the matter, decided and pronounced orders in that case on 14-12-2015. Since the facts and the circumstances are also resembles to that of P/139/2015, the order of appeal petition No. P/139/2015 dated 14-12-2015 will follow in this case, as reproduced below.

The Division Bench of Hon'ble High Court laid down the law in its judgment dated 30-06-2014 in Writ Appeal No. 900/2013 and in view of the direction issued by the Hon'ble Commission to treat the pending cases in accordance with law laid down by the Hon'ble High Court till 01-04-2014, the date on which new Supply Code came into existence.

The individual cases which arose on or before 31-03-2014 for recovery of expenditure from the consumers under Section 46 of Electricity Act, 2003 which are not mentioned in the petition may also be settled in accordance with the principles pronounced by the Hon'ble High Court in its judgment dated 30-06-2014 in Writ Appeal No. 900/2013 and connected cases.

According to the judgment in Writ Appeal No. 900 of 2013 of Hon'ble High Court and in OP No. 22/2011 of Hon'ble Commission the licensee can recover the transmission charges from the appellant and this Authority is of the view that there is no violation in issuing the demand for transmission charges. But it is found that the cost estimated is not in accordance with the order dated 23-05-2011 in petition No. TP 87/2011. Hence the respondent is directed to issue revised demand in accordance with the order dated 23-05-2011 in petition No. TP 87/2011 to the appellant on proper acknowledgement within a period of 30 days.

Since the work is already completed and energized, the respondent shall prepare an evaluation statement of the work based on actual quantities.

The appellant shall remit the excess cost if any, within one month, failing which the Licensee shall be entitled to recover the same, as if it was arrears of current charges under appropriate regulations.

Excess remittances if any shall be refunded by the respondent by adjustment in the monthly current charges/ direct refund within a period of 3 months.

Having concluded and decided as above it is ordered accordingly. The appeal filed by the appellant is admitted to the extent as ordered above. The order of CGRF in petition No. CGRF-CR/Comp.21/2015-16 dated 16-07-2015 is modified accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P-154/2015/_____ /Dated:_____

Forwarded to

1. Sri Sany Francis, M.D., M/s Holy Faith Builders & Developers Pvt. Ltd., CC No. 34/2353, Mamangalam, Palarivattom P.O., Cochin -682 024
2. The Asst. Executive Engineer, Electrical Sub Division, KSE Board Limited, Vyttila, Ernakulam

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, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018