

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/003/2016
(Present: V.V. Sathyarajan)
Dated: 17th May 2016

Appellant : Sri M.K. Babu,
Mullakulathil House,
Kottakadapuram, Kottakkal P.O.,
Iringal, Kozhikode.

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

ORDER

Background of the case:

The appellant is a domestic consumer having consumer No. 33944 under Electrical Section, Melady. It is alleged that the respondent issued disconnection notice to the appellant based on the direction obtained from Kerala Coastal Zone Management Authority, since construction of the appellant's premises was in violation of the provisions of CRZ notification 1991/2011.

Against this notice, the appellant filed a petition before CGRF, Kozhikode seeking reliefs not to take any action to disconnect the service. But the Forum dismissed the petition vide order No. OP No.27/2015-16 dated 23-12-2015 as the disconnection notice was issued by the respondent based on provisions of CRZ notification as per Section 5 of Environment Protection Act, 1986. Not satisfied with the above order, the appellant has approached this Authority with this appeal petition seeking relief not to disconnect the service connection.

Arguments of the appellant:

The appellant's family consisting two children and wife was residing in a small house at Iringal village, a coastal area in Kozhikode district for nearly five

years. He was issued electricity connection on 26-03-2015, after verification of application with required documents. Sri K.M. Sreedharan, who has personal enmity against the appellant, raised a complaint to the Kerala Coastal Zone Management Authority at Thiruvananthapuram, alleging that the construction of the appellant's house is in violation of CRZ notification, the respondent issued a disconnection notice to the appellant.

The appellant's contention is that nearly 100 houses are existing in this coastal area and electric connections were provided to all these houses on the basis of building numbers given provisionally by the Panchayath and on executing indemnity bonds. While effecting these connections no consent has been obtained from the Kerala Coastal Zone Management Authority. It is to be noted that in the State of Kerala thousands of buildings were constructed in the coastal area and effected service without obtaining consent from Kerala Coastal Zone Management Authority.

The appellant is anxious about the disconnection of his service connection by the respondent. According to him, any action from the part of the Kerala Coastal Zone Authority to deny electricity will create mental agony and is in violation of human rights. Hence the appellant requested this Authority to take necessary action not to disconnect the service connection to his premises.

Arguments of the respondent:

The respondent submitted that the service connection was effected after verifying all the required documents and on the basis of an indemnity bond executed by the appellant with the respondent to the effect that he would bear all the financial liabilities that might arise in future, in case his connection is dismantled and legal dispute arises in the matter.

A disconnection notice was served to the appellant on the basis of the intimation received from the Secretary, Kerala Coastal Zone Management Authority on 19-03-2015 that the electric connection of the appellant was passing through the Coastal Regulation Zone and the connection should be removed as per Section 5 of the Environment Protection Act, 1986.

Against this notice the appellant approached the CGRF (Northern Region), Kozhikode and as per the direction of Forum, supply to the appellant's premises was not disconnected. But as per the final order dated 28-1-2016 of the Forum a notice was issued to the appellant stating that the service will be disconnected within 15 days. The respondent has also furnished a mass representation from the consumers residing in this coastal area received by him requesting not to disconnect their connections as the issue relates to the poor fishermen of the area.

Analysis and findings

A hearing of the case was conducted in the Court Hall of CGRF, Kozhikode, on 10-05-2016. Sri Babu M.K. was present for the appellant's side and Sri. Uthrasenan, Assistant Executive Engineer, Electrical Sub Division, Koyilandi represented the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

In the letter dated 19-03-2015 of **Member Secretary, Kerala Coastal Zone Management Authority**, it was requested to take immediate action against the construction made by the appellant as per the provisions of the said Act, 1986 stopping or denying of power supply / water supply to the premises of the construction of said proponent in the aforementioned survey numbers in the Payyoli Grama Panchayath area and it was also directed that if the connection has been already effected, urgent necessary steps shall be taken to disconnect / cancel the connection forthwith.

During the hearing the appellant stated that he approached the Kerala Coastal Zone Management Authority and requested not to remove the service connection and he was informed that though they have issued notice to the licensee, they are not pressing to take any action on that issue. Further, it is informed that the Local Authority is the authority to take actions in this matter and at present they have no role on it. The respondent also requested to maintain "status quo" till a decision is taken by the Local Authority in this regard.

On verification it is found that several domestic connections were given to the buildings constructed in the area notified by the Coastal Regulation Zone after obtaining an indemnity bond executed by the consumers assuring that they would bear all the financial liabilities that might arise in future in case of service connection is dismantled and legal dispute arises in the matter. Now admittedly the Local Authority has not issued any orders directing demolition of appellant's building alleging violation of provision of CRZ notification of Environment Protection Act, 1986. It is the primary responsibility of the Local Authority to take action against any constructions violating the provisions of Coastal Regulation Zone Notifications of 1991 and 2011. Hence I am of the opinion that the respondent shall not disconnect the supply until the Local Authority issue notice to remove the constructions in the area.

Decision

In view of the above discussions there is no justification for disconnecting the service connection of the appellant as per the direction of Member Secretary, Kerala Costal Zone Management Authority. It is left open to the respondent to take action against the appellant's service connection in terms with the indemnity bond in case the Local Authority takes a stand of removal of the construction supporting the instruction of KCZMA in the matter.

Having concluded and decided as above it is ordered accordingly. The appeal filed by the appellant is found having some merits and is admitted. The order of CGRF in OP No.27/2015-16 dated 23-12-2015 is hereby set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/003/2016/_____ /Dated: _____

Delivered to:

1. Sri M.K. Babu, Mullakulathil House, Kottakadapuram, Kottakkal P.O., Iringal, Kozhikode.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Koyilandy

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, Gandhi Road, Kozhikode