

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/024/2016

(Present: V.V. Sathyarajan)

Dated: 20th July 2016

Appellant : Sri. Sunil Kumar,
S/o Prabhakaran Nair,
Padmanabha Soudam,
Uchakada P.O.,
Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division,
Parassala,
Thiruvananthapuram.

ORDER

Sri Prabhakaran, Kurumbi Veedu, Attapuram, Kulathoor, Uchakada and five other consumers with consumer Nos. 10407, 10651, 10655, 10581, 10686 and 10748 under Electrical Section, Parassala had approached CGRF (South), Kottarakkara with a petition stands numbered as 1622/2015 requesting not to disconnect their service connections until the disposal of OS 456/2010 by the Munsiff Court, Neyyattinkara. The service connections were given to the above consumers on the basis of ownership certificate issued by the Secretary, Kulathoor Grama Panchayath. Meanwhile, Sri Sunil Kumar, Padmanabha Soudam, Kulathoor, appellant in this petition, raised a complaint on 26-09-2014 before the Deputy Chief Engineer, Electrical Circle, Kattakkada stating that the service connections in question were obtained illegally on production of fake ownership certificate. Hence he requested to dismantle the service connections mentioned above.

The Assistant Engineer, Electrical Section, Parassala served a dismantle notice to the consumers on 26-10-2015 since the ownership certificate issued by Kulathoor Grama Panchayath was cancelled. Hence the above consumers approached the Forum against the dismantle notice issued on 26-10-2015. They also stated that a suit, OS No. 456/2010, is pending before the Hon'ble Munsiff's Court, Neyyattinkara regarding the possession of these consumers'

property and hence they requested not to disconnect their supply until the disposal of the above case.

On perusing the documents and the evidences produced, the Forum disposed the case with a direction to the licensee to dispense with the procedures to dismantle the existing service connections till the disposal of the Civil Court. In the meantime Sri Sunil Kumar P. filed an appeal petition before this Authority on 13-04-2016 stands numbered as P/024/2016. Further he stated that a vigilance enquiry is being proceeded and further course of action is still pending. Hence the appellant requested to cancel the service connections issued on the basis of forged ownership certificate.

A hearing of the case was conducted in the Court hall of CGRF (South), Kottarakkara on 22-06-2016. The appellant, Sri Sunil Kumar P. was present for the appellant's side and Sri K.W. Sanal Kumar, Assistant Engineer, Electrical Section, Uchakada 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.

The facts disclosed before this Authority reveal that there exists some disputes between the appellant Sri Sunil Kumar and Sri Prabhakaran and 5 others, who are the petitioners in OP No. 1622/2015 before the CGRF (South) Kottarakkara. From the averments and the documents produced it is clear that there exists a civil dispute with respect to 80³/₄ cents of property at Kulathoor village as that is stated in the petition No. 45/2016 filed by Sri Sunil Kumar, which is pending before CGRF (South) Kottarakkara. There were previous litigations before the Hon'ble Munsiff Court, Neyyattinkara (OS 164/93) and before the Hon'ble High Court of Kerala (WP (C) No. 38155/2015).

The grievance of the appellant herein is to dismantle the service connections issued to consumer No. 10407, 10651, 10655, 10581, 10686 and 10748. The appellant does not satisfy the definition of complainant. Regulation 2 (f) of Kerala State Electricity Regulatory Commission (CGRF & Electricity Ombudsman) Regulation, 2005 stipulates the nature of complaint whereby it construed that only such complaint of consumer can be entertained by the Forum and Electricity Ombudsman. The present complaint does not come under the aforesaid provision. The appeal petition is liable to be dismissed in limine at the stage of admission itself.

But having regard to the fact that the appellant had some grievance against the order of CGRF (South) Kottarakkara in OP No. 1622/2015, I perused the documents and heard the arguments of both sides. It is revealed in the course of hearing that petition No. 45/2016 filed by the appellant herein before the CGRF for the same set of reliefs which is pending for consideration.

It is also revealed that a complaint filed by the appellant's brother Sri P. Santhosh Kumar before the Lokayuktha for the same set of reliefs was rejected vide order No 21/2011C. In this state of affairs the pendency of appeal No. 45/2016 and a case pending before the Hon'ble High Court of Kerala (WP (C) No. 38155/2015) is a bar for this Authority to entertain a similar matter as per Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005.

Regulation 22 (d) states that ***"Maintainability of the Complaint- (1) no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority"***. So in view of the above discussions, I hold that the appeal is not maintainable.

Decision

In the above circumstances it is concluded that the appeal is not maintainable and hence dismissed. No order as to costs.

ELECTRICITY OMBUDSMAN

P/024/2016/_____ /Dated:_____

Delivered to;

1. Sri. Sunil Kumar, S/o Prabhakaran Nair, Padmanabha Soudam, Uchakada P.O., Thiruvananthapuram.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Parassala, Thiruvananthapuram.

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.