

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/35/2016

(Present: V.V. Sathyarajan)

Dated: 30th August 2016

Appellant : The Secretary
Vilakkudy Grama Panchayath,
Kunnikode P O,
Kollam

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

ORDER**Background of the case:**

The appellant is a consumer with consumer No. 1878 under Electrical Section, Vilakkudy and having a connected load of 660 Watts. The Regional Audit Officer, Kottarakkara had conducted an inspection in the appellant's premises on 06-06-2013 and detected unauthorized additional load and unauthorized extension of electric supply to the veterinary hospital situated in the nearby building. Consequent to the inspection a provisional penal bill of Rs. 1,03,995.00 was issued to the appellant under Section 126 of Electricity Act, 2003. Being aggrieved, the appellant filed a petition before the CGRF, Kottarakkara, and the Forum dismissed the petition due to lack of jurisdiction, vide order in OP No. 21/2016 dated 21-04-2016. Still aggrieved by the said order, the appellant has filed the appeal petition, before this Authority.

Arguments of the appellant:

The buildings of both Krishi Bhavan and Veterinary Hospital are situated in the premises of Vilakkudy Grama Panchayath Office compound. A team headed by Sub Engineer, Vilakkudy Section had inspected the premises of the appellant on 06-06-2013 and detected unauthorised additional load and unauthorized extension from the Krishi Bhavan building having consumer no. 1878 to the nearby building of Veterinary Hospital. A provisional penal bill

amounting to Rs. 1,44,835.00 was issued to the appellant. The appellant had approached the Government of Kerala and the KSE Board with a request to exempt the penal bill, but no orders received till date. On 20-01-2016, the respondent has issued notice that due to default of payment of the penal bill, the energy connection will be disconnected as per rules and the amount will be recovered through revenue recovery proceedings. In the circumstances the appellant approached CGRF, Kottarakkara with a plea to avoid the disconnection and to set aside the penal bill issued to a Government Institution.

The appellant's contention is that the employees working in the Panchayath Office during the time of inspection are not aware of such an unauthorised extension. Moreover, being a Government Institution, no one has noticed such a misuse of electric connection. The appellant has remitted all the monthly current charge bills without any fault and having known the misuse a separate connection was assigned to the Veterinary Hospital. The electricity consumed was for the public purposes and not for any personal gain

Arguments of the respondent:

The Respondent has filed the counter statement against the complaints contained in the appeal petition, stating that all the averments in the petition except which are admitted, are false and hence denied by him.

Consumer No. 1878 of Electrical Section, Vilakkudy is a service connection given to the Vilakkudy Grama Panchayath under LT VI B tariff with a registered connected load of 660 Watts. The premises is functioning as a Krishi Bhavan. On 06-06-2013 an inspection was carried out by the Regional Audit Office Staff, Kottarakkara along with the Section Officials in the above premises and detected an unauthorised load of 1351 Watts. Total load in the premises was (1351+660) 2011 Watts. It was also detected that an unauthorised extension to the tune of 1727 Watts was also made from the premises for functioning a Veterinary hospital. Accordingly a site mahazar was prepared and the same was handed over to the Panchayath Authorities. Based on the inspection a provisional penal bill for Rs 1,03,995.00 was served to the consumer on 22-06-2013 as per Section 126 of Electricity Act, 2003 (Amendment 2007).

The appellant hadn't filed any appeal against the provisional assessment and hence the provisional assessment was confirmed as final assessment. In the meantime the Panchayath Authorities requested for time extension to remit the assessed amount as they needed sanction from Government, and hence disconnection of supply was not made. As the unauthorised load was not regularised by the Panchayath Authorities, penal bills for 08/2013, 10/2013 and 12/2013 to the tune of Rs. 17,344.00, Rs. 17,426.00 and Rs. 6,070.00 also were issued to the consumer and the same also were not remitted by the

Panchayath Authorities. As per the request of the Panchayath Authorities and also by considering it as a Government Institution ample time was given for remitting the bill amount after keeping all the official formalities. Even after that also the consumer failed to remit the amount and hence disconnection notice was issued on 26-05-2015. Then also the Panchayath Authorities requested for time extension for remitting the amount. Later on 17-11-2015 and 20-01-2016, notices were issued for remitting the amount.

In the midst the Panchayath Authorities approached the Hon'ble Consumer Grievance Redressal Forum (South), Kottarakkara vide OP No. 21/2016. On receiving the petition it was noted that the penal bill was issued not as per the relevant sections and regulations specified in the Electricity Act and Supply Code. Accordingly the bill was revised for Rs. 12,089.00. The Forum after conducting the hearing placed its order on 25-04-2016. In that order the Hon'ble Forum observed that the bill was issued under section 126 of the Electricity Act 2003 and observed that the Forum have no jurisdiction to entertain the matters related under Section 126 of the Electricity Act. The remedy offered in the petition is to approach the Appellate Authority under Section 127 of the Electricity Act.

The penal bill issued to the appellant is revised to Rs. 12,089.00 under section 126 of Electricity Act, 2003. The Consumer Grievance Redressal Forum (South) had corrected its order dated 25-04-2016 on 07-05-2016 by directing the Panchayath Authorities to prefer appeal before the Appellate Authority under section 127 of Electricity Act. As per clause 2 (1) (f)(vii)(1) of KSERC (CGRF & EO) Regulations, 2005 "unauthorized use of electricity as provided under section 126 of the Act" is not maintainable before the CGRF & Ombudsman.

Considering the above facts it is requested to dismiss the present appeal as it is filed against the actual facts and law.

Analysis and Findings

The hearing of the case was conducted on 16-08-2016 in my chamber at Edappally, and Sri Rajan T, Secretary, Vilakudy Grama Panchayath appeared for the appellant and Sri K. O. Lalson, Assistant Executive Engineer, Electrical Sub Division, Pathanapuram represented for the respondent's side. On examining the petition and argument notes filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

On going through the records, it can be seen that the appellant has not disputed the fact that the usage of unauthorized additional load and

unauthorized extension of supply to the premises of veterinary hospital. The allegation of extending supply from one premises to another premises and connecting additional load than the sanctioned load with the licensee system tantamount to unauthorized use of electricity as specified under Section 126 of Electricity Act, 2003. Here in this case, the appellant was seen penalized for the use of unauthorized additional load and unauthorized extension for the period from 6/13 to 3/16 as per Section 126 of the Electricity Act. Any such disputes or complaints are not maintainable before the CGRF and Electricity Ombudsman by virtue of **Clause 2 (1) (f)(vii)(1) of KSERC (CGRF & Electricity Ombudsman) Regulations, 2005.**

The Upper Courts of Law has also made it clear that when there is specific provision in the Act itself to hear such cases by designated courts or Appellate Authorities, then the same are excluded from the purview of CGRF and Electricity Ombudsman. When the Regulation specifically excludes 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 this Authority convinced that the appeal petition is not maintainable as per the KSERC Regulations. However, as the appellant has expressed his willingness to settle the issue by remitting the revised bill amounting to Rs. 17,892.00 in 10 installments and that too agreed by the respondent, this Authority is of the view that there is no need to review the case further.

Decision

In view of the above discussion it is concluded that the respondent shall allow 10 installments and the appellant is directed to remit the amount accordingly. The appeal is disposed of accordingly. The order of CGRF in OP No. 21/2016 dated 21-04-2016 is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/35/2016/_____ /Dated _____

Delivered to:

1. The Secretary, Vilakkudy Grama Panchayath, Kunnikode P O, Kollam

2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Pathanapuram, 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-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.