

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/033/2016

(Present: V.V. Sathyarajan)

Dated: 07th September 2016

Appellant : M/s Akay Spices (P) Ltd.
Mudakuzha P.O.
Perumbavoor,
Ernakulam

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

ORDER**Background of the case:**

The appellant, M/s Akay Spices (P) Ltd., is a HT consumer having a contract demand of 750 kVA with consumer Code: 1355900030861 under the jurisdiction of Electrical Section, Koovappady. The appellant has submitted a request before the Assistant Engineer, Electrical Section, Koovappady for his urgent intervention to redress grievances of the appellant regarding frequent supply interruption in the feeder concerned. Aggrieved against the inaction of the respondent in the matter, the appellant filed petition before the CGRF, Ernakulam vide Petition No. 74/2015-16. The Forum vide order dated 08-02-2016, disposed the petition with a direction to the respondent "to maintain the supply with the least possible interruption". Not satisfied with the decision of CGRF, the appellant has submitted this appeal petition before this Authority.

Arguments of the appellant:

Being aggrieved by the frequent disruptions of power supply to the appellant's unit - a 100% export oriented undertaking for sterilization of whole and grounded spices, which are badly effecting the functioning of the company by causing damage to the machinery and defect in quality control in the finished products, the appellant had submitted a complaint with the Consumer Grievance Redressal Forum, Central Region established by Kerala State

Electricity Board. Appellant is a HT consumer of Electrical Section, Koovappady of Electrical Sub Division, Kuruppampady. Appellant is a business group operating in India since 1995, doing export import business in organic farming, manufacturing and marketing of food products and spices and having network in many foreign countries.

As part of such expansion plans, appellants submitted a detailed project report to the Government of Kerala during the "Emerging Kerala Summit 2012" to start a "**Nutra-bio-food park**" at Akanadu, Perumbavoor with a theme "Optimum Nutrition Products", planning investment of INR 200 Crores and in the next five years to develop the business to the tune of INR 1500 Crores. The first phase of the project, M/s. Akay Spices (P) Ltd., a 100% Export Oriented Undertaking, for sterilization of Whole and Grounded spices, was commissioned in February 2014. The existing HT connection of the appellant was obtained only after paying Rs. 46 lakhs to the KSEB. At present, the appellant's contract demand is 750 kVA and the requirement will be approximately 1500 kVA in the near future. Appellant has obtained permit for developing the second phase of their food park also.

Appellant is not able to carry out the operations of their unit in a proper manner due to frequent power failures and disruptions in power supply in the feeder. Various representations were made to offices of KSEB, but there was no positive action from any of them. As the appellant is operating a sterilizer, considerable amounts of products are caught up in the line and damaged due to the frequent power failures. During April, 2015 there was power failure for 18.3 hours (55 times) and in May 2015, there was power failure for 53.7 hours (80 times), in June 57.8 hours (103 times) and July 43.7 hours (81 times), August, 56.8 hours (52 times).

As the appellant is engaged in manufacturing of sterile and non-sterile whole and ground spices, the frequent disturbances and disruptions in power supply is creating huge problems in their business. The quality of the products is getting affected and the production cost has increased heavily. The machinery and the sensors are suffering from uneven wear and tear and this is effecting the performance and life of imported machineries, which were established at a cost of Rs. 17.50 Crores. Already the chain wheel had to be replaced 4 times and the pressure transmitter once. The entire production, planning and control process are badly affected due to the frequent power interruptions.

Hence, aggrieved by the inaction of the KSEB, a complaint was filed before the Consumer Grievance Redressal Forum, which was numbered as CGRF/Comp.74/2015-16/606. Respondents filed their statement of facts stating that the appellant is fed from the first portion of the 11 kV feeder line from the 33 kV Koovappady Sub Station, more than 90% of the load in the concerned feeder is in the area of Electrical Section of Vengoor, which is

proposed to be included in the difficult area for the classification for sale of power. 95% of the 11 kV feeders under the Section area are passing through thick vegetations, plantations and forest areas and this area is vulnerable to natural calamities also. This is cited as the reason for the frequent power interruptions. Respondents claim to have arranged frequent tree-touching clearance work also. It was also stated that if the firm is planning for an expansion to 1500 kVA, a dedicated feeder can be provided.

After hearing both sides, the CGRF passed an order dated 08-02-2016 directing the respondents to maintain the supply with least possible interruption. The frequency of the flora clearance works, which are carried out twice a year, are ordered to be increased to minimize the interruptions in power supply due to plants coming in contact with the line. The problems faced by the appellant and similar consumers are also ordered to be taken up before the higher authorities by the respondents for a permanent solution in future. But, even today, no action has been taken by the respondents so far and aggrieved by the inaction of the respondents; the appellant prefers the above appeal before this Honourable Forum under the following among other:

The order of the CGRF is against the facts and without considering or assessing the problem in detail and impractical also. No clear orders are passed, only vague directions. Even after the passing of the order, the respondents have not taken any effective steps to solve the problem. It was pointed out that there is an efficient 11 kV HT industrial feeder going along the other side of the same road and that the respondents can very well grant the appellant's connection from this 11 kV feeder. But respondents remain silent on this relief. No such relief is granted by the CGRF.

The Forum did not consider the fact that the feeder from which the connection is given to the appellant extends to the tribal areas inside dense forest, and there is no way the Board can prevent or reduce tree touching there and therefore interruptions will be more. The Forum ought to have directed the respondent to switch the appellants connection to the nearby 11 kV industrial feeder on the other side of the road, which is working properly. The Forum ought to have found that the solution put forward by the respondents to set up a dedicated feeder exclusively for the respondent is unnecessary and exorbitantly expensive in this case as the present demand is only 750 kVA and a dedicated feeder can be taken only with very heavy expenses.

For these and other grounds to be urged at the time of hearing, it is humbly prayed that this Honourable Ombudsman may be pleased to direct the respondents to find a permanent solution by granting the respondent connection from the 11 kV industrial feeder running along the other side of the same road, abutting the appellant's Unit, immediate north, which is functioning smoothly.

Arguments of the respondent:

This appeal is filed by the appellant against the order No. CGRF-CR-Comp. 74/2015-16 of the Hon'ble CGRF, Ernakulam. This appeal is liable to be rejected as it is not filed as stipulated in the Regulation 21 of the KSERC (CGRF & EO) Regulations, 2005. Regulation 21(2) states that "Any Complainant, who is aggrieved by the non-redressal of his grievances by the Forum may himself or through his representative make a representation to the Ombudsman within Thirty (30) days from the date of the receipt of the order of the Forum..... ". As per this Regulation, the appeal has to be filed within 30 days from the date of receipt of the order which is reported as 10-02-2016. It took almost 60 days for filing this appeal. The Regulation also states that ".....Provided that the Ombudsman may entertain a representation after the expiry of the said period of Thirty (30) days if he is satisfied that there was sufficient cause for not filing it within the said period". In this case the appellant has not given any reason to condone the delay.

The relief sought in this appeal is granting the service connection from another 11 kV industrial feeder (Akanad feeder of Koovappady substation - which is not a pure industrial feeder). But his complaint in the original, filed before the CGRF, is to minimise the interruption. So this appeal cannot be considered as an appeal to the impugned order of the CGRF and thus it is not as per the Regulation 21 of the KSERC (CGRF & EO) Regulation, 2005. An appeal which is not as per the Regulations are liable to be rejected. If the firm wants service connection from any other system/feeder, the firm have to apply for the same to the concerned authorities, it can be considered positively if technically feasible and as per the Regulation 37 of the Kerala Electricity Supply Code, 2014.

M/s Akay Spices Pvt. Ltd is a consumer of Electrical Section, Koovappady of Electrical Subdivision, Kuruppampady. This consumer is fed from the first portion of the 11 kV Mudakuzha feeder of 33 kV Substation, Koovappady. More than 90% of the load in this feeder is in the area of the Electrical Section, Vengoor. Vengoor area is a remote rural area which is now proposed to be included in the difficult area for the classification for Standards of Performance. More than 95% of the 11 kV feeders under this section area are passing through thick vegetations like rubber plantations & forests and paddy fields. Even this consumer premises is also situated amidst of thick vegetations.

The nature of the area through which this feeder is passing is the main reason for the interruptions in the feeder. This area is more vulnerable to natural calamities during the monsoon season. Moreover, as this feeder is passing through the area of two section offices, Koovappady & Vengoor, the planned interruptions of the two sections will also affect the feeder. For minimising the interruptions in the feeder, both the sections have arranged

frequent tree touching clearance works. Recently in the month of April & May, the HT & LT touching were completely removed. This may reduce the interruption to a great extent.

In addition to this, as discussed in the hearing of the Hon'ble CGRF, a duplicate line to Mudakuzha feeder in Koovappady section area is constructed and load under 6 transformers of this feeder has been transferred to Akanad feeder. The averment of the appellant that Kerala State Electricity Board Ltd has not taken any effective steps to solve the problem faced by the appellant and similar consumers (as directed in the order of CGRF), is not true. Kerala State Electricity Board Ltd has already sanctioned the construction of a 110 kV Substation near Odakaly. Land acquisition process of the substation is in progress. With the completion of this Substation, major portion of the load of Kuruppampady Substation can be transferred to it and it is also proposed to feed the major portion of Vengoor Section from Kuruppampady Substation. Thus the feeding area of the Mudakuzha feeder can be reduced.

A dedicated feeder is the permanent solution for the interruption problem for this type of industries. If the firm is planning for an expansion to 1500 kVA, as said in the complaint, they may go for a dedicated feeder. Considering the facts in statement 1 & 2, I request this Hon'ble Authority to reject this appeal.

Analysis and findings:

A hearing of the case was conducted in my chamber at Edappally on 03-08-2016. Smt. Anjali, Counsel for the appellant and Sri Manoj Mathai, Senior Manager (HR), Akay Spices represented the appellant's side and Sri Bijumon M.A, Assistant Executive Engineer, Electrical Sub Division, Kuruppampady 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 grievance of the appellant is that the functioning of their establishment is badly affected due to frequent supply interruptions. It is stated that their unit is a 100% export oriented undertaking and the HT service connection was availed after remitting an amount of Rs. 46,00,000.00 to the respondent. Even though various representations were made to the officers of the respondent to minimize the frequent power failures, no positive action has been taken from their part. Since the appellant is engaged in the manufacturing of sterile and non-sterile whole and ground spices, any interruption in power supply which will adversely affect the quality of the product and also heavily increase the cost of production.

The appellant also contended that though the CGRF passed an order dated 08-02-2016 directing the respondent to maintain the supply with minimum interruptions, the respondent has not taken any action so far. Further, the appellant stated that there is another 11 kV feeder which is passing through the main road and the respondent can very well rearrange the service connection from this feeder. The appellant argued that the finding of the Forum to set up a dedicated feeder exclusively for the appellant is highly arbitrary, unnecessary and exorbitantly expensive as the present demand of the appellant is only 750 kVA.

According to the respondent, the service connection of the appellant is fed from the first portion of the 11 kV Mudakkuzha feeder of 33 kV Substation, Koovappady. This feeder is passing through thick vegetation like rubber plantations, forests and paddy fields. More than 90% of the load of this feeder is fed to the area of nearby Section, Vengoor. Since the feeder is passing through the jurisdictional area of Koovappady and Vengoor Sections, planned shutdowns, breakdown works and routine maintenance will affect the feeder to a great extent.

While the matter was pending, this Authority tried for a settlement by directing the respondent to have a joint inspection of the 11 kV feeders and premises with the appellant and to find out a suitable proposal with an estimate for the proposed works to this Authority. But during the course of trial it was revealed that even though the estimated cost for the alternate arrangement is prepared by the respondent, the appellant did not respond to it. Hence this Authority could not proceed further in this regard.

Section 42 of Electricity Act, 2003 deals with the duties of distribution licensees and open access – **(1) It shall be the duty of distribution licensee to develop and maintain an efficient coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.** Here in this case, the record says that there are frequent interruptions in the power supply to the appellant's premises. The respondent also admits this, citing the reasons that the feeder is passing through thick vegetations, rubber plantations, forest and paddy fields and also covering the jurisdictional area of Koovappady and Vengoor Sections. In this background this Authority has directed the Executive Engineer, Electrical Division, Perumbavoor to take urgent steps to maintain an efficient distribution system to the appellant's premises.

As per Section 43 of Electricity Act, 2003, **every distribution licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises within one month after the receipt of application requiring such supply:**

Provided that where such supplier requires extension of distribution mains or commissioning of new substations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such periods as may be specified by the Appropriate Commission.

Section 46 of Electricity Act, 2003 deals with the power to recover expenditure- **The state Commission may, by Regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.**

As per Regulation 36 of Supply Code, 2014 **expenditure for extension or upgradation or both of the distribution system undertaken exclusively for giving new service connection to any person or a collective body of persons or a developer or a builder or for enhancing the load demand of a consumer or a collective body of consumers or a developer or a builder, shall be borne by the respective applicant or consumer or collective body of consumers or developer or builder as the case may be.**

If the appellant's service connection can be connected from the **Akanadu** feeder, the same may be arranged after making necessary modifications at appellant's cost. **As per Regulation 37 of Supply Code, 2014 deals with expenditure for service line, plant etc. for providing supply – (1) The consumer shall bear the expenditure for the service line or of the plant or of both provided exclusively for him by the licensee.** The appellant is directed to remit the estimated cost for the rearrangement in the Koovappady feeder.

In view of the need of the appellant for an uninterrupted supply of power for the proper and effective functioning of his establishment and in the light of the Regulations extracted above, it is ideal to provide an independent feeder to the appellant to satisfy his needs. For that, the expenses for the same have to be met by the appellant. It is worthy to note that while the matter was heard it is disclosed that some other consumers in the locality are also facing similar issues and are in need of uninterrupted power supply to their establishments. Hence it is advisable for the respondent to study the feasibility of providing an independent feeder to the appellant along with similarly placed other consumers on cost sharing basis.

Decision

In the result, the respondent is directed to provide a separate feeder to the appellant if the appellant is willing to meet the expenses for the same. Needless to say that in the meanwhile the respondent shall take all necessary

steps to avoid interruptions in the power supply given to the appellant. The order of the CGRF-CR/Comp/74/2015-16/606 dated 08-02-2016 is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/033/2016/ _____ /Dated _____

Delivered to:

- 1) M/s Akay Spices (P) Ltd., Mudakuzha P.O., Perumbavoor, Ernakulam.
- 2) The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Kuruppampady, 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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.