

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/046/2017
(Present: A.S. Dasappan)
Dated: 17th July 2017

Appellant : Sri. Alexander K.M.
Kanjiramvilla Veedu,
Ambalathumkala P.O.,
Kottarakkara

Respondent : Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Kottarakkara,
Kollam.

ORDER

Background of the case:

The service connection bearing consumer No. 26466, in LT I A domestic tariff, under Electrical Section, Kottarakkara West, was originally stands registered in favour of Sri Alexander K.M. The sanctioned load of the connection is 2746 Watts.

2. A surprise inspection was conducted by the officials of the Electrical Section, Kottarakkara West on 18-11-2014 in the premises of the appellant and a site mahazar prepared.

3. It was found that the appellant had been using electricity for manufacturing wooden furniture with a connected load of 4376 Watts in the premises. A provisional assessment bill for Rs. 17,525/- was issued on 18-11-2014 under Section 126 of Electricity Act, 2003, under LT VII A tariff. The appellant filed a petition before the Assessing Officer on 21-11-2014. The

provisional assessment was finalized on the same amount and final bill was issued on 09-03-2015.

4. The appellant filed an appeal before the Appellate Authority on 09-04-2015 after remitting 50% of the final assessed amount. (Rs.8833/-) The Appellate Authority issued orders on 25-09-2015 by setting aside the final bill and directed the respondent to revise the assessment by taking the assessment for entire usage of electricity at two times the fixed charges and energy charges under LT IV A tariff for a period of 12 months.

5. Accordingly a revised bill dated 11-11-2015 amounting to Rs. 1,967/- was served on the appellant.

6. It is stated by the respondent that arrear current charges from 26-11-2015 of the appellant was pending and a notice dated 28-02-2016 was pasted on the wall of the shop since the premises was under door lock.

7. The service connection was dismantled on 15-04-2016 due to non-payment of arrears and registered notice for revenue recovery has been sent, but returned unclaimed.

8. The appellant filed a petition before Kerala State Electricity Regulatory Commission, Thiruvananthapuram on 27-09-2016 for implementing the order of the Appellate Authority and against dismantling of the service connection.

9. The Regulatory Commission, vide its letter dated 21-11-2016, directed the appellant to submit the complaint before the CGRF and accordingly he filed a petition before the Forum on 25-11-2016.

10. The petition OP No. 302/2016 filed before the CGRF, Kottarakkara, by the appellant was disposed of on 14-03-2017 with the following observation and direction.

“The main contention of the petitioner is that the order of the Appellant Authority has not been complied. But on perusing the records and hearing the parties that the disputed bill was revised and issued a bill for the balance amount of Rs.1967/- on 11-11-2015. On going through the appellate order on 25-09-2015, it is ordered that the assessment shall be revised within 15 days. But the revised order was issued after 45 days so the licensee has not complied the order properly in time.”

“The Forum direct the consumer to submit a fresh application for he service connection after remitting dues, and the respondent is directed to take immediate steps for processing the application and giving connection to the petitioner.”

11. Aggrieved by this Order, the appellant has submitted the appeal dated 22-04-2017 before this Authority.

Arguments of the appellant:

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. Further the appellant has adduced the following arguments.

The service was disconnected on 20-02-2016 due to nonpayment of electricity bill and consequently dismantled on 22-04-2016. The grievance of the appellant is that he was not issued a disconnection notice in writing, intimating about the grounds for disconnection.

Aggrieved against the undue delay from the part of respondent, the appellant approached this Authority praying for compensation for the delay caused and the loss occurred to him.

Arguments of the respondent:-

The complaint is not maintainable either in law or on facts. This appeal petition is filed against the order of the Hon'ble Consumer Grievance Redressal Forum (South) in OP No 302 of 2016. The appellant has complied the order and availed new service connection vide Consumer No. 1145877030657. The appellant has admitted this in item no 21 of his petition) Hence it is humbly requesting to dismiss the petition due to lack of merit.

1) It may also be noted that the appellant has prayed before the Hon'ble Ombudsman for the matter which he already settled before the Hon'ble Appellate Authority and Hon'ble CGRF(S) The electric connection bearing consumer number 26466 under Electrical section, Kottarakkara West is effected in the name of Sri. Alexander K.M, Kanjiram vila Veedu, Ambalathumkaala in IT IA (domestic) tariff with a sanctioned load of 2746 Watts. On inspection by the officials of Electrical Section, Kottarakkara West on 18-11-2014, it was found that the consumer had been using electricity for manufacturing wooden furniture with a connected load of 4376watts. A. Site mahazar was prepared and a provisional assessment of Rs. 17,525/- was issued on 18-11-2014 by the assessing officer under section 126 of Electricity Act 2003. The assessment has been done under LT VII A tariff at the rate of two times the tariff rate applicable for the purpose for which electricity is found to be used without authorization. The provisional bill amount was confirmed in final assessment order issued as the consumer had not submitted any documentary evidence for revising the bill.

Aggrieved by this order, the consumer filed appeal before the Appellate authority, Vyttila for which hearing was conducted on 14-07-2015 at the chamber of the authority. The appellant had remitted Rs. 8,763/- (50% of provisional assessment) on 31-03-2015 at this office. The consumer was absent during the hearing in which assessing officer represented the respondent's side.

The appellate authority in their order had directed that the assessment for the entire usage of electricity shall be done in LT 1VA tariff instead of VIIA as the tariff for workshops using power for production/repair is LTIVA as per gazette notification No 2379/27-09-2014 issued by Honourable KSERC wef 16-08-2014. Hence clarification has been sought to the Law Officer, Vydhyuthi Bhavanam, Pattom in which the secretary has accorded sanction for the compliance of the order of KSERC. Accordingly a revised bill Dt 11.11.2015 amounting to Rs. 1,967/- (i.e. the balance amount to be remitted)had been served on to the consumer.

As the regular current charge from 26-11-2015 has been pending, notice dated 28-02-2016 has been served on to the consumer as it has been included in the list of defaulters more than 45 days. As the premises was under door lock it was pasted on the wall of the shop. As the dues has not been cleared the service has been dismantled on 15.04.2016 and registered notice for RR has been sent to the consumer, but returned unclaimed. The order of Honourable Appellate Authority was complied. The meter was dismantled due to arrear in regular current charges and not as stated by the appellant. The amount remitted as annual ACD has been adjusted in current charge arrear at the time of account closing of the connection.

Meanwhile the appellant approached the Hon'ble Consumer Grievance Redressal Forum (South) vide OP NO. 302 OF 2016 against dismantling of service connection. The Hon'ble Forum in its order dated 14-03-2017 directed the appellant to submit fresh application form for service connection which he complied. The Hon'ble Forum also observed that the service connection was dismantled after observing all rules. Hence there is no deficiency of service on the part of the opposite party.

In the above circumstances this Hon'ble Ombudsman may be pleased to dismiss the complaint.

Analysis and Findings:

Hearing of the Appeal Petition was conducted on 11-07-2017 in the Court hall of CGRF, Kottarakkara at Kollam. Sri K.M. Alexander represented the appellant's side and Sri. G. Soni, Assistant Executive Engineer, Electrical Sub Division, Kottarakkara and Smt. Manju K. Assistant Engineer, Electrical Section, Kottarakkara West, represented the respondent's side. On examining

the petition, the statement of facts filed by the respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The prayer of the appellant is the claim of compensation for the alleged delay in complying with the orders of Appellate Authority and loss occurred to him. If the appellant is aggrieved for the alleged delay in providing connection, the matter of compensation if any is to be determined by looking into various aspects like whether the delay is caused due to the sole negligence of the respondent, or if there is any contributory negligence on the part of appellant, and also is there any actual damage caused to the appellant.

Regulation 138(a) of the Supply Code, 2014 grants the licensee to disconnect the supply of electricity” if the consumer defaults in the payment of the dues payable to the licensee as per the bill or demand notice or any order issued by a competent authority, within the period stipulated therein”.

Regulation 139 depicts the procedure for disconnection. – (1) “The licensee shall, in the case of disconnection proposed on the grounds mentioned in clauses (a) and (b) of sub regulation (1) of Regulation 138 above, issue a disconnection notice in writing, as per Section 56 of the Act, with a notice period of not less than fifteen clear days, intimating the consumer about the grounds for disconnection and directing him to pay the dues with penal charges within the notice period.”

(2) If the consumer fails to remit the dues within such notice period, the licensee may disconnect the service of the consumer on the expiry of said notice period, by cutting off the supply in the manner as the licensee may deem fit.

(6) The licensee shall, after disconnection on the grounds mentioned in sub regulation (1) of Regulation 138 give intimation to the consumer as per format given in Annexure 18 to the Supply Code, 2014, to remove the cause of disconnection within 45 days, failing which the supply may be dismantled.

Regulation 175 of the Electricity Supply Code, 2014 reads as:

Service of notice:- (1) Any order or notice issued on the consumer by the licensee, including the notice under Section 56 of the Act shall be deemed to be duly served if it is sent by registered post at the correct postal address of the addressee or delivered by hand, with signed acknowledgement to the person residing at the address notified to the consumer:

Provided that in the case of an individual, service of notice to the spouse of the consumer or his authorised representative, and in the case of a firm, company or corporation, service of notice on the Managing Director, Director or

Principal Officer or an authorised person of such an institution, shall be taken as sufficient service for the purpose of this Code.

2) If a consumer refuses to receive or avoids receiving the notice, the service may be effected by any of the following methods which shall be deemed as sufficient for service of notice:-

(a) Affixing the notice at a conspicuous place on the premises of the consumer in the presence of two witnesses and photographing the notice; or

(b) Publication of the notice in daily newspaper commonly read in the concerned locality to be kept on record the licensee.

(3) In addition to the methods described above, the licensee may resort to any of the following means also to serve the notice:-

- (i) through special messenger and obtaining signed acknowledgement; or*
- (ii) by courier with proof of delivery; or*
- (iii) by fax; or*
- (iv) by e-mail:*

Provided that in the case of notice sent by fax or e-mail, it shall be followed by a formal authenticated communication.”

The evidence shows that there is deficiency on the side of respondent in complying with the statutory provisions before disconnecting a service. If the respondent adopted the mandatory procedures, the appellant ought to have been taken steps for not dismantling the service provided to his premises. The version of the respondent that they affixed the notice on the premises of the appellant cannot be admitted since the respondent failed to serve the notice as per Regulation 175 of Supply Code, 2014. While affixing the notice at a conspicuous place on the premises of the consumer should be in the presence of two witnesses and photographing the notice or publication of notice in daily newspaper commonly read in the concerned locality to be kept on record by the licensee as per Regulation 175 (2) of Supply Code, 2014.

It is confirmed that a new connection is effected in the premises of the appellant with consumer number 30657. Hence regarding the first issue it is open to the appellant to approach the licensee for appropriate relief including compensation as claimed in this appeal. It is also made clear that the appellant is left open to approach appropriate officer of the licensee under Section 57 of Electricity Act, 2003 for award of compensation, if so advised.

Decision:

With regard to the matter of compensation, the appellant is free to approach the licensee, as per Regulations of Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations 2015, if he desires so.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the consumer stands disposed of as such. No order on costs.

ELECTRICITY OMBUDSMAN

P/046/2017/ _____ /Dated: _____

Delivered to:

1. Sri. Alexander K.M., Kanjiramvilla Veedu, Ambalathumkala P.O., Kottarakkara
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kottarakkara, 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.