

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/045/2017
(Present: A.S. Dasappan)
Dated: 24th July 2017

Appellant : Sri. Akhil Sreeni
Thai Lekshmi Theatre,
T.B. Junction, Valacode P.O.,
Punalur, Kollam

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

ORDER

This appeal petition is filed by Mr. Akhil Sreeram, S/o R. Sreeni, Partner, M/s Thailekshmi Theatre, T.B Junction, Valacode P.O., Valacode village, Punalur Taluk residing at VURA 82 A, Rambhavan, Vadakemulloor Road, Anayara, Thiruvananthapuram, Consumer number 1145932003343, who is the legal heir of R. Sreeni, being aggrieved by the order in OP No: 301/2016 dated 6/03/2017. The said R. Sreeni was the complainant in the complaint filed before the Consumer Grievance Redressal Forum, Kottarakkara on 25/11/2016. The complainant, R. Sreeni died on 27/11/2016. The appellant has a three phase service connection with registered connected load of 23 KW and the assigned tariff is LT VII C. A cinema theatre named Thailekshmi has been functioning in the premises. On 15.10.2016, a surprise inspection was carried out in the premises by the Anti Power Theft Squad, Kollam along with the section officials and noticed that there was connected and using a total load of 75 kW, without obtaining prior sanction from the licensee and hence there was connected and using an unauthorised load 52 kW in the premises.

Accordingly a site mahazar was prepared and based on the site mahazar for the unauthorised load to the tune of 52 kW, a provisional assessment for Rs. 7,24,831/-was issued to the consumer under section 126 of the Act 2003.

Against the same, the consumer had filed an appeal before the Assessing Officer and after conducting a hearing the provisional assessment was revised for Rs. 5,37,956/-(UAL 30 kW) and a final assessment order was issued along with detailed calculation statement. Though the consumer had been informed in the final order itself that the appeal authority is the Appellate Authority, he approached the Hon'ble CGRF (South) vide OP No.301/2016 and the Hon'ble Forum pronounced its order on 06.03.2017 holding that 'the forum has no jurisdiction to entertain the complaint as the case is against the bill issued under 126 of the Electricity Act 2003 and also directed the petitioner to file appeal before the appellate authority.

Though the appellant has been given proper instructions by the Assessing Officer and also by the Hon'ble CGRF (South) to approach the proper authority for filing appeal, if any, against the assessment made under section 126 of the Electricity Act 2003, he has been filing petitions and appeals at other fora which have no jurisdiction. Deliberate intention from the part of the appellant is seen to get maximum delay in remitting the amount of the penal assessment and also to escape from the burden of paying interest.

According to the respondent, the matter of the complaint is an assessment under Section 126 of the Act and the CGRF and Ombudsman is barred from entertaining such complaints in view of regulation 2 (1) (f) (vii) (1) of the KSERC (CGRF and Electricity Ombudsman) Regulations, 2005. Aggrieved against the order of CGRF, this appeal petition was filed.

Hearing of the case was conducted on 11/07/2017 in the Court Hall of CGRF, Kottarakkara. Sri Rajasekharan, Manager, Thai Lekshmi Theatre, Punalur represented the appellant. Sri. Suresh Kumar, Assistant Executive Engineer, Electrical Sub Division, Punalur appeared for the respondent. In view of the arguments made by both parties, it appears that the foremost question to be decided in the matter is whether the appeal petition is maintainable or not. It is needless to enter into the merits of the case, if this Authority has no jurisdiction to entertain the same.

It is admitted that the appellant did not file any appeal before the appellate authority under Section 127 of the Electricity Act. Since the bill raised under Section 126 based on allegation of unauthorised extension of electricity falls under the exception clause 2 (f) (vii) of the Regulations, the CGRF / this Authority does not have any authority to entertain this complaint. The appellant's remedy was only to file an appeal before the Statutory Authority under Section 127 of the Act. Section 127 (I) of the Electricity Act, 2003 reads as follows:-

“127. Appeal to appellate authority:- (1) Any person aggrieved by a final order made under Section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.”

Instead of filing appeal before the aforesaid statutory authority, the appellant herein approached first the CGRF and thereafter this Authority. It seems that the modus operandi of the appellant was to protract the dispute for a further period without paying any portion of the billed amount. Moreover, CGRF / Electricity Ombudsman has no jurisdiction to entertain complaints relating to unauthorised use of electricity as provided under Section 126 of the Act, in view of the bar under Sub Clause (vii) (I) of Clause 2 (f) of the Regulations. It is therefore held that the remedy available to the appellant is only an appeal before the Statutory Authority under Section 127 and that this appeal petition is not maintainable. The order of the CGRF is upheld. The appeal petition is rejected as not maintainable. The appellant is directed to approach the Appellate Authority. Having concluded and decided as above, it is ordered accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/045/2017/_____ /Dated:_____

Delivered to:

1. Akhil Sreeni, Thai Lekshmi Theatre, T.B. Junction, Valacode P.O., Punalur, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Punalur, 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.

