

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/085/2017
(Present: A.S. Dasappan)
Dated: 31st October 2017

Appellant : 1. Sri. Khader
Kollarukandy,
Paramba P.O., Kozhikode
2. Sri. Ali Mohammed
Kadavathu, Paramba P.O.,
Kozhikode
3. Smt. Shyni D
Payanaarambath,
Paramba P.O., Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Balussery,
Kozhikode

ORDER

Background of the case:

The appellants were the applicants for electricity connection for their houses under the Total Electrification Programme of the Kerala State Government. The appellants also remitted application fee Rs. 10/- each at Electrical Section, Unnikulam and also submitted Wiring Registration Certificate, ELCB paper, agreement in stamp paper of Rs. 200/- for effecting the connection. The respondent had denied electricity connection to them on the basis of various grounds. So the appellants had approached the Hon'ble CGRF, Kozhikode by filing a petition in OP No. 199/2016-17 which was

dismissed vide order dated 15-06-2017. Aggrieved against this, the appellants have submitted this appeal petition before this Authority.

Arguments of the appellant:

1. The appellants are residing at Mankayam, M.M. Paramba P.O., Kozhikode district and involved fully in agricultural cultivation for their livelihood. The appellants jointly applied for electricity connection under the "Total Electrification Program" also known as '100% Electrification' by remitting Rs.50/- as the application fee for five applicants i.e. Rs.10/- per each, on 01-12-2016. The field officers of the respondent verified the houses and premises of the appellants twice at the expense of the appellants. Being satisfied, they advised the appellants to do the wiring work of the houses and after completing the wiring work to submit the Wiring Registration Certificate, ELCB paper, agreement in stamp paper of Rs. 200/- and to remit Rs. 50/- as AF. The appellants after completing the wiring work, submitted all the above said documents and remitted Rs. 50/- by each as AF.

2. As per the statute, an Implementation Committee comprising of members of Panchayat, representatives of political parties and trade unions etc. is to be formed, to select the beneficiaries of Total Electrification Program. The Panchayat President or Standing Committee Chairman/Chairperson should be the Chairman of the implementation committee. An officer not below the rank of Sub Engineer should be the Convenor of the Implementation Committee. But no such committee was formed in Panangad Grama Panchayat. Instead under Unnikulam Electrical Section the beneficiaries of Total Electrification Program were selected by field verification conducted by Executive Engineer, Assistant Engineer, Sub Engineer and other field staffs. This fact is proved by the introductory page of the field verification report. These appellants happened to know that the names of the appellants were removed from the list of beneficiaries of Total Electrification Program by making some manipulations by the respondent. The appellants approached the respondent but no reply; at last these appellants filed a petition before the Hon'ble CGRF.

3. All the contentions raised by the respondent are incorrect and baseless. The first contention of the respondent is that the houses of the first and third appellants are not intended for human dwelling but that are godowns for keeping the fertilizers and agricultural products are completely false. It is to be noted that the field officers of first respondent, after verifying the houses of the appellants thrice, advised the appellants to do the wiring work and after completing the wiring work, to submit the Wiring Registration Certificate, ELCB paper, Agreement in stamp paper of Rs. 200/- and to remit Rs. 50/- as AF. It is on the advice of the 2nd respondent the first appellant who belongs to BPL category spent more than an amount of Rs. 30,000/- for wiring, submitted all the documents and paid Rs. 50/- as AF. As per the KSEB order, beneficiaries of the Total Electrification Program who belongs to BPL category electrical

connection should be effected without charging the cost of service connection charges. If the field officers of first respondent was of the opinion that the houses of first and third appellants are godowns, they ought to reject the application at site and need not be required to advise the appellants to do the wiring, furnish documents and accept Rs. 50/- as AF. Based on the advice of the first respondent, each appellant spent more than an amount of Rs. 30,000/- for wiring and other related work.

4. The second contention of the respondent that the appellants were removed from the list of beneficiaries of the Total Electrification Program on the basis of decision taken by the Implementation Committee of Total Electrification Programme of Panangad Grama Panchayat is false and baseless. The fact is revealed from field verification report prepared by the respondents. Further the information contained in the list accompanied by the verification report is also false. The Field Verification Report prepared by the respondent consists of two lists, the list of the persons selected and the list of the persons removed. The name of first appellant is shown as item No. 2 of the list of removed persons. The information given in the column that the appellant did not pay the AF is false. The second appellant's name is shown as item No.3 in the information given as second appellant did not pay the AF and did not wire the house are also false. The third appellant is shown as item No.28 in the list.

5. The appellants who applied for electricity connection under the Total Electrification Program are residing at Mankayam and are fully involved in agriculture cultivation by staying there. As per the KSEB order, the electrical connection should be provided for applicants who will be using the building for future domestic purposes also.

6. The three appellants residing in houses which are well maintained. As per the KSEB order electrical connection should be given to the beneficiaries of Total Electrification Program even if they own a Katcha house with a strong wall. But however, it is unfortunate to say that the Honourable CGRF failed to realize the actual truth involved in the dispute. The aim of the Total Electrification Program was to achieve 100 Electrification of the households in the state. Being aggrieved by the impugned order this appeal is filed on the following among other grounds.

1. The order dated 15-06-2017 passed by the Hon'ble CGRF is illegal and arbitrary.
2. The impugned order passed by the CGRF is without adverting to the real facts of the case. Hence the impugned order is vitiated and is liable to be set aside.
3. The conclusion and observations of the CGRF are against to actual truth and justice.

4. The CGRF ought to have found that all the steps for electric connection are completed by the appellants and once an agreement is signed between the applicants/appellants and respondent and remitted Rs.50/- as A.F., it is a bounden duty on the part of the respondents to provide electric connection to their houses in question under the scheme of Total Electrification Program.
5. The order is based on the unrealistic assumption that an implementation committee, comprising of representatives of local body and the licensee was constituted to identify the eligible applicants. There was no such committee formed in Panangad Panchayat.
6. It is also incorrect to say that one meeting held on 4.2.2017, analysed the feasibility of giving connection to these appellants/applicants. These appellants happened to know that the meeting held in Panangad Panchayat on 04-02-2017 was given approval to the Field Verification Report submitted by the Assistant Engineer. This fact is revealed from the minute's book of the meeting held on 04-02-2017. These appellants believe that the documents produced here as minutes of the meeting is fraudulently created by the respondent with the help of President of Panangad Panchayat only for the purpose of defending these appellants before the Hon'ble CGRF.
7. The appellants may be given an opportunity of hearing while considering the Appeal. For these and other grounds it is respectfully prayed that this Hon'ble Electricity Ombudsman may be pleased to set aside the order dated 15-06-2017 issued by the Consumer Grievance Redressal Forum, Northern Region, Kozhikode and issue direction to the respondents to provide electric connection to the appellants' houses in question under the scheme of Total Electrification Program.

Arguments of the respondent:

1 It is true that the appellants applied for electricity connections in Total Electrification scheme, to their buildings situated at Mankayam in Panangad Panchayat. The appellants also remitted application fee Rs. 50/- each at Electrical Section, Unnikulam for getting service connection in Total Electrification scheme sanctioned by Kerala Government on 21-11-2016 vide G.O(RT) No. 228/2016/PD dated 21-11-2016.

As per the said Government Order aim of Total Electrification Project is to achieve electrification of all the households in the state by March 2017. The appellants completed wiring of their building specified above and submitted application with the documents at the Section office for getting electric connection as per the above scheme.

2 As per the Government order No. G.O(MS) No.18/2016 dated 26-8-2016 committees were formed in different level for the smooth execution of Total Electrification project. Accordingly Panchayath level implementation committee

formed in Panangad Panchayath also with Panchayath president as Chairman, Assistant Engineer of Unnikulam Electrical Section as Convener and ward members of panchayath as members for identifying beneficiaries, ensuring 100% registration of beneficiaries and for the timely completion of project etc. The implementation committee of Panangad Panchayath conducted meetings on 03-11-2016, 04-02-2017, 13-02-2017 and 16-2-2017 etc. In order to ensure 100% registration of beneficiaries for the project, Board staff conducted field survey and applications from beneficiaries were collected directly and collected with the help of people's representatives, representatives of political parties, various organizations etc. The aim of the project was to provide electric connection for domestic purpose. Hence to prove the genuineness of applications registered, inspections were conducted at the premises of each and every applicant. The list of beneficiaries finalized in implementation committee after considering the result of inspections and the decision of the committee. All these procedures are strictly followed in the case of appellants also. The applications of the appellants rejected on the basis of field inspection conducted and as per the decision of the implementation committee meeting on 04-02-2017. As such there is no manipulation in this case. The appellant filed a petition before the Hon'ble CGRF, Kozhikode vide OP No. 199/2016-17 and the Hon'ble CGRF dismissed the petition on 15-06-2017.

3 The respondent conducted 3 inspections at the premises of the Appellants at different occasions. No permanent inhabitation were noticed in the premises of Appellants and the premises of Appellants (1) and (3) and are used as godowns for procuring agricultural produce and not for domestic purpose. The premises of appellant (2) is also not a permanent resident and the building is already electrified by solar panels. The Government of Kerala introduced the Total Electrification scheme for electrifying all households in the state by March 2017, by utilizing various fund like SC/ST fund, MLA/MP fund Local Self Government fund, DDUGJY fund, KSEB fund etc. These types of project are mainly focus on underprivileged group in the society. Hence as per this scheme service connection to the houses of BPL applicants will be given without charging cost of service charge. Also as per this scheme for the eligible applicants wiring of houses was also done without charging any cost. Since the appellants not comes under eligible category wiring of their building are to be completed by the appellants themselves. The buildings of the appellants are not domestic and are not comes under BPL category.

4 The arguments of appellants are not true and against facts. The report of inspection of respondent and decision of implementation committee are attached.

5 Total Electrification scheme is meant for Domestic house buildings and Anganvadies only.

6. The averment of the Appellants that the respondents fraudulently created documents are not true and against facts. The Total electrification scheme is a project sanctioned by Government to uplift the poor and underprivileged group in the society. The respondents as employees of Kerala State Electricity Board Limited, a Government under taking and has the duty to implement all project sanctioned by Government in the correct sense, so as to get maximum benefit to the eligible in the society and without any misuse of fund. In the case of Total Electrification project in Panangad Panchayat also the respondents followed and obeyed all rules and regulations and standing orders.

Analysis and findings:

Hearing of the case was conducted on 04-10-2017 in the Court Hall of CGRF, Kozhikode. Sri P. Rajidasan and Smt. Ajitha Kumari P.A., advocate represented for the appellants and Sri. Murukesh P.V., Assistant Engineer in charge, Electrical Sub Division, Balussery and Smt Vijisha C, Assistant Engineer, Electrical Section, Unnikulam appeared for the respondent. Both sides have presented their arguments on the lines as stated 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 Kerala State Government has targeted to achieve 100% electrification of the households in the state. The appellants residing in the jurisdiction of Electrical Section, Unnikulam, have applied for electric connection under the 'Total Electrification Programme'. The aim of the programme was to extend the usage of electricity as a basic need to the poor people for which certain relaxations were declared by the Government and ordered accordingly. As per the Government order No. G.O(MS) No.18/2016 dated 26-08-2016, a Panchayath level implementation committee has to be formed in each Panchayath for the identification of 100% beneficiaries. Grama Panchayath president as Chairperson, an employee not below the rank of a Sub Engineer of concerned Electrical Section as Convener and ward members of Panchayat, representatives of all political parties, trade unions, officers associations, cultural organisations, NGOs, CDS/ADS and Kudumbasree volunteers are the members of the committee for identifying beneficiaries, ensuring 100% registration of beneficiaries and for the timely completion of project etc. Any such implementation committee as specified above is not seen formed by the respondent in the Unnikulam Section. It is revealed from the minutes, the list of beneficiaries has been finalized by an implementation committee consisting of only Assistant Engineer, Panchayath President and ward members after considering the result of field inspections conducted by the KSEB officers. The applications of the appellants rejected on the basis of field inspection conducted and as per the decision of the implementation committee meeting on

04-02-2017. According to the respondent the reasons for rejection of the applications of the appellants are that there was no permanent inhabitation in the premises of appellants and the premises of appellants (1) and (3) are used as godowns for procuring agricultural products and not for domestic purpose and the appellant (2) is also not a permanent resident and the building is already electrified by solar panels. The respondent further averred that the buildings of the appellants are not for domestic purpose and are not comes under BPL category. The total Electrification Scheme was closed on 31-03-2017.

On going through the records, it is revealed that after field verification of the premises of the applicants, the officials of the licensee had prepared two lists viz the first list comprised the eligible applicants and second list contained 39 applicants whose applications were rejected on various grounds. Serial numbers 22, 23 and 24 in the second list are the appellants in this petition. It is noted in the list that the first appellant, Sri Khader (Sl. No. 24) “വീട് താമസയോഗ്യമല്ല. മറ്റൊരു വീട്ടിൽ സ്ഥിരതാമസം”, second appellant, Sri. Ali Mohammed (Sl. No. 23) “നിലവിലെ വീട്ടിൽ സോളാർ പാനൽ ഉപയോഗിക്കുന്നു. സ്ഥിരതാമസമില്ല”, third appellant, Smt. Shyni (Sl. No. 22) “വീട് താമസയോഗ്യമല്ല. നിലവിലെ മലാപറമ്പിൽ സ്ഥിരതാമസം”. As per the decision taken by the implementation committee on 13-02-2017, the applications of the applicants of list 1 was approved.

The appellants denied all the averments raised by the respondent. The first appellant Sri. Khader belongs to BPL category and he produced a certificate from Secretary, Panangad Grama Panchayath to prove his argument. This appellant was also seen included in BPL category in the list 2. It is further stated that the reason for non occupancy as he is suffering from acute cardio vascular diseases and he is temporarily residing with his brother at Ekarur for getting proper medical facilities. Copies of the medical reports produced for proving this. In the case of the 2nd appellant Sri. Ali Muhammed, his name was deleted from the list of beneficiaries on the premises that he has installed “solar connection as an alternate energy source” and not an occupant in the house. He denied the averment of the respondent regarding non occupancy in the house and argued that there is nothing in the government order or the order of KSEBL that prohibits the consumer having alternative energy source from applying electricity connection under the scheme. The 3rd respondent Smt. Shyni D has a small house and denied the version of the respondent that the house is not conducive for human occupation and kept as godown for agricultural products. The respondent has not made any remarks that the premises are not safe to provide the connections.

The wiring of the appellants’ premises was done by the appellants as directed by the respondent after conducting inspections. As per

B.O.(FTD)No.3058/2016(D(D&S)/D6Total Electrification-Ph3/2016 dated 27-10-2016, KSEB Ltd., has accorded sanction to grant electric connections to residential structures of plinth area not more than 100 sq. m without insisting proof of ownership/legal occupancy on the basis of an undertaking from the applicant in plain paper that

1. The total plinth area of the building is not more than 100 sq. m.
2. The building is/will be used exclusively for domestic purpose
3. The grant of electric connection will not be considered as proof of legality of the structure or ownership or possession.
4. The connection is liable to be disconnected either temporarily or permanently, if any statutory authority requests the officer of the licensee to do so.

From the above it can be seen that there was no harm in providing electric connections to the appellants within the period of Total Electrification. The KSEB Ltd., have enough mechanism for the inspection of the premises of the consumers whether they are misusing the electric connection to other purposes and can take actions as per rules. Here the appellants had applied for electricity connections during the period of Total Electrification Programme, i.e, registered before 31-03-2017. Hence they are eligible to get the connection.

The respondent has been directed by this Authority to furnish the revised length of LT line to be constructed for giving the electric connection to the appellants after effecting electric connection to Smt. Fathima, which was ordered by the District Magistrate. Accordingly the respondent, in his report, has stated that the estimate cost is Rs. 3,45,000/- for drawing of 1 KM line for giving the three connections. He has not reported anything whether the buildings are for domestic purposes, proper wiring and other formalities have been done etc.

In this case, the implementation committee has approved the list of the beneficiaries under the scheme after field verification conducted by the KSEBL officers. But the appellants are not satisfied with the reasons stated for their applications rejected on flimsy grounds. Absence of permanent inhabitation in the houses is not a sufficient reason to deny the connection. The appellants were not given an opportunity for being heard and hence denied justice. Hence the appellants are to be given electric connections, under domestic purpose, for which the respondent can seek orders of higher officers of KSEB Ltd.

Decision

Considering the above facts and legal provisions pertaining to the issue this Authority is of the considered view that the appellants are eligible for electric connections for domestic purposes under Total Electrification

Programme. So, the appeal petition stands admitted as it is found having merits. The respondent shall take action to obtain sanction from the higher officers of KSEB Ltd to provide electricity connection to the appellants and to effect the connections within a period of three months.

The order of CGRF (North), Kozhikode in OP No. 199/2016-17 dated 15-06-2017 is set aside. Having concluded and decided as above, it is ordered accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/085/2017/ _____ /Dated: _____

Delivered to:

1. Sri. Khader, Kollarukandy, Paramba P.O., Kozhikode
2. Sri. Ali Mohammed, Kadavathu, Paramba P.O., Kozhikode
3. Smt. Shyni D, Payanaarambath, Paramba P.O., Kozhikode
4. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Balussery, Kozhikode

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, Gandhi Road, Kozhikode