

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/106/2017
(Present: A.S. Dasappan)
Dated: 23rd January 2018

Appellant : Sri. Sujith A P
Appadaparambil House,
K Puram P.O., Thanalur,
Malappuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Tirur,
Malappuram

ORDER

Background of the case:

The appellant, Sri Sujith A.P., had submitted an application for shifting an electric post and service Line, before the Assistant Engineer, Electrical Section, Thanur, Malappuram, on 23-05-2017. He remitted the application fee for Rs.300/- at Section Office. The grievance of the appellant is that the respondent failed to take timely action to shift the line and post. Aggrieved by this, the appellant approached the CGRF (North), Kozhikode, with his petition dated 13-06-2017 by email. The CGRF disposed of the petition directing the respondent to arrange the shifting of the line under Deposit Work, vide order OP No.58/2017-18 dated 16-08-2017. Meanwhile, the shifting was effected on 26-07-2017. Thereafter the appellant filed this appeal petition before this Authority seeking compensation for the delay in effecting the service connection and disciplinary action against the concerned.

Arguments of the appellant:

The main argument of the appellant is that as per the time lines prescribed as per the Supply Code, 2014, the respondent has the responsibility to conduct site inspection and to issue demand note to an applicant within specified days of registration of application and remittance of required fees. He argues that there was delay on the respondent's side in effecting the shifting. But this fact

was not considered by the CGRF for awarding compensation and also initiating disciplinary action against the concerned officers. Even though the appellant has highlighted serious errors made by the respondents in failing to provide proper service, none of the said grounds were considered by the CGRF. Hence the appellant requests for compensation for the delay in shifting and for disciplinary action against the employees who made delay.

Arguments of the respondent:

The appellant Sri. Sujith.A.P., Appadaparambil House, K Puram, Thanalur had submitted an application for shifting the line at Electrical Section Office, Tanur before the Assistant Engineer. Subsequently the concerned Sub Engineer who was assigned to do the work reached the site and found that the presence of the appellant was need for preparing the feasibility report and estimate concerned. He was communicated over phone in the phone number that was given while submitting the application for verification of the plot where the shifting of electric line was proposed. The phone was attended by an electrical wireman named Mohanan. Unfortunately, the said wireman who narrated as the authorised person by the appellant for dealing the subject argued that he is not ready to come to the site whenever the Electrical Authorities got time for the same as he was in work site. Hence he was requested to inform the convenient time, since the work certainly required field verification as to ascertain the feasibility of the proposed line shifting.

Later, a specified day was fixed in concurrence with them, as 03.07.2017 and the concerned Sub Engineer along with the appellant and the person who was narrated as the wireman of the appellant inspected the site. Certain defects like cutting tree branches, ascertain the properties boarder, consent objections etc were noticed and informed, then prepared the estimate and submitted before the O/o of the undersigned for getting approval. The estimate got approved on 06-07-2017.

Meanwhile a notice received at Section from the Hon'ble Consumer Grievance Redressal Forum, Kozhikode in OPNo.58/2017-18 regarding the subject matter. Accordingly submitted detailed statement of facts. The Hon'ble CGRF conducted the sitting on the issue on 07.07.2017. This office had narrated the entire matter before the forum and ensured that the work will be carried out as per the final estimate prepared and got approved then without any delay as and when the said estimate amount was remitted by the consumer. The estimate amount was remitted by the consumer on 10.07.2017 at Electrical Section Office, Tanur. Subsequently after got clearing certain tree branches those stood as hindrance to the shifting work, the same shifting work was carried out in work deposit basis on 26.07.2017.

The CGRF passed the final order in OP No. 58/2017-18, on 16.08.2017, ordered to arrange the shifting of the line under Deposit scheme. The forum

was informed that the same work had been carried out on 26.07.2017 itself ie well before the final order of the CGRF.

Meanwhile the appellant Sri. Sujith has filed a fresh petition in the same subject matter before the Hon'ble Consumer Disputes Redressal Forum, Malappuram on 21.07.2017(CC No 248/17 CDRF MLPM), alleging the same matters. The said petition was filed by the appellant well before the final judgment in the existing case before the Hon'ble CGRF Kozhikode. Detailed statement of facts has also been submitted in this case. In the hearing of the same, the Assistant Engineer who presented has informed that instead of the appellant one Sri. Mohanan (the said wireman) was appeared and argued the matter. the same was brought under the attention of the Hon'ble CDRF. The case is still pending before the Hon'ble CDRF Malappuram.

The allegation of not doing any follow up action on his application is denied. The concerned Sub Engineer was assigned for the field inspection duty subsequent to the application received. In his statement the Sub Engineer has narrated that he visited the site on 29.05.2017. Since there were still some tree cuttings requirements in the field with consent letters of the nearby land owners existed for carrying out the work, a notice for clearing the same was issued on the appellant after he remitted the estimate amount. Later the consent letters and the clearance application received on 26.07.2017, accordingly the work was carried out. Hence the allegation against the Assistant Engineer, Electrical Section Tanur in this regard is also denied especially on the ground of abiding the Regulation 94(4) of Kerala Electricity Supply Code 2014, as the estimated amount was remitted by the consumer on 10.07.2017), and the work was carried out on 26.07.2017, ie with in the stipulated time limit of 30 days in shifting the LT line from the date of payment of expenditure.

Even after fulfilling the requirements from the concerned electrical section office, the appellant is merely moving in between different statutory forums for tarnishing the image of the section office. In all of the hearings instead of appearing the appellant himself, a person named Sri. Mohanan is appearing and arguing against the officials. As most of the field staff in the section office including the Assistant Engineer are freshly appointed in duty, the respondent requests this forum to ensure the morale of them also.

Analysis and findings:

Hearing of the case was conducted on 14-12--2017 in the Office of the State Electricity Ombudsman, Edappally, Kochi 24. Sri Sujith A.P., and Sri Mohan Kumar M. represented the appellant. Smt. Ambika Kumari P, Assistant Executive Engineer, Electrical Sub Division, Tirur (East) and Sri Sunil Kumar K.V., Sub Engineer appeared for the respondent. The respondent intimated that the grievance of the appellant was redressed since the shifting was effected on 26-07-2017 within 30 days from the date of remittance of deposit

work. Remittance for the deposit work was made on 10-07-2017 and shifting was done on 26-07-2017. It is also informed that a case is pending on the same subject before the Consumer Disputes Redressal Forum, Malappuram. The only question arose for consideration is with respect to the awarding of compensation for the alleged delay on the part of the respondent for the failure to conduct site inspection and issuance of demand notice in time to the appellant. This fact is to be decided based on, whether there was any willful delay or any deliberate deficiency of service from the respondent's side warranting such penalization.

The records produced before this Authority reveals that there is no dispute regarding the date of submission of the application for shifting by the applicant, i.e. 23-05-2017 and the site inspection done only on 03-07-2017. While evaluating the rival contentions of the respondent it is essential to look into the following provisions in Supply Code Regulation 2014. Regulation 94 and 95 of Supply Code, 2014 reads as follows:

94. Procedure for shifting of meter or service line within the premises of the consumer:-

- (1) The consumer shall apply for shifting the meter within the existing premises or for deviation of existing service lines within his property, in the format specified in Annexure - 10 to the Code.
- (2) The licensee shall process the application in accordance with the provisions of the code.
- (3) For site inspection as well as issuance and payment of demand note for the estimated expenditure for works, both the licensee and applicant shall follow mutatis mutandis, the procedure and timelines as laid down in regulations 77 to 83 of the Code.
- (4) The following time schedule shall be observed for completing the works from the date of payment of expenditure:-

<i>Sl. No.</i>	<i>Purpose</i>	<i>Time Schedule</i>
<i>(i)</i>	<i>Shifting of meter or weather proof service line or both</i>	<i>seven days</i>
<i>(ii)</i>	<i>shifting of LT service line</i>	<i>thirty days</i>
<i>(iii)</i>	<i>Shifting of HT service line</i>	<i>forty five days</i>
<i>(iv)</i>	<i>Shifting of transformer</i>	<i>thirty days.</i>

(5) Excess payment if any, made by the consumer shall be adjusted by refund and deficit payment if any, shall be realised by way of an additional demand note.

95. Procedure for shifting electric line or electrical plant of the licensee.

(1) The owner of the land or his successor in interest who has given right of way for the construction of an existing electric line or electrical plant over, under, along, across, in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes.

(2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.

(3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.

(4) The application for shifting an electric line or electrical plant shall be granted only if:-

(a) The proposed shifting is technically feasible; and

(b) The owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to any other portion of his land or to any other land owned by him; or any alternate right of way along any public path way available for shifting the electric line and the electrical plant; and

(c) The applicant remits the labour charges required for shifting the electric line or electrical plant.

(5) The licensee shall shift the electric line or electrical plant if the conditions specified in sub regulation (4) are complied with by the applicant.

The procedure and timelines as laid down in regulations 77 to 83 of Supply Code, 2014 reads as follows:

Inspection of the premises of the applicant by the licensee.-

(1) The licensee shall, at the time of receipt of application form with the application fee, stipulate a date for inspection of the premises of the applicant in consultation with the applicant, under written acknowledgment.

(2) The date of inspection shall be scheduled within five working days from the date of receipt of application form.

(3) If the applicant wishes, he can get the inspection scheduled on a holiday for the licensee or a day specified by the consumer, on payment of an

inspection fee approved by the Commission in the Schedule of Miscellaneous Charges as per schedule 1 to the Code.

(4) On the appointed date for inspection, the licensee shall inspect and test, in the presence of the applicant or his authorised representative and the concerned licensed electrical contractor, the installation of the applicant and shall maintain a record of test results in the format given in the Annexure - 6 as required of him under the provisions of the Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010, as amended from time to time.

(5) During the inspection, the licensee shall:-

(a) Fix, in consultation with the consumer, the point of supply and the place where the meter and the associated equipment shall be installed in such a manner that they are protected from sun, rain etc. and are easily accessible, without getting the premises unlocked or opened for the purposes such as inspection, meter reading and maintenance;

(b) Align the service line along an accessible route up to the entry point of the premises;

(c) Determine and record the connected load of the consumer in accordance with the method given in Annexure - 7 to the Code;

(d) Verify and record the correct full address of the premises and note down landmarks near the property and the number of the pole or the details of the distribution pillar from where service connection is proposed to be given; and

(e) Verify all other particulars mentioned in the application form, as required.

78. Rectification of defects found in the inspection.- (1) If on inspection, the licensee finds any defect in the installation of the applicant, the licensee shall intimate, in the format given at Annexure - 6 of the Code, the defects to the applicant on the spot under proper acknowledgement.

(2) The applicant shall get all the defects rectified within ten days from the date of receipt of the intimation of defects as specified in sub regulation (1) above and inform the licensee in writing under acknowledgement.

(3) In case the applicant fails to rectify such defects or fails to inform the licensee about the rectification of defects, the application form shall be kept in abeyance and the applicant will lose his priority:

Provided that the licensee may grant additional time to the applicant for completion of the works without any defects, in case the applicant submits a

written request for the same, within ten days from the date of receipt of intimation regarding defects.

79. Re-inspection of the premises after rectification of defects.

(1) On receipt of information from the applicant about the rectification of defects, the licensee shall on the spot stipulate a date for re-inspection of the premises of the applicant in consultation with the applicant, under written acknowledgment and the re-inspection shall generally be conducted within five working days.

(2) If on re-inspection, the defects pointed out earlier are found to persist, the licensee shall again record the facts in the format given in Annexure - 6 to the Code and the application form shall then stand lapsed.

(3) The applicant shall be informed of the result in writing under acknowledgement with copy of the report on re-inspection.

80. Redressal of grievance on the inspection report.-

(1) If any applicant is aggrieved by the action of the licensee in this regard, the applicant may appeal to the next higher officer or an officer designated by the licensee for this purpose.

(2) If the applicant is aggrieved on the decision of the appellate officer also, he may prefer a petition before the Consumer Grievance Redressal Forum (CGRF) established by the licensee under the provisions of the Act.81. Sanction of load and issuance of demand note.- If no defect is found on inspection or the defects noticed earlier are found on re-inspection, to have been rectified, the licensee shall sanction the load determined in accordance with Annexure - 7 to the Code or the load applied for, whichever is higher, and issue within the timeline specified below, a demand note to the applicant under acknowledgment, intimating him to remit the recoverable expenditure and security deposit:-

Table I – Timeline for issue of demand note

<i>If extension of distribution mains is not required</i>	<i>within seven days from the date of receipt of application form.</i>
-----------------------------------------------------------	------------------------------------------------------------------------

If extension of distribution mains is required

- | | |
|-----------------------------------------------|-----------------------------------------------------------------------------|
| <i>(a) In case of LT service connections</i> | <i>within fifteen days from the date of receipt of application form.</i> |
| <i>(b) In case of HT service connections</i> | <i>within thirty days from the date of receipt of application form.</i> |
| <i>(c) In case of EHT service connections</i> | <i>within forty five days from the date of receipt of application form.</i> |

Provided that, in case the licensee does not carry out site inspection or re-inspection within five working days from the date of receipt of application form or from the date of intimation about the rectification of defects, the load applied for shall be deemed to have been sanctioned and the licensee shall not deny grant of connection on this ground:

Provided further that the time taken by the applicant in rectifying the defects or deficiencies found at his premises shall not be included in the timeline specified above:

Provided also that wherever the involvement of the transmission licensee is required in the process for time and cost estimation, the time taken by the transmission licensee shall not be included in the timeline specified above.

82. Demand note to be prepared as per cost data approved by the Commission.

(1) The demand note shall be prepared as per the provisions of this Code and on the basis of cost data approved by the Commission, from time to time.

(2) The demand note shall be valid for the period mentioned in it, subject to a minimum of two months from the date of issue of the demand note.

(3) The demand note shall contain the following details:-

(i) particulars of entire works to be undertaken for providing electricity supply applied for and the items of works for which the applicant has to bear the expenditure;

(ii) amount to be remitted by the applicant as estimated at the rates in cost data approved by the Commission;

(iii) amount of security deposit as specified in Annexure - 3 to this Code;

(iv) The cost estimate shall include the cost of service line and terminal arrangements at the premises of the applicant, but shall not include the cost of meter.

83. Payment of expenditure as per demand note.

(1) The applicant shall make the payment within fifteen days of receipt of demand note, failing which the application shall stand lapsed and the applicant shall be informed accordingly in writing under acknowledgement:

Provided that the licensee may grant enlargement of time to the applicant for payment of charges in case the applicant submits within fifteen days of the receipt of demand note, a written request for such enlargement of time.

(2) On actual execution of the works, if it is found that additional items of works in excess of those provided in the demand note, are required to give connection to the applicant, the expenditure for such items of additional work at the rates in the cost data approved by the Commission shall be remitted by the applicant.

(3) On actual execution of the works, if it is found that certain items of works as provided in the demand note, are not required to give connection to the applicant, the expenditure for such items of works at the rates in the cost data approved by the Commission shall be refunded to the applicant by the licensee.

This Authority is not empowered to award compensation in the first instance, it is left open to the appellant to approach the authorities of licensee for compensation as per the Kerala State Electricity Regulatory Commission (Standard of Performance of Distribution Licensees) Regulations, 2015, if he desires so. This Authority is not empowered with the jurisdiction of taking disciplinary action against the licensee's officials. Since the reliefs requested on the above items not come under the purview of this Authority, these are not considered and not admitted.

The contention of the respondent that another person represented for the appellant in the hearing has no validity since the rules allow a representative to appear on behalf of the petitioner/appellant before the CGRF and Ombudsman. The respondent's argument regarding the reason for delay happened because the field staff including Assistant Engineer were newly appointed is not an excuse and hence not sustainable.

Moreover, the provisions made under Clause 22(d) of KSEERC (CGRF and Electricity Ombudsman) Regulations, 2005, restricts the maintainability of the Petition before this Forum, when a similar nature Petition filed for the same

cause of action and its related grievances, is pending before any other Court, Tribunal, Arbitrator or Authority. Here in this case, a Petition is seen filed by the appellant before the CDRF, Malappuram, in CC No.248/2017, and is pending for its decision. Hence the Appeal Petition No P/ 106/ 2017, filed by the appellant Sri Sujith A.P, before this authority is not maintainable for the reason stated above.

Decision

Considering the above facts and legal provisions pertaining to the issue this Authority is of the considered view that the appellant's petition is not maintainable and hence stands dismissed.

Having concluded and decided as above, it is ordered accordingly. No order as to costs.

Electricity Ombudsman

Petition P/106/2017/ _____ /Dated: _____

Delivered to:

1. Sri. Sujith A.P. Appadaparambil House, K Puram P.O., Thanalur, Malappuram
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Tirur, Malappuram

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, Vydhyuthibhavanam, KSEB Ltd, Gandhi Road, Kozhikode

