

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/023/2019
(Present: A.S. Dasappan)
Dated: 30th April 2019

Appellant : Sri. Sathynesan G
Sabita Nivas, NSS College Road,
Nilamel P.O.,
Kollam

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

ORDER

Background of the Case:

The appellant is a consumer under Electrical Section, Chadayamangalam having consumer number 11176. There was another electric connection in the premises with consumer number 11177 which was registered and owned by the appellant's father in law, Sri. Sivadasan. The connection no.11177 was being used to pump water from the well. On 15-01-2018, the Assistant Engineer, Electrical Section, Chadayamangalam inspected the premises of the consumer number 11177 and detected that he had been using the energy bypassing the energy meter. Since it was found that the appellant was indulged in theft of electricity through a tampered meter and hence he was penalized under Section 135 and 152 of Electricity Act 2003. The appellant has filed a petition before Consumer Grievance Redressal Forum Vydhyuthi Bhavanam, Kottarakkara as O.P. No. 139/2018 which was dismissed due to lack of jurisdiction vide order dated 02-02-2019.

Aggrieved by the order of the CGRF, the appellant has submitted this appeal petition before this Forum.

Arguments of the appellant:

The appellant is a consumer of electricity with Consumer No. 11177 in Chadayamangalam Electrical Section. The water pump with motor was damaged in lightening on 16-11-2017 and it was replaced with a new one within two days.

On 15-01-2018 the Assistant Engineer conducted an inspection in the premises and informed that the electrical connection to the pump set was made illegally which caused revenue loss to KSEBL. Also the officer threatened the appellant and asked to attend the office on the next day. On the next day itself the appellant went to the Section Office and he was forced to make remittance of Rs. 75,130/- alleging theft of electricity.

The appellant filed petition in the Consumer Grievance Redressal Forum on 30-10-2018, but the Forum dismissed the petition stating 'lack of jurisdiction'.

It is requested for an order to get refund of Rs. 75,130/- with interest as the amount was realized from him by threatening.

Arguments of the Respondent:

The penalization was done under Section 135 of the Indian Electricity Act, 2003 and hence the petition may be dismissed on the ground of lack of jurisdiction.

The appellant is a domestic consumer with Consumer No. 11176 in Chadayamangalam Electrical Section. The consumer No. 11177 mentioned in the petition is allotted in the name of Sri Sivadasan.

In the inspection conducted in the premises of Consumer No. 11177 by the Assistant Engineer, it was noticed usage of electricity by removing wire from the incoming terminal of the energy meter. The load used in the premises was that of a 1 HP motor and a 40 Watts bulb. Besides, various equipments having a capacity of 4738 Watts in the nearby house with Consumer No. 11176 are also fed from the pump house without metering. A site mahazar was prepared and disconnected the supply as per Section 135 of Electricity Act, 2003 (Amendment 2007). An assessment was made for Rs. 52,873/- for compensating revenue loss to the Board and as requested by the appellant a compound fee for Rs. 20,000/-. The entire amount was remitted by the appellant. The service connection was dismantled on 20-02-2018 as per the request of the appellant.

The CGRF also dismissed the petition filed by the appellant vide order dated 02-02-2019 in OP No. 139/2018.

On the above circumstances the appeal petition may be dismissed.

Analysis and Findings

The hearing of the case was conducted on 25-04-2019 in the office of Vydhyuthi Bhavan, Alappuzha. Sri. Sathyanesan G, represented the appellant's side and Smt. Sudha Bai G , Assistant Executive Engineer, Electrical Sub Division, KSEBL Ayoor represented the respondent's side. On perusing the Appeal Petition, the counter of the respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The pertinent facts of the case are as follows:

The appellant was penalized under Sec. 135 of Electricity Act, 2003, for the charge of theft by removing wire from the "incoming terminal" of the energy meter. The load used unauthorizedly in the premises was that of 1 HP motor and 40 watts bulb. It is found in the inspection conducted by the Assistant Engineer, Electrical Section, Chadayamangalam in the premises of the appellant on 15-01-2018 that the appellant was indulged in theft of electricity through a tampered meter. Hence a site mahazar was prepared and further action initiated against the appellant and also lodged a complaint in police station. The appellant had remitted the compounding charges as per Section 152 of Electricity Act 2003 and the fine fixed as per Section 135 of the Act. Accordingly the appellant remitted an amount of Rs.75130/-.

After hearing both parties, the CGRF disposed of the petition filed by the petitioner stating that the Forum has no jurisdiction to entertain the complaint since the case comes under Section 135 (b) of Electricity Act 2003 and the Forum closed the petition due to lack of jurisdiction.

Any dispute or complaints pertaining to Sections 126 and 135 are not maintainable before the CGRF and the Electricity Ombudsman, as per Clause 2(1)(f)(vii)(1) of KSERC (CGRF and Electricity Ombudsman) Regulations, 2005. The Hon High Court has also made it clear that, when there is specific provisions in the Act itself, to hear such Cases by designated Appellate Authority, the same are excluded from the purview of CGRF and Ombudsman. As such, I have not gone deep into the merits of other points raised by the appellants in the Petition. This appeal is not maintainable in law for the reason that the subject matter is beyond the jurisdiction of this Authority.

Decision:

Since in this case, the grievance has arisen out of the detection of theft and the penal assessment made and compounding of the offences under Section 135 and 152 of Electricity Act, 2003, it is clear that the petition itself is not maintainable before the CGRF or the Electricity Ombudsman as per the KSERC Regulations. That is any dispute or complaints pertaining to such matters are not maintainable before the CGRF and Electricity Ombudsman, as per Clause 2(1)(f)(vii)(1) of KSERC (CGRF & Electricity Ombudsman) Regulations, 2005. Hence I decide that the Appeal Petition filed before this Authority by the appellant is not maintainable.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of with the said decisions. No order on costs.

ELECTRICITY OMBUDSMAN

P/023/2019/ _____ /Dated: _____

Delivered to:

1. Sri. Sathynesan G., Sabita Nivas, NSS College Road, Nilamel P.O., Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Ayoor, 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.