

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/42/2019
(Present: A.S. Dasappan)
Dated: 7th August 2019

Appellant : Sri. P.V. Abdul Sathar
13/1045, Mysore Trade Links,
Vadiyil Edavazhy, Valiyathodi,
Kozhikode-21

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

ORDER

Background of the case:

The appellant is an occupier of a shop having building number 13/1045, Vadiyil, Kozhikode since 1987, under the jurisdiction of Electrical Section, Beach, Kozhikode. The electricity connection in the shop having consumer number 4309 registered in favour of Sri. Basheer, Vadiyil Thelakal House, Big bazar, Kozhikode was disconnected on 23-09-2017 due to default of payment of electricity charges from 23-05-2017 onwards. Later the connection was dismantled on 29-10-2018. The appellant has cleared all the dues on 07-01-2019 and requested reconnection. Since the respondent rejected his request for reconnection, the appellant approached the CGRF for reconnection which was dismissed due to lack of merits, vide order No. OP 172/2018-19 dated 25-04-2019. Against the decision of the Forum, the appellant has filed the Appeal petition before this Authority.

Arguments of the appellant:

The appellant has been running a shop having building number 13/1045 in Vadiyil, Big Bazaar for the last 32 years. Due to the defect of the line in the shop, an application was given in the office on 13-09-2017 for the permission of using only one bulb. The appellant has remitted all dues on 07-01-19, but there was no supply afterwards. On contacting Beach Section it was known

that the electric connection was disconnected earlier and there was no scope of reconnection.

The appellant filed petition in CGRF on 2-3-19. In the hearing KSEB informed that they had given notice for dismantling the electric connection under registered post and also affixed notice in the shop. Also intimated the appellant that new connection is to be taken.

As per appellant, he had not received any disconnection or dismantling notice and stated in the Consumer Grievance Redressal Forum accordingly, but no relief was received from the Forum.

The appellant and his family are living with the income received through the business in the shop. The appellant requests to re-effect the service connection.

Arguments of the respondent:

The electric connection having consumer number 4309 under Electrical Section, Beach has been registered in the name of Sri. Basheer, Vadiyil Thelakal House, Big bazar, Kozhikode. The registered connected load is 3000W. The connection was availed under LT 7 A tariff. The appellant Sri Abdul Sathar was the occupier of the building. On local enquiry it is understood that presently the building is owned by another person.

The consumer had not paid his electricity bill since 23.05.2017. The registered consumer as well as the occupier was informed several times over phone regarding this non-payment of electricity charges. However both of them were reluctant to remit the charges. Subsequently the service connection was disconnected on 23.09.2017.

The consumer or the user had not remitted the electricity charges even after effecting disconnection. Later a dismantling notice was issued to the consumer on 29.05.2018. The same was affixed on the wall near the energy meter too. Finally the service connection was dismantled on 29.10.2018.

In January 2019 the consumer had cleared all the dues and approached the Assistant Engineer, Electrical Section, Beach for re effecting the dismantled service connection. KSEB Ltd cannot re effect the already dismantled service connection based on the application of an occupier. KSEB Ltd can give a new service connection to the consumer if he applies with all supporting documents for a new connection. This has been communicated to Sri Abdul Sathar, the appellant.

Sri Abdul Sathar, the appellant had informed Assistant Engineer, Electrical Section, Beach that getting consent from the present owner is

difficult. On local enquiry it is understood that the building owner is willing to give consent provided Sri Abdul Sathar the appellant, execute a new rent agreement with the new owner.

The premises in question was unoccupied for a long time and the consumption for the last two billing cycles before disconnection was low. This shows that the premises was rarely used for any activity and the present dispute is for establishing the possession of the building. The service connection was disconnected on 23.09.2017 and the consumer had approached for a reconnection only in January 2019, after a lapse of 15 months.

Analysis and findings:

The hearing of the case was conducted on 11-07-2019 in the chamber of Electricity Ombudsman at Edappally, Kochi. Sri P.V. Abdul Sathar has represented for the appellant and Sri. E. Manoj, Assistant Executive Engineer, Electrical Sub Division, Nadakkave has appeared for the respondent's side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during 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 thereof.

The main contention of the appellant is that KSEB had dismantled the service connection without giving proper notice. He was running a shop which is under the ownership of another person. The request is to reconnect the service. He could not pay the usual bills as he was hospitalized for medical treatment.

As per respondent, the appellant had not paid the electricity bill from 23-05-2017 and the service disconnected on 23-09-2017. The service connection was dismantled on 29-10-2018 after affixing notice as there was nobody to accept the notice. In January 2019, the appellant cleared the dues and requested for reconnection. At present the premises is not under the ownership of previous owner, as per respondent. The present owner of the building No.1045/13 are Sri. Abdul Azeez and Sri. Abdul Basheer. They are ready to give supply if the appellant produce an ownership certificate of the present owner and his consent. According to the respondent, the present building owner is willing to give consent provided the appellant execute a new rent agreement with the new owner.

As per Regulation 144 of the Kerala Electricity Supply Code, 2014, the grounds for dismantling of service are the following. (1) The service shall be dismantled on the following grounds:-

(a) on the termination of the agreement;

(b) if the grounds on which the supply was disconnected are not removed or rectified within the notice period.

(2) If the agreement is terminated or if the consumer does not remove or rectify the grounds for disconnection, the licensee shall arrange dismantling of the service connection:

In this case the appellant's supply was disconnected on 23-09-2017 due to default of payments of electricity charges from 23-05-2017. The dismantling notice was issued to the consumer on 29-05-2018 and the same was affixed on the wall near the energy meter and the dismantling effected only on 29-10-2018. Though there was sufficient time to clear the dues, the appellant remitted the pending dues in January 2019 only and thereafter approached the section authorities for reconnection.

Regulation 40 (3) of Supply Code 2014 says "*If a purchaser or lessee or occupier of such premises requires a new connection, as the earlier connection given to the previous consumer in that premises has already been disconnected and dismantled on the ground of outstanding dues of the previous consumer, new connection shall not be denied to such purchaser or lessee or occupier of the premises provided he furnishes a deposit which shall be equal to the arrears of electricity charges and other liabilities if any, excluding interest thereon, till the licensee obtains from the appropriate legal forum an order on the recovery of arrears and other liabilities or till the licensee settles the arrears and liabilities with the previous consumer or till completion of three years whichever is less:*"

In the appellant's case, there is no case of arrears, but he has to submit application for new connection as per the procedure prescribed in the Code. Accordingly an applicant who is not an owner but an occupier of the premises, shall furnish a no objection certificate from the owner of the premises along with any one of the documents listed at clauses (i) to (vi) in regulation 45 (1) of the Supply Code 2014.

Under the circumstances stated above, the appellant is eligible to get a new connection on submitting the required documents.

Decision:

From the analysis done above and the conclusions arrived at, this Authority upheld the decision taken by the CGRF in OP No.172/2018-19 dated 25-04-2019. The respondent is directed to give connection to the appellant on submitting a no objection certificate from the owner of the premises along with

any one of the documents listed at clauses (i) to (vi) in regulation 45 (1) of the Supply Code 2014, by the appellant.

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

ELECTRICITY OMBUDSMAN

P/42/2019/_____ /Dated:_____

Delivered to:

1. Sri. P.V. Abdul Sathar, 13/1045, Mysore Trade Links, Vadiyil Edavazhy, Valiyathodi, Kozhikode-21
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Nadakkave, 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