

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/071/2019
(Present: A.S. Dasappan)
Dated: 12th November 2019

Appellant : The President
M/s Heavenly Plaza Owners Association
Building No. XI/275, HI
Padamughal, Kakkanad P.O.,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Vyttila,
Ernakulam

ORDER

The appellant is Heavenly Plaza Owners Association representing owners of apartments in Heavenly Plaza Building consisting of 11+2 floors in Vazakkala Village, Kakkanad Municipality. The appeal is against the order dated 29-07-2019 of CGRF, Central Region, Ernakulam in the petition No. 04/2019-20. The appellant is still aggrieved by the order in not allowing the reliefs prayed by him before the Forum.

The appellant argues that the Building was constructed by M/s. Heavenly Homes (Pvt Ltd) represented by its Managing Partner, Sri. V.A, Mujeeb. Electric connections were provided to the common areas in the Building completed in the name of Sri. Mujeeb. Electricity supply to the common areas are provided by KSEB by a 3 phase electric connection with LT VII A tariff and a connected load of 61,924 watts bearing consumer No. 1157315020822 in the name of Sri. VA Mujeeb, Managing Director of the Builder Company M/s. Heavenly Homes Pvt. Ltd. There were disputes between the Association and the Builder. The Builder was avoiding to hand over the common areas of the Building complex. The Consumer Grievance Redressal Forum did not consider whether the Association is liable to pay the arrears occurred before taking over the premises and that there was no way for the Association to ascertain as there was no pending bill.

The respondent has submitted that the ownership of Consumer No. 20822 still remains in the name of Sri. Mujeeb V.A, the builder and it was not transferred to the Owner's Association even though the common area was handed over to them on 15-01-2017 as per the agreement dated 07-01-2017. The short assessment bill was issued to Sri. Mujeeb V.A, the registered owner of Consumer No.20822 and the short assessment bill issued is legal and the consumer is liable to pay as per Regulation 134 of Kerala Electricity Supply Code 2014.

According to the respondent, in the subject case the consumer was issued with electricity bills by taking the meter reading without taking the multiplication factor 20. The consumer was undercharged from the date of connection onwards. The anomaly of wrong application of multiplication factor existed from the date of effecting the service connection i.e., from 01/2014.

The CGRF has ordered by directing the respondent to revise the bill by limiting the period to two years and allowed suitable instalments. The respondent has filed a writ petition WPC No. 26685/2019 in the Hon. High Court of Kerala against the orders of CGRF and is pending for decision. Meanwhile, the appellant also filed an appeal petition before this Authority aggrieved against CGRF order in not awarding the reliefs requested for by the appellant.

Hearing of the case was conducted in the office of the State Electricity Ombudsman on 05-11-2019 and Sri Sunil Kumar N and Sri. Sreedev K.R. represented for the appellant. Sri Mahesh Kumar S, Assistant Executive Engineer, Electrical Sub Division, Vyttila represented for the respondent.

The respondent has reported that they have filed a writ petition before the Hon. High Court of Kerala which is lying under its consideration and hence they requested to keep pending the case till its disposal.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that “no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”.

Since a writ petition No. 26685/2019 filed by the respondent before the Hon'ble High Court of Kerala is pending for disposal and in the light by the above provision under 22(d) of KSERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by the appellant, need no further action at this Authority and hence stands rejected.

Decision.

The provisions made under, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, restricts the maintainability of the petition before this Authority where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority. Here in this case, a writ petition filed by the respondent KSEBL before the Hon'ble High Court of Kerala is pending for its decision. Hence the appeal petition No. P/071/2019 filed by the appellant before this Authority is not maintainable for the reason stated above and the said petition stands dismissed and is ordered accordingly.

ELECTRICITY OMBUDSMAN

P/071/2019/ _____ /Dated: _____

Delivered to:

1. The President, M/s Heavenly Plaza Owners Association, Building No. XI/275, HI, Padamughal, Kakkanad P.O., Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vyttila, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.