

BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM.

Present: : Shri. T.M. Manoharan, Chairman
Shri. K. Vikraman Nair, Member

No.255/Com.Ex/2015/KSERC

In the matter of: Penalize Kerala State Electricity Board Ltd. under Section 43(2), Sec. 57(2), Sec.142, Sec.146 and Sec.149 of the Act for Non-Compliance of Electricity Act, 2003, Supply Code 2014 (Reg.76, Reg.80, Reg.85 (2) and Kerala State Electricity Regulatory Commission (Licensees' Standard of Performance) Regulations, 2006

Mr. Biju Joseph,
Shed No. 10, Mini Industrial Estate,
Muthalamada,
Palakkad Dist - 678 507 : **Petitioner**

Versus

1. The Secretary,
Kerala State Electricity Board Ltd.
Vydyuthi Bhavanam,
Pattom, Thiruvananthapuram.
2. The Assistant Engineer,
Kerala State Electricity Board Ltd.,
Electrical Section
Muthalamada,
Palakkad. : **Respondents**

Order dated 14-05-2015

Background of the case:

1. The petitioner, Mr. Biju Joseph, made a power requirement application for an industrial connection before the Assistant Engineer, Electrical Section,

KSEBL, Muthalamada, on 13/11/2014, with a connected load of 75 kW at Mini Industrial Estate, Muthalamada, Palakkad District for starting a plastic industrial unit. The Assistant Engineer had given the petitioner a demand note on 22.1.2015 to remit Rs.2,75,250/- towards installation cost of one 100 kVA transformer for giving electric connection as requested for a connected load of 75 kW. Hence this petition.

Petition:

2. The petitioner submitted the following for the consideration of the Commission
 - (i) The 2nd respondent, the Assistant Engineer, Electrical Section, Muthalamada had not taken any measures for complying with the, Regulation 77 of the Kerala Electricity Supply Code, 2014 with regard to the petitioner's application dated 13/11/2014. Without inspecting the premises he had given a letter to remit Rs.2,75,250/- for installation of one number 100 kVA transformer. No detailed estimate was given as per Regulation 81 of the Kerala Electricity Supply Code, 2014.
 - (ii) As per section 43 (2) of the Electricity Act, 2003, Kerala State Electricity Board Ltd. has to give the electric connection within 30 days from the date of application. But the 2nd respondent, after a lapse of more than two months, had given a letter demanding Rs.2,75,250/- for the installation of one transformer for catering the proposed load of 75 kW.
 - (iii) As per the Kerala Electricity Supply Code,2014, for availing low tension supply up to 100 kVA, the applicant need not remit any amount towards cost of transformer or 11 kV work. Hence the letter given by the 2nd respondent asking to remit Rs.2,75,250/- towards installation of transformer is against the provisions of the Kerala Electricity Supply Code, 2014.

Prayer :

3. It is prayed before the Commission for
 - (i) Initiating action against KSEBL / Assistant Engineer as per Section 142 and Section 146 of the Electricity Act, for the non-compliance of Section 43(2), Section 57 (2) of the Act.

- (ii) Cancelling the letter dated 22/1/2015 given by the Assistant Engineer for remitting Rs.2,75,250/- towards installation of 100 kVA transformer.
- (iii) Directing the Assistant Engineer to conduct inspection of the premises and to extend supply at the earliest.

Response of KSEBL:

4. The counter to the contentions of the petitioner submitted by KSEBL is as follows:-

- (i) As per Regulation 80 of the Kerala Electricity Supply Code, 2014, if a person is aggrieved by the inspection of the licensee, he may appeal to the next higher officer or an officer designated by the licensee for this purpose. This had not been complied with, by the petitioner. Otherwise the petitioner could have preferred a petition before CGRF established by the licensee under the provisions of the Electricity Act, 2003, which is also not complied with, by the petitioner. Hence the petition is not maintainable.
- (ii) The Assistant Engineer and the Asst. Executive Engineer of the concerned Section had visited the premise along with the petitioner's authorized representative, but the premise was in locked condition. Hence in order to stick on to the time frame as required by Kerala Electricity Supply Code, 2014, the estimate for the work was prepared and demand notice issued on 22.1.2015 for Rs.2,75,250/-.
- (iii) Since the existing distribution transformer is not having sufficient power, for meeting the power requirement of the petitioner to the tune of 75 kW, a new 100 kVA transformer has to be installed exclusively for catering the demand of the petitioner. As per Regulation 37 of the Kerala Electricity Supply Code, 2014 *"the consumer shall bear the expenditure for the service line or of the plant or of both, provided exclusively for him by the licensee. The expenditure for line and plant mentioned above shall be determined as per the cost data approved by the Commission"*.

In the instant case, the transformer is proposed to be erected exclusively

for the petitioner. If the petitioner utilizes his demanded load, the transformer will be loaded almost 90% and there will be no scope for further power extension to other consumers. The demand of Rs.2, 75,250/- was issued as per the cost data approved by the Commission. Hence demand notice issued was in accordance with Regulation 37 of the Kerala Electricity Supply Code, 2014 and petitioner is liable to pay the amount as stipulated in the Code.

Hearing of the petition:

5. Hearing on the matter was held on 22-4-2015 at the Commission's office at Thiruvananthapuram. The respondents were represented by Adv. B. Sakthidharan Nair. Sri. Biju Joseph, the petitioner presented the facts of the case as narrated in the petition and argued that the amount of expenditure to be remitted by him for getting the electric connection should be in accordance with the provisions of the Kerala Electricity Supply Code, 2014. Therefore the demand note issued by the Assistant Engineer, Electrical Section, Muthalamada for remitting the cost of transfer for getting a low tension electric supply is in violation of Regulation 35 of the Kerala Electricity Supply Code 2014. Adv. B. Sakthidharan Nair, on behalf of the respondents, argued that as per Regulation 37 of the Kerala Electricity Supply Code, 2014, the consumer has to bear the expenditure for the installation of the transformer since the same is proposed to be installed exclusively for the petitioner for catering his requested demand of 75 kW.

Analysis and orders of the Commission:

6. The Commission has carefully examined the contentions of the petitioner and Respondents on the issues involved and the decisions are given below:-
 - (i) The respondent, KSEB has raised an objection on the jurisdiction of the Commission on taking up the issues raised by the petitioner. It is true that the Commission is not expected to look into individual grievances of consumers on various matters. The organizations such as CGRF and Ombudsman are constituted for addressing the grievances of the consumers. The prayer of the

petitioner is to initiate action against KSEBL for non-compliance of sub section (2) of section 43 of the Electricity Act, 2003 and other provisions of Supply Code, 2014. Hence the petition and pleadings of the petitioner cannot be seen as an attempt to settle grievances. Hence the Commission concludes that this petition cannot be seen as a representation for settling the grievances under sub section (5) & (6) of section 42 of the Act and that the objection of KSEBL on the matter is not sustainable.

- (ii) As per Section 43 of the Electricity Act, 2003, it shall be the duty of the distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in its area of supply and to supply electricity in accordance with the provisions contained in the Act.
- (iii) The argument of KSEBL that the new 100 kVA transformer proposed to be installed is exclusively for catering the demand of the petitioner and hence as per Regulation 37 of the Kerala Electricity Supply Code, 2014, the consumer has to bear the cost of the transformer cannot be admitted. As per Regulation 37 of the Kerala Electricity Supply Code, 2014, the consumer has to bear the expenditure for the service line or plant or of both, provided exclusively for him by the licensee.
- (iv) In the instant case, the transformer is proposed to be installed at the distribution main line to cater the demand of the petitioner also. As per Regulation 35 of the Kerala Electricity Supply Code, 2014, the expenditure for extension or up-gradation or both of the distribution system, up to and including the distributing main, for meeting the demand of new consumers shall be borne by the distribution licensee and the expenditure shall be recovered from the consumers through tariff as approved by the Commission. The required power is only 75 kW and hence the supply can be given at low tension level. If a transformer is to be installed or upgraded for giving a low tension supply, it is the expenditure for upgradation of the distribution system up to the distributing main of the applicant. Hence the demand notice issued by the 2nd respondent to the petitioner is not sustainable as per Regulation 35 of the Kerala Electricity Supply Code, 2014.

Order of the Commission:

1. Electric connection to the petitioner shall be given by the Assistant Engineer, Electrical Section, Muthalamada, complying with Regulation 35 and Regulations 76 to 85 of the Kerala Electricity Supply Code, 2014, if the petitioner submits his application for electric connection as per Regulation 75 of the Kerala Electricity Supply Code, 2014. The time line as specified in the regulation shall also be complied with.
2. In view of the facts and circumstances placed before the Commission, there is no ground to proceed against the officers of KSEBL under section 142 and 146 of the Electricity Act, 2003 for the non-compliance of Regulation 76, Regulation 80 and sub regulation (2) of the Regulation 85 of the Kerala Electricity Supply Code, 2014, sub section (2) of Section 43 and sub section (2) of Section 57 of the Electricity Act, 2003.
3. The petition is disposed off accordingly.

Sd/-
K. Vikraman Nair
Member

Sd/-
T.M. Manoharan
Chairman

Approved for issue

SECRETARY