

**THE KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

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

C.P.No.04/2016

In the matter of : Complaint against non-compliance of the order of Electricity Ombudsman in Appeal No. P/371/2013 dated 31.3.2014-Orders-reg.

Petitioner : Shri. Ramkumar, Dy. General Manager
KAP (India) Project & Construction Pvt Ltd
Eravath Lane, East Fort, Thrissur

Respondent s : 1. The Secretary, Kerala State Electricity Board Ltd, Vydyuthi Bhavanam
Pattom, Thiruvananthapuram
2. The Executive Engineer, Electrical Division,
Kerala State Electricity Board Ltd,
Kundara

Order dated 17/11/2016

Background of the case

1. M/s. KAP (India) Project & Constructions (P) Ltd has taken up the construction work of Technopark, Kollam. For housing its workmen, the Company had taken a building on rent having electric connection with Consumer No. 6913 under Electrical Section, Kundara The APTS wing of KSEBL along with officials of Electrical Section, Kundara inspected the premises on 15.11.2012 and consequently collected an amount of Rs. 69,632/- as civil liability and Rs. 20,000/- towards compounding fee, alleging theft of energy, under Section 135 of the Electricity Act, 2003. The petitioner submitted a complaint before CGRF Kottarakkara and thereafter upon orders of the CGRF, appeal was preferred before the Electricity

Ombudsman as Appeal Petition No. P/371/2013. The Ombudsman has issued orders on 31.03.2014 partly allowing the appeal and held that the appellant need be proceeded under Section 126 of the Act and that the charge under Section 135 is not maintainable and accordingly the compounding fee collected shall be refunded within 60 days. KSEBL has not complied with the orders of the Ombudsman and hence this petition.

Petition

2. The petitioner submitted that;

(1) The APTS wing of KSEBL along with officials of Electrical Section, Kundara inspected the premises on 15.11.2012 and collected an amount of Rs. 69,632/- as civil liability and Rs. 20,000/- towards compounding fee, alleging theft of energy, under Section 135 of the Electricity Act, 2003. However, the receipts were issued on one Smt.Catherin, who is a stranger to the Company. When the petitioner objected, it was told that the receipt can be issued only in the name of the person in whose name electric connection is registered at Electrical Section, Kundara.

(2) The petitioner submitted complaint before CGRF, Kottarakara and thereafter upon orders of the CGRF, appeal was filed before the Ombudsman. The Ombudsman has ordered on 31.3.2014, in appeal petition No. P/371/2013 as below:

“(i) Here, there is no indication that the consumer has engaged in the illegal abstraction of energy and accordingly the charge booked against the consumer under Section 135 – theft of energy under Electricity Act 2003 is not maintainable. Accordingly, there is no need to levy any compounding charges from the consumer on that account and the amount if any collected, from the consumer shall be refunded within 60 days of this order.”

“(ii) Hence in this case, the appellant need be proceeded against, under Section 126 – unauthorized use of electricity only.”

(3) As per the order of the Ombudsman, the respondents should have refunded the full amount Rs. 69,632/- and Rs. 20,000/- collected and should have initiated fresh proceedings under Section 126 of the Electricity Act.

(4) The respondents issued a cheque for an amount of Rs.20,000/- to Smt. Catherin, who is a stranger to this case. This amount pertains to the compounding of criminal liability. However since the entire proceedings were quashed by the Ombudsman the petitioner is also entitled to receive Rs. 69,632/- which was collected as civil liability.

- (5) The respondents had not at any time alleged that the complainant company who had filed the various complaints before the various fora has no locus-standi
- (6) Now, the respondents are pleading that Smt. Catherin is the party who is the registered owner and hence entitled to receive the refund of amounts which the complainant had remitted. Thus sending an amount of Rs, 20,000/- to Smt.Catherin is only done with the intention to vitiate the matter. The action of issuing receipts to a stranger for the amounts remitted by the complainant itself is illegal.
- (7) During all the proceedings as stated above, the respondents never had a case that Smt. Catherin who benefited through the alleged theft of electricity had remitted the amount. The licensee had accounted the money which the complainant Company had remitted in the name of Smt. Catherin wrongly and issued receipts accordingly. This by itself is not a reason for the licensee not to refund the amount as ordered by the Ombudsman.
- (8) Hence, the Commission may issue orders to refund the amount of Rs. 69,632/- and Rs. 20,000/- to M/s. KAP (India) Project & Constructions (P) Ltd, Eravath Lane, East Fort, Thrissur.

Hearing of the case

3. Hearing was conducted on 26.04.2016 at the Commission Office, Thiruvananthapuram. Advocate N. Sasidharan Unnithan and Advocate B. Sakthidharan Nair, appeared for the petitioner and respondents respectively.
4. The Counsel of the petitioner submitted his case in detail. The Counsel of the respondent has submitted an action taken report, in compliance of the order of the Ombudsman. During the course of hearing the copies of receipts for the payment issued were produced wherein it was clearly specified that the amount was received from Smt. Catherin. Hence the refund too, could be made only to the same person. It was therefore suggested that a mutually acceptable and practical solution be worked out by the licensee and petitioner to settle the matter.
5. One month time was allowed to implement the order of Electricity Ombudsman dated 31.3.2014 in Appeal petition No. P/371/2013 including action under Section 126 of the Electricity Act,2003 for unauthorised use of energy.

6. The first respondent vide letter No.LD.I/2797/2016 dated 26.09.2016 has now submitted that the KSEBL has complied with the order of the Electricity Ombudsman by issuing a cheque to Smt. Catherin, the registered owner of the premises of Consumer No. 6913 of Electrical Section, Kundara vide cheque No. 707593 dated 07.06.2016 of SBT Kundara as refund of compounding charges collected and as regards the civil liability separate action as per Section 126 of the Electricity Act, 2003 has been taken by issuing a final order of assessment by the Assistant Engineer Electrical Section, Kundara on 25.05.2016. The order of the Ombudsman is to refund the compounding fee collected which has been complied with by the respondents. Hence the present petition is liable to be closed since the petitioner has no locus standi to file the petition against the respondents.

Order of the Commission

7. In view of the fact that, KSEBL has already complied with the order of the Electricity Ombudsman dated 31.03.2014 in Appeal No. P/371/2013, the prayers in the petition have become infructuous and therefore the petition is disposed of as closed.

Sd/
S.Venugopal
Member

Sd/-
K.Vikraman Nair
Member

Sd/-
T.M.Manoharan
Chairman

Approved for issue,

Santhosh Kumar.K.B,
Secretary.