

KERALA STATE ELECTRICITY REGULATORY COMMISSION

THIRUVANANTHAPURAM

Present: **Shri. Preman Dinaraj, Chairman**

Petition No. OP 20 /2020

In the matter of : Petition filed by Shri. M.O. Thomas, Advocate for return the Original Petitions filed for compensation and to refund of Court Fee remitted.

Petitioner : M.O. Thomas, Advocate, MGT Buildings, Kalpetta North Post, Wayanad District

Respondent : Deputy General Manager, Power Grid Corporation of India, Ugrapuram Post, Areekode, Malappuram

Petitioner represented by : Shri. M.O.Thomas.

Respondent represented by : Shri. Vijesh Lal, Deputy General Manager, Law Department, Kochi & Shri. Avinash, Deputy General Manager, Substation, Kozhikode.

Daily order dated 04 .08.2020

1. Shri. M.O. Thomas, Advocate, MGT Buildings, Kalpetta North Post, Wayanad District has filed a Petition (IA) as O.P. No.20/2020 to return Original Petitions filed before the Commission as O.P.No.1/19to 29/19 and 36/19 to 41/ 19 and for refund of Court fee remitted while filing the above mentioned Original Petitions.

2. The background of the petition is as follows:

(i) Shri. P.M. Thomas and 35 others have filed Original Petitions (O.P.No.1/19 to 29/19 and 36/19 to 41/ 19) before this Commission in the matter of claim of enhanced compensation. The Petitioners have filed the petitions under Section 67(4) of the Electricity Act, 2003 read with Rule 13(2) of the Works Licensees Rules, 2006, claiming additional compensation on account of enhanced compensation from the respondent, Power Grid Corporation of India Limited, a

Government of India Undertaking (hereinafter referred to as PGCIL) for the loss claimed to be sustained by the petitioners on account of cutting of trees by the respondent, while drawing the 400 KV Mysore-Kozhikode Inter-State double circuit line and with the following prayers:

- (a) To direct the respondents to file a statement relating to the date of Mahazer, date of award, date of clearance certificate and such other details and to file statement relating to the amount awarded to yielding crops and non-yielding crops separately;
- (b) To pass an order directing the respondent to pay compensation with statutory interest from the date of cutting of trees till the date of payment;
- (c) To direct the respondent to pay the costs;
- (d) Grant such other reliefs.

(ii) In similar matter this Commission has examined the above prayers in view of the following questions in O.P. No.9/2018 and the said O.P was dismissed as per Order dated 13-03-2020. The relevant portion of the said Order is extracted hereunder:

- (a) Whether the question of maintainability of the petition is attracted by the principle of “resjudicata” as alleged by the petitioner?
- (b) Whether the State Commission is the “appropriate commission” and has jurisdiction to entertain the question of enhancement of compensation and its maintainability?

..... From the above discussion, it is evident that this Commission has no jurisdiction to entertain a petition regarding the enhancement of compensation for the loss sustained to the petitioner while drawing an Inter-State 400 kV line by the respondent corporation, a Central Government entity and the State Commission is “not the appropriate Commission to adjudicate upon the issues involved in the Original petition”. In view of the above findings, we do not find any ground to entertain the petition filed by the petitioner for enhanced compensation. Hence the Original Petition is not maintainable and is liable to be rejected.”

(iii) In view of the decision taken by this Commission in original petition No. 9/2018 filed by Bro. Sebastian as per Order dated 13.3.2020, the OP Nos.13/2018 to 55/2018 were dismissed as per Order dated 23-03-2020.

(iv) Since the subject matter and relief sought for in OP. Nos. 1/19 to 29/19 & 36/19 to 41/19 were of similar nature, the Commission had also dismissed the above petitions due to lack of jurisdiction as per Order dated 26-06-2020.

3. In the instant case, this petition is seen to have filed by the petitioner claiming refund of fee without mentioning any enabling provision contained in the Electricity Act, 2003 or any Regulations made there under so as to enable this Commission to examine its admissibility.

4. The petition was admitted as O.P.No.20/2020 and posted for hearing through Video Conferencing Mode on 04-08-2020 at 11 AM and formal communications were sent to the Petitioner as well to the Respondent as per letter dated 16-07-2020 by post and email.

5. During the e-hearing, Shri. M.O. Thomas, Advocate, the petitioner himself appeared and Shri. Vijesh Lal, Deputy General Manager, Law Department, Kochi & Shri. Avinash, Deputy General Manager, Substation, Kozhikode appeared on behalf of the Respondent. The petitioner submitted that he filed this petition to get refund of the petition fee already paid to the Commission and to return the Original petition so as to enable him to file petition before the proper Forum. He further submitted before the Commission that the provisions of CPC is applicable to the Commission and shall file a detailed affidavit containing his argument notes and shall forward a copy to the respondent before 11-08-2020.

6. Sri. Vijesh Lal and Avinash appeared on behalf of PGCIL and raised preliminary objections in the following lines:

The Commission is guided by provisions contained in the Regulations issued by the Commission and the Regulations issued by the CERC have no role in the SERC. As per Regulation 69 (1) of KSERC (Conduct of Business) Regulations, 2003, the Commission has inherent powers to issue appropriate Orders to meet the ends of justice or to prevent the abuse of the process of the Commission. The petitioner Advocate had filed two batch of petitions which were dismissed by the Commission and the Respondent has to pay Rs.2,89,000 (Rupees Two lakh and Eighty Nine thousand only) towards litigation fee to the Advocate for the first batch of cases only. The Commission is empowered to issue Orders to pay costs to the respondent as per Regulation 41. Hence the Commission may issue appropriate Orders to pay costs to the petitioner.

7. A copy of the affidavit as promised by the petitioner as and when filed shall be communicated to the respondent and shall allow the respondent to file objections therein. In case, the petitioner fails to file affidavit before 11-08-2020 as promised, the Commission may issue appropriate Orders.

Under the above mentioned circumstance, the Commission hereby directs the petitioner to submit detailed affidavit before this Commission on or before 11-08-2020 as promised by the petitioner. A copy of the affidavit shall also be issued to the respondent within the time limit.

Sd/
Preman Dinaraj
Chairman

Approved for issue,

C.R. Satheesh Chandran
Administrative Officer
In-charge of Secretary