

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/038/2023
(Present A. Chandrakumaran Nair)
Dated: October-09-2023**

Appellant : Sri. John P.C.,
Poozhippurathu House,
Payyampally,
Thannikkal P.O.,
Mananthavady,
Wayanad (Dist.)- 670646

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Mananthavady, Wayanad (Dist.)

ORDER

Background of the case

The appellant P.C. John is the resident of Mananthawady, Wayanad who is a farmer cultivating various crops. The appellant has applied for an agricultural connection on 10/11/2022 to the Electrical section, Mananthawady of the licensee. The purpose of the connection is to pump water from the river to the property owned by him. The appellant had produced the NOC from the Municipal office, but the NOC was a conditional one which states that the approval of the Irrigation department also is to be obtained. The allegation is that there was a considerable delay in inspecting the premises and also giving connection. The inspection was carried out on 11/05/2023 and the demand note raised on 12/05/2023 and connection was effected on 15/05/2023. The appellant filed petition to the CGRF and CGRF issued order dated 30/06/2023. Aggrieved by the decision of CGRF this appeal petition was filed to this authority.

Arguments of the Appellant

1. I applied on 10/11/2022 for single phase connection for pumping water from river with 1.5 HP motor for agricultural purpose. Permission letter of Agriculture Department has also been submitted. After weeks of no action, I directly inquired at the office and then they said that the permission of the municipality was required, and the permission letter of the municipality was given to the office on 09/12/2022. But even after that there was no action, so I contacted on the phone and said they would do it the next day and again postponed it. I asked over the phone that it has been a long time and what else should I do about it, and the reason for the delay was said to be technical issue.
2. As per my given RTI, I got the reply that no one has submitted the permission of Irrigation Department for 1.5 HP motor yet but I was asked for this too. Mananthavadi KSEB, Electrical section gave a misleading reply to the consumer Grievance Redressal Forum. Despite application on 10/11/2022, no responsible officials have come even to inspect the place. Even the RTI was answered incorrectly and incompletely. Due to their actions, my one and a half acre agricultural crops were withered. The newly planted coffee, black pepper, Areca were burned and destroyed. This kind of unilateral action was caused by the collusion of higher officials to save their colleagues by giving false information. Similarly, saying that the place was visited on 15/11/2022 is also false. Site is visited on 11/05/2023. Requesting a fair action on behalf of the officer who misled the grievance redressal forum and caused the destruction of my agricultural crops worth Rs.150000.

Arguments of the Respondent

1. All the averments, save those which are admitted or otherwise specifically dealt within the following paragraphs, are denied. This Appeal petition arises out of the orders of Hon'ble CGRF (NR) Kozhikode dated 30-06-2023 in OP 4 of 2022-23.

The Appellant had applied for an electric connection before the Asst. Engineer, Electrical Section Mananthavady on 10-11-2022 for the purpose of pumping water from the adjacent river to the property owned by him. The application was duly verified by the office of respondent licensee as per the procedure laid down in the Kerala Electricity Supply Code 2014 and a field inspection was conducted on 15-11-2022. The field inspection revealed the following defects. Firstly, the Motor pump was not installed at the time of inspection. Secondly the electrical wiring was incomplete. The appellant was informed of the defects then and there and he in turn, agreed to rectify and report the same.

The scrutiny of the application also revealed the fact that, since it being a connection for pumping water from the river, a no objection certificate had to be obtained and furnished by the applicant along with the application. Regulation 75 (5) of the Supply Code 2014 is extracted below as

No.	Category of applicant	Documents
i	Industrial connection	License or permit issued by the local authority having jurisdiction over the area, industrial license, letter of approval by the Special Economic Zone (SEZ), small scale industries (SSI) registration (if applicable)
ii	Agricultural connection of Punja or Kole land	letter of authorization from Punja or Kole Special officer or from any authority authorized by Government in Agricultural Department.
iii	Irrigation pump set for pumping water from state owned rivers, canals, ponds, wells etc.	no objection certificate from competent Government authority for pumping water from state owned rivers, canals, ponds, wells etc.
iv	Non-domestic kiosks, telecom tower and temporary structure	No objection certificate for kiosk or temporary structure from the Municipal Corporation or Municipality or Grama Panchayat or land development authority or land-owning agency.

- As the appellant was informed of the requirement, as mandated by the Regulation mentioned afore, he subsequently furnished a conditional permission letter from the Mananthavady Municipality in which the Secretary, inter alia insisted for a requisite sanction from the Irrigation Department as well. Upon receiving the same, the appellant was informed of the condition stipulated in the document and the appellant agreed to produce the same as and when it is obtained from the Irrigation Department. Accordingly, the application was kept on hold with the knowledge and

consent of the appellant, giving him time to secure the NOC from Irrigation Department.

3. However, the Appellant, unmindful of his previous commitments visited the office and complained about delay in effecting the connection. The Appellant was again reminded of the defects still prevailing with regards to the application form. Not satisfying with this, the Appellant preferred a representation before the hon'ble Chief minister of Kerala. Later, the Appellant was also informed in writing to furnish a No Objection Certificate from Irrigation Department. It was also assured that the service connection would be effected as soon as the instruction is complied with.
4. While so, the Appellant, managed to obtain a certificate from, the Hon'ble District Collector, permitting him to draw water from the river under certain other conditions. The Appellant, furnished the order on 05-05-2023 before the Asst. Engineer, Electrical Section Mananthavadi. Since, the Appellant furnished the copy of the order and informed that the defects in the wiring has also been rectified, the respondents arranged a re-inspection as per Regulation 79 of the Supply Code 2014.
5. The Regulation 76 (7) clarifies that an application form shall be deemed to be received on the date of its receipt in the specified format, if it is complete in all respects with all relevant documents. If this is applied in the instant case, the date of receipt of application for connection would be only on 05-05-2023. This contention alone be sufficient to disallow all the claims and averments of the appellant.
6. After receiving the NOC from the Dist. Collector, the Asst. Engineer inspected the premises on 11-05-2023 and found that the premises is suitable in all respect for electrification. The Appellant was served with a demand note on 12-05-2023. The petitioner remitted the amount on same day. The connection was effected on 15-05-2023.

CHRONOLOGY OF EVENTS AND TIME

10-11-2022	Receipt of Application Form
15-11-2022	Inspection on the premise
05-05-2023	Rectification of defects by the applicant
11-05-2023	Re inspection of the premises
12-05-2023	Issue of Demand Note
15-05-2023	Effecting Connection

It is luculent that the application was processed sans delay and the delay in effecting the connection was due to the Appellant's own fault.

7. Hence it is most respectfully submitted before the Hon'ble Forum that the application form for the connection was processed by the respondent in strict

compliance of the relevant Regulations viz.75 to 86 of the Supply Code 2014. The connection was delayed due to Appellant's own fault. Had he submitted the required document in time, the connection would have been effected much earlier. It is thus limpid that the appellant's own negligence caused the delay. It is also submitted that the respondent licensee cannot and should not over step a conditional clause issued by another statutory authority.

In the above circumstances and facts of the case the contentions raised by the Appellant is baseless and against the facts. The bare averments as regards to so called delay cannot be sustained in the eyes of law. The act from the appellant's own side that he managed to obtain a certificate later from the Hon'ble District Collector itself shows light to the fact that he was well aware of the short coming in the certificate issued by the Municipality. The Appeal petition is preferred on an experimental basis and with vexatious motive. The arguments of the appellant are without rhyme or reason and need to be noticed only to dismiss the same. For these contentions and those to be urged during the hearing it is urged that the appeal deserves to fail.

Counter arguments of the appellant

1. In reply to my complaint in CGRF returned on 21/08/2023, it is true that I applied on 10/11/2022. But it is a wrong statement to say that the place was inspected on 15/11/2022. None of the site officials have checked or given necessary instructions.
2. As per the Right to Service Act, when there is a rule to reply within 7 days, notice to produce other documents was given only when inquiries were made and no reply was received even after months.

As per the Right to Information Act, they replied that the approval letter of the Irrigation Department for the 1 1/2 HP motor has not been obtained from anyone yet. According to this only I have been discriminated against.

Analysis and findings

The hearing of the appeal petition was conducted on 29/09/2023 at 11:30 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the appellant Sri. P.C. John and the respondent

Sri.Raveendran A.V., AEE, Electrical Sub Division, Kerala State Electricity Board Ltd., Mananthawady.

The appellant has applied for an agricultural connection to the Mananthavady Section office of the licensee on 10/11/2022. This is for 1 ½

HP pump set for pumping water from the nearby river. Along with the application the appellant has to submit a no objection certificate from the competent Govt. authority for pumping water from the state-owned river as per the Section 75 (5) (iii) of Kerala Electricity Supply Code 2014.

75(5) *“The following documents shall also be submitted along with the application form, in the case of the following categories of applicants: -*

(iii)

<i>Irrigation pump set for pumping water from state owned rivers, canals, ponds, wells etc.</i>	<i>No objection certificate from competent Government authority for pumping water from state owned rivers, canals, ponds, wells etc”.</i>
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The appellant has produced the NOC from the Mananthavady Municipality on 09/12/2022 which states that the approval of the irrigation department is to be obtained. As per the appellant, the irrigation department is of the view that this approval is not required for the pump set below 5 HP capacity. Though there is a condition in the NOC, the officers of the licensee used to apply their discretionary power that the approval of the irrigation department is not insisted. There is considerable delay from the licensee in inspecting the premises on getting the application. In the statement of facts, the respondent states the inspection of the premise was carried out on 15/11/2022 and the consumer was informed regarding the defects noted. The appellant has contented this statement and confirmed that no inspection was carried out on 15/11/2022. No record produced to support these arguments of the respondent. The first letter informing the defects to the appellant is only on 21/03/2023, and no mention about the inspection on 15/11/2022.

The Section 76 of the Kerala Electricity Supply Code specify about the application of new service connection.

76 (1) *“On receipt of application form for new service connection, the licensee shall verify the application form along with enclosed documents, and if found deficient prima facie, shall issue a written intimation on the spot as far as possible, regarding the deficiencies in the application form”.*

76 (2) *“If the application form is complete, the licensee shall acknowledge its receipt on the spot”.*

76 (3) *“The licensee shall maintain a database of all application forms received, in a register namely application register to be maintained for this*

purpose”.

76(4) “Each application form shall be allotted a unique application number serially in the order in which it is received”.

76(5) “The licensee shall keep the database and the application register updated with stage wise status of disposal of each application”.

The officials of the licensee have not intimated the deficiencies in writing till 21/03/2023, which means this Section is clearly violated. The Section 77 of the Supply Code states that the inspection of the premises is to be carried out within 5 working days from the date of receipt of application.

77(1) “The licensee shall, at the time of receipt of application form with the application fee, stipulate a date for inspection of the premises of the applicant in consultation with the applicant, under written acknowledgment”.

77(2) “The date of inspection shall be scheduled within five working days from the date of receipt of application form”.

77(3) “If the applicant wishes, he can get the inspection scheduled on a holiday for the licensee or a day specified by the consumer, on payment of an inspection fee approved by the Commission in the Schedule of Miscellaneous Charges as per schedule 1 to the Code”.

77(4) “On the appointed date for inspection, the licensee shall inspect and test, in the presence of the applicant or his authorised representative and the concerned licensed electrical contractor, the installation of the applicant and shall maintain a record of test results in the format given in the Annexure- 6 as required of him under the provisions of the Central Electricity Authority (Measures relating to the Safety and Electricity supply) Regulations, 2010, as amended from time to time”.

77(5) “During the inspection, the licensee shall: -

- (a) Fix, in consultation with the consumer, the point of supply and the place where the meter and the associated equipment shall be installed in such a manner that they are protected from sun, rain etc. and are easily accessible, without getting the premises unlocked or opened for the purposes such as inspection, meter reading and maintenance;
- (b) Align the service line along an accessible route up to the entry point of the premises;
- (c) Determine and record the connected load of the consumer in accordance with the method given in Annexure-7 to the Code;
- (d) Verify and record the correct full address of the premises and note down landmarks near the property and the number of the pole or the details of the distribution pillar from where service connection is

proposed to be given; and

(e) Verify all other particulars mentioned in the application form, as required.”

This Section is not complied at all. Though the respondent claimed that the inspection carried out 15/11/2023, it is to be presumed that it was not

happened due to the lack of records. The respondent is failed to produce any document supporting his claim that inspection carried out on 15/11/2022.

The Section 81 deals with the sanction of load and issuance of demand note.

81 (1) “If no defect is found on inspection or the defects noticed earlier are found on re- inspection, to have been rectified, the licensee shall sanction the load determined in accordance with Annexure-7 to the Code or the load applied for, whichever is higher, and issue within the timeline specified below, a demand note to the applicant under acknowledgment, intimating him to remit the recoverable expenditure and security deposit: -

Timeline for issue of demand note	
If extension of distribution mains is not required	within seven days from the date of receipt of application form.

Provided that, in case the licensee does not carry out site inspection or re-inspection within five working days from the date of receipt of application form or from the date of intimation about the rectification of defects, the load applied for shall be deemed to have been sanctioned and the licensee shall not deny grant of connection on this ground.

Provided further that the time taken by the applicant in rectifying the defects or deficiencies found at his premises shall not be included in the timeline specified above:

Provided also that wherever the involvement of the transmission licensee is required in the process for time and cost estimation, the time taken by the transmission licensee shall not be included in the timeline specified above”.

This is also not complied with.

The time line of releasing and energising new connection is one month from the date of receipt of application as per Section 85 of the Supply Code.

85 (1) “The overall timeline for releasing new electricity connection, from the date of receipt of completed application and all the payments as per the demand note, shall be as specified hereunder in the cases where supply can be provided without any extension or augmentation to the existing distribution system.

Particulars	Maximum time
a. Inspection of the premises of the applicant and preparation of the cost estimates, and issuance of demand not including security deposit.	seven days from the date of receipt of application form.
b. Giving the connection.	One month from the date of receipt of application

Provided that the priority for releasing connections shall be fixed with reference to the date of remittance of required expenses and security deposits and submission of the required documents”.

Here in the case in hand, the version of respondent is that the appellant has not produced the approval letter from the Irrigation department. It is very important to note that the officials of the licensee used to exercise the discretionary power of not insisting this approval was not applied in this case. The appellant has produced the copy of the letter which is the reply he obtained through RTI. This letter states there were 14 such connections were given from 2010 to 2023, and all they have produced the NOC from Municipality and nobody submitted the approval from Irrigation department. This is very evident that the officials of licensee have not insisted for this letter from Irrigation department. The NOC letter was with condition to obtain the approval from Irrigation department. However, there are certain letter issued by Municipality without this condition also.

During the hearing the respondent informed that there is a direction given to all Section officers not to insist for the letter from the Irrigation department if the pump capacity is below 5HP.

The Dist. Collector of Wayanad vide letter dated 07/05/2023 issued the approval for pumping the water from the river. Accordingly, the appellant provided this letter on 05/05/2023 and the demand note issued on 12/05/2023 and connection was given on 15/05/2023. If the practices followed in other cases was applied for the appellant, he would have got the connection much before. The discrimination of the consumers is against the natural justice.

It is the consideration of Govt. and other agencies to promote farming in the state and all have to support farming to produce more agricultural products in the State. The appellant could not water his sapling during the Summer 2023, this would have been the reason for the damage he suffered.

Though there would have damages to the appellant due to this, this authority not in a position to assess the same and not competent to decide the compensation. Here it is noticed that the officials of the Section were not followed the regulation and also not extended the policy which is adopted to others to the appellant. This is to be inquired by the licensee and take

suitable action against them.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. There observes some purposeful delay from the officials of the Section in delaying the connection which is to be inquired by the licensee on Vigilance angle and necessary action is to be taken against the erred officials.
2. No decision on compensation.
3. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/038/2023/_____ dated: 09/10/2023.

Delivered to:

1. Sri John P.C., Poozhippurathu House, Payyampally, Thannikkal P.O., Mananthavady, Wayanad (Dist.)- 670646
2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Mananthavady, Wayanad (Dist.)

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-673011.