



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

4th Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806, 044-2953 5816 Fax : ++91-044-2953 5893

Email : tneochennai@gmail.com Web site : www.tnerc.gov.in

Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. S. Devarajan, Electricity Ombudsman

A.P.No. 79 of 2021

M/s. State Bank of India Officers Association,
C/o. Oswin & Jacob,
Technolegal Consultants,
No. 4/23E, 4th Main Road,
Kamaraj Nagar, Thiruvanmiyur,
Chennai – 600 041.

. Appellant
(Rep. by Thiru N. Senthil Viswarooban, Advocate
& Thiru Franklin Stephen, Advocate)

Vs.

1. The Executive Engineer/O&M/Maraimalainagar,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
110 KV SS Complex, GST Road,
Near Ford Company,
Maraimalai Nagar - 603209.

2. The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
No.130 GST Road,
Chengalpattu - 603 001.

..... Respondents
(Tmt. R.Suja, SE/Chengalpet (I/c)
Thiru R.Manoharan, EE/O&M/Maraimalainagar)

Petition Received on: 05-10-2021

Date of hearing: 24-11-2021

Date of order: 16-02-2022

The Appeal Petition received on 05.10.2021 filed by M/s. State Bank of India Officers Association, C/o. Oswin & Jacob, Technolegal Consultants, No. 4/23E, 4th Main Road, Kamaraj Nagar, Thiruvannamiyur, Chennai – 600 041 was registered as Appeal Petition No. 68 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 29.10.2021. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. **Prayer of the Appellant:**

The Appellant has prayed to direct the distribution licensee to withdraw the notice or in the alternative to set aside the notice demanding additional land space for establishing 110KV SS or to bear the additional cost required for the establishment of the compact substation.

2.0 Brief History of the case:

2.1 The appellant M/s. SBIOA have developed a residential project in Kancheepuram district and applied for service connections. While applying for service connection TANGEDCO insisted to provide space for establishment of 110 KV substation free of cost.

2.2 As per the request of the TANGEDCO, the land was gifted to TANGEDCO free of cost. Later on, a notice has been received from SE/Chengalpet stating that already gifted land is not best suitable for establishment of 110 KV substation and requested to provide additional space to TANGEDCO or else to bear the additional cost required for the establishment of the indoor substation.

2.3 The appellant has filed a petition with the CGRF of Chengalpet EDC on 29.04.2021. The application was not taken on the file of the Chairman, CGRF, Chengalpet Electricity Distribution Circle and rejected the petition. Hence, the appellant preferred this appeal petition before the Electricity Ombudsman.

3.0 Hearing held by the Electricity Ombudsman:

3.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 24.11.2021 through video conferencing.

3.2 On behalf of the Appellant Thiru N. Senthil Viswarooban and Thiru Franklin Stephen, Advocates of M/s. Stephen & Stephen Advocates Associates have attended the hearing and put forth their arguments.

3.3 The respondent Tmt. R.Suja, SE/Chengalpet (I/c) and Thiru R.Manoharan, EE/O&M/Maraimalai Nagar of Chengalpet Electricity Distribution Circle have attended the hearing and put forth their arguments.

3.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing order. Further the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

4.0 Arguments of the Appellant:

4.1 The Appellant has stated that the State Bank of India Officers Association is a registered society under the Society Registration Act taking care of the welfare of the officers in State Bank of India.

4.2 The Appellant has stated that SBIOA has developed a residential project named "Unity Enclave" comprised under survey Nos. Na.Ka.No. 12333/2013/CB dated 20.12.2013 & Na.Ka.Nos. 1985/2012/Ce.Ma dated 31.12.2013 to an area of 86,300 Sq.mts in Mambakkam village of Kancheepuram district . The existing development consists of 1875 flats apart from Club House and Commercial area. LT individual Service connections to an extent of 1875 Nos. were already obtained apart from a HT service for the common utility of Commercial & Club House. While applying for the above said electricity service connections for entire flats, as the total connected load exceeded 10 MVA, TANGEDCO insisted for providing space for establishment of 110KV Sub Station free of cost to TANGEDCO.

4.3 In this regard the Appellant has brought to the notice of the following regulation ; TNE distribution Code Reg.29(12)(ii) : Space as per the following norms shall be allotted for establishment of a sub station / switching station in places of group housing / commercial complex where the total demand exceeds 5 MVA. These areas shall be specifically shown in the plan. The requirement of land for establishment of sub-stations shall not exceed the comfortable road width and is ideal for erection of 110KV Sub Station having a well Planned ingress & egress. As per the Statutory provisions it is mandatory on the part of the developer/builder to provide space of 1050 Sq.mts for erecting compact Sub Station within the periphery of 60/30 Kms from the City/Municipal limits.

4.4 The Appellant has stated that the demand for the entire flats could be catered/ met through one or two 11KV feeders, however as per the regulations SBIOA came forward to adhere to the stipulated regulations to provide space for establishment of sub-station considering the request of TANGEDCO anticipating future load growth around the vicinity of the Unity Enclave.

4.5 The Appellant has stated that the earmarked site was inspected by various authorities of TANGEDCO including the General Construction Circle /Chennai Development Circle for establishment of SS during the years 2015-16. TANGEDCO has insisted for a space comprising of 2019.83 sq.mts. suitable for establishment of 110 KV Sub-station. Though the mandatory provision is to provide a space of 1050 Sq.mts. for the establishment of 110KV Substation, as per the request of TANGEDCO taking into consideration the future load growth around Thiruporur area, 2019.83 Sqmts of Land was earmarked for TANGEDCO. The Chief Engineer /Distribution/South region has accorded approval to accept the land having an area 2019.83 sqmts for establishment of 110KV SS vide his letter dated MEMO.NO.CE/D/ CSR/ EEC /AEE/AE/F.LA-SBIOA/D641/2016 DT 02.09.2016 after having a thorough legal scrutiny of the documents and feasibility report furnished by their officials for establishing the Sub stations (GCC). The land was gifted to TANGEDCO free of cost without any encumbrance through a registered Gift Deed 12322 of 2016.

4.6 The Appellant has stated that after having taken over possession of the said land suitable for establishment of 110KV Sub-station the service connection applications were processed and effected by erecting 10 Nos. of 1000KVA Transformers pending establishment of Sub-station. For erection of these Distribution Transformers SBIOA has provided further space apart from the space allotted for the Sub Station. 1875 service connections were effected apart from a HT service connection for common utilities.

4.7 The Appellant has stated that having taken over the land it is obligatory on the part of the TANGEDCO to immediately establish the 110KV Sub-station to cater the needs of the proposed and future load growth in the nearby vicinity. However TANGEDCO has not taken any efforts to establish the Substation for the past 5 years.

4.8 The Appellant has stated that a notice has been received from SE/Chengelpet dated 19.07.2021 stating that the already acquired land is not best suitable for establishment of 110KV Substation as per the present report of Superintending Engineer/GCCI and requested to provide additional space as per TANTRANSCO requirement for establishment of 110KV SS with an undertaking in this regard (or) if additional space could not be allotted the cost of additional expenditure to be incurred towards establishment of Indoor SS instead Outdoor SS to be borne by the Appellant. Sending a communication to SBIOA at this juncture after having effected all the service connection, taking over the land for establishment of SS is unjustified, arbitrary & contrary to the regulations prescribed by TNERC.

4.9 The Appellant has stated that having satisfied with the dimension of the land for establishing 110KV SS by the TANGEDCO authorities, the same was gifted to TANGEDCO without any objection though the area requested is more than that of the area prescribed in Tamilnadu Electricity Distribution Code. It was obligatory on the part of the Distribution Licensee to establish a compact Substation within the consumer premises if the load exceeds 5/10 MVA for which no liability was

fixed on the consumer except gifting the land suitable for establishing the substation as per the regulations that were in vogue during those period. TANGEDCO has not taken any action to establish the Substation till date.

4.10 The Appellant has stated that as per the regulations that were in vogue during the above period, it was obligatory on the part of the Distribution Licensee to establish only the compact Substation if the area developed is within 60 Kms from the periphery of the City Limit.

4.11 The Appellant has stated that now taking advantage of the recent amendment to the Distribution Code, the licensee is trying to extract more money from the consumers for establishing the compact /indoor substation. As per the latest amendment to the Distribution code, it is obligatory on the part of the consumers also to pay the difference in cost if opted for Indoor/Compact SS. It is to be stated that the said amendment is having only prospective effect and not retrospective. It is no way applicable to SBIOA which has already availed service connections by providing necessary & excess space for erection of Indoor SS as per the regulations.

4.12 In CREDAI Vs TANGEDCO, the Hon'ble TNERC in MP No.21/2020 categorically stated, "The Commission finds the clarificatory order of the TANGEDCO issued after due consideration , which gives effect to the amendment to the applicants who obtained planning permission after the date of Gazette Notification of the amendment is fair, logical & reasonable" which clearly implies that any order issued by Hon'ble TNERC is having prospective effect unless it explicitly expressed otherwise and not to give retrospective effect.

4.13 The Appellant has stated that the action of the Superintending Engineer in issuing the said notice is blatant violation of the Tamilnadu Electricity Distribution Code and regulations prescribed by Hon'ble TNERC. If the Distribution Licensee has to get any clarity on the interpretation/application of the amendment to Distribution Code, it has to refer only to Hon'ble TNERC. Without that the Distribution licensee cannot have their own interpretations & applicability of the regulations.

4.14 The Appellant has further stated that the action of the Superintending Engineer/Chengelpet in issuing such a notice is a colourful exercise to suit their whims & fancies & with utmost arbitrariness.

4.15 The Appellant has prayed to accept the appeal in the light of facts & circumstances of the issue apart from the statutory regulations and to direct the Distribution licensee to withdraw the notice or in the alternative to set aside the notice with immediate effect and thus render justice.

5.0 Arguments of the Respondent:

5.1 The Respondent has stated that M/s. State Bank of India Officer's Association/Chennai had developed a Residential and commercial complex for a demand of more than 10 MVA. Hence, as per TNE distribution code Reg.29(12), they have to allot/spare a land for establishment of substation.

5.2 The Respondent has stated that based on the above, they have spared a land to an extent of 2019.083 sq. mtrs. for establishment of 110/11KV SS with 110 KV outdoor yard and Indoor 11 KV VCB Panels. Based on the approval accorded by the CE/D/S/Chennai Vide MEMO.No.CE/D/CSR/EEC/AEE/AE/ F.LA-SBIOA/D989/2016,DT 30.06.2016, the above land was taken over from M/s.SBIOA.

5.3 The Respondent has stated that based on the land suitability given by SE/GCC/Chennai, necessary proposal for establishment of 110/11 KV SBIOA colony SS submitted to the Head Quarters. In the (Per) F.B. TANTRANSCO Proceeding No. 118, dt.26.09.2017, administrative approval was accorded for establishment of 110/11 KV SBIOA colony SS (Outdoor SS) with 110/11 KV 2x16 MVA Power Transformer at Mambakkam.

5.4 In this connection, Superintending Engineer/GCC-I/Chennai has informed that the allotted land (2019.083 Sq. Mtrs) is not feasible to construct 110/11 KV Outdoor SS and it is suitable for 110/11 KV Indoor SS. Hence it has been requested to obtain revised sanction for 110/11 KV Outdoor SS with Indoor type

Panels. The revised administrative sanction for establishment of 110/11 KV Indoor SS was sought for from the Head Quarters. For which, Chief Engineer/Planning & RC, Chennai in the Lr. No. SE/ PLG/ EE/ MPI/ AEE3 /F. SBIOA 110KV SS/D.No.141/21, dt.30.04.21, has requested the following details.

1. Feasibility of establishment 110/11 KV Outdoor SS in the allotted land may be studied in detail and report in this regard may be furnished.

2. If the above is not feasible, the developer may be requested to provide additional land as per TANTRANSCO requirement for establishment of 110/11 KV Outdoor SS. An undertaking in this regard may be obtained from the developer.

3. If additional land could not be allotted, they may be requested to bear the additional expenditure to be incurred towards establishment of Indoor SS. An undertaking in this regard may be obtained from the developer.

5.5 In this connection, Superintending Engineer/GCC-I/Chennai has reported that the above allotted land is not feasible for establishment of 110/11 KV Outdoor SS and requested to obtain additional land or an undertaking to bear the cost of additional expenditure to be incurred towards establishment of Indoor SS. Hence additional land or an undertaking to bear the cost of additional expenditure to be incurred towards establishment of Indoor SS has been sought for from SBIOA on 19.07.2021.

5.6 As per the statutory provisions it is mandatory on the part of the developer/Builder to provide space of 1050 Sq. mtrs. for erecting compact substation within the periphery of 60/30 Kms from the City / Municipal Limits. Though the mandatory provision is to provide a space of 1050 sq. mtrs. for establishment of 110 KV Substation, as per the request of TANGEDCO taking into consideration the future load growth around Thiruporur area, 2019.83 sq. mtrs. of land were earmarked and handed over to TANGEDCO. Hence the appellant requested to withdraw the notice given for additional land in their letter dated 30.09.2021.

5.7 The Respondent has stated that based on the representation given by SBIOA Letter dated 30.09.2021 necessary proposal to withdraw the additional land

requirement is under consideration. In the meanwhile, TANTRANSCO cost data for the year 2021-22 has been received and now, the revised substation proposal has to be evolved as per latest cost data for the year 2021-22.

5.8 Under the circumstances stated above, it is hereby submitted that the consumer request is under consideration.

6.0 Findings of the Electricity Ombudsman:

6.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

6.2 The Appellant has stated that they have developed a residential project consisting 1875 flats with all amenities having an electricity demand of more than 10 MVA and as per the TNE Distribution Code Regulation 29(12)(ii) it is mandatory on the part of the developer/builder to provide a space of 1050 sq. mts. free of cost for erecting compact substation within the periphery of 60/30 kms from the City/Municipal limits. The Respondent has requested a land space of 2019.83 sq. mts. as against the requirement of 1050 sq. mts. considering the future load growth and accordingly, the Appellant earmarked 2019.83 sq. mts. to the TANGEDCO which was inspected and approved by the officials of the Licensee. Based on the above, the land was gifted to TANGEDCO free of cost through a registered gift deed 12322 of 2016 for establishing 110KV substation. Pending erection of substation, 10 Nos. of 1MVA transformers were erected in the other space provided and service connections were effected to all the 1875 dwellings including a HT SC for common utilities. After 5 years, now the Respondent has raised a demand for additional land space over and above 2019.83 sq. mts. already gifted or else to bear the additional expenditure to be incurred towards establishing the 110KV compact substation which is against the Regulation and prayed to quash the demand notice raised by the Respondent.

6.3 The Respondent has stated that based on the approval of the Licensee the land to an extent of 2019.083 sq. mts. for the establishment of 110KV SS was

taken over from the Appellant. Now the respondent has stated that the allotted land 2019.083 sq. mts. is not sufficient to construct 110 KV outdoor SS and issued demand notice to the Appellant to provide additional land space and in case if it is not feasible, to bear the additional expenditure to be incurred towards establishing a 110 KV compact substation.

6.4 In this connection, I would like to refer Regulation 29(12)(ii) of the TNE Distribution Code as quoted by the Appellant as well as the Respondent which is given below; (Existed upto Gazette notification dt. 29.1.2020 – Distribution Code Amendment Notification No.8-25 dt. 18.12.2019)

“(29) Service Lines:

xxxxx
xxxxx

29(12)(ii) Space as per the norms to be specified by the Commission shall be allotted for establishment of a substation /switching station in places of group housing / commercial complex where the total demand exceeds 5 MVA. These areas shall be specifically shown in the plan.

The requirement of land for establishment of sub-stations shall not exceed the limit given below:

<i>Voltage level of the sub-station</i>	<i>Land Requirement in Sq.mts.</i>	
	<i>Normal sub-station</i>	<i>Compact sub-station</i>
<i>33 KV sub-station</i>	<i>1520 (indoor)</i>	
	<i>3160 (outdoor)</i>	<i>225</i>
<i>110 KV sub-station</i>	<i>4000 (outdoor)</i>	<i>1050</i>
<i>230 KV sub-station</i>	<i>16000 (outdoor)</i>	<i>1750</i>

Note:

- (a) in places situated within 60 Kilo Meters from the periphery of the Metropolitan/Corporation limit, the licensee may establish the compact sub-station;*
- (b) in places situated within 30 Kilo Meters from the periphery of the Municipality limit, the licensee may establish the compact sub-station;*
- (c) in places situated within 10 Kilo Meters from the periphery of the Town Panchayat limit, the licensee may establish the compact sub-station;*
- (d) in other places, the licensee may establish the sub-station of his choice*
- (e) the land area should have the proper approach road atleast on any one side of the land for easy transporting of power transformer*

(f) the dimension of the land area shall be as per the suggestions of the Licensee to the consumer.”

On a plain reading of the above, it is seen that the Appellant is bound to provide land space of 4000 sq. mts. in the case of 110 KV outdoor SS or 1050 sq. mts. in the case of 110 KV compact SS. Further, in places situated within 60 kms from the periphery of the Metropolitan/Corporation limit the licensee may establish the compact substation. It is clear from the above that the option of establishing a 110KV substation either outdoor type or compact type lies with the Respondent. In the case on hand, from the records made available, it is seen that the Respondent has proposed and approved 110KV outdoor SS with 2019.083 sq. mts. land space and got registered as gift deed in their favour free of cost as required by the regulation. Having exercised the option, though the Respondent has proposed 110 KV outdoor SS they themselves proposed and approved 2019.083 sq. mts. for the SS as against 4000 sq. mts. required for the 110 KV outdoor SS as per the Regulation. The land space obtained is less for the 110KV outdoor SS but more for the 110 KV compact sub-station. Having accepted and approved 2019.083 sq. mts. of land and registered in their favour, now after 5 years demanding additional land is not acceptable.

6.5 Further, the TNE Supply Code Regulation 29(12)(ii) doesn't provide the Appellant to bear the additional expenditure towards establishing a 110 KV compact substation. Hence I am of the opinion that the Respondent is not eligible to claim the additional expenditure from the Appellant towards establishing the compact substation. The Respondent is eligible to collect the additional expenditure from the Appellant as provided in the amended order of TNERC/DC/8-25 dt. 18.12.2019 with effect from 29.1.2020 (Gazette Notified date) prospectively. But in respect of Appellant's case, all the grant/approval have been issued way back in 2016 and the Chief Engineer/Distribution/South approved the petitioner's case consciously for accepting of 2019.083 sq. mtrs. for establishment of 110 KV outdoor sub-station. In the Appellant's case, the outdoor SS is not sought to be approved by the Appellant. Moreover, the appellant has not undertaken to bear any difference in cost between conventional SS and compact SS. In accordance with CE's approval after getting registered 2019.083 Sq. mtrs. land, 1875 LT

service connections and 1 No. HT connection were effected subsequently. Under these circumstances, applying the amended Regulation 29(12)(ii)(d) as per Notification TNERC/DC/8-25, dt. 18.12.2019 which is effective only from 29.1.2020 to the appellant's case retrospectively is not correct.

7.0 Conclusion:

7.1 As per para 6.0 above,

(i) The Appellant is not liable to provide any additional land space over and above the already gifted land towards establishing the 110KV outdoor substation.

(ii) The Respondent is not eligible to claim any difference in cost between establishment of the 110KV conventional substation and compact substation.

7.2 With the above findings, the AP No. 79 of 2021 is finally disposed of by the Electricity Ombudsman. No costs.

(S. Devarajan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. M/s. State Bank of India Officers Association,
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Maraimalai Nagar - 603209.

3. The Superintending Engineer,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
No.130 GST Road, Chengalpattu - 603 001.

4. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

– By Email

5. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

– By Email

6. The Assistant Director (Computer) –**For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy, Chennai – 600 032.