



## **TAMIL NADU ELECTRICITY OMBUDSMAN**

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### **BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI**

**Present : Thiru. A. Dharmaraj, Electricity Ombudsman**

#### **Appeal Petition No.56 of 2015**

Tmt.S. Bhuvana,  
Teacher,  
Prema Sivalingam Trust,  
35A/1, M.B.T. Road,  
Muthukadai,  
Ranipet – 632 402.

. . . . . Appellant  
(Rep by Thiru. M. Sivalingam)

**Vs.**

The Superintending Engineer,  
Vellore Electricity Distribution Circle,  
TANGEDCO (formerly TNEB),  
Gandhi Nagar, Vellore- 632 006.

. . . . . Respondent  
(Rep. by Thiru Haribabu, AEE/Urban/Ranipet)

**Date of hearing : 30.9.2015**

**Date of Order : 19.10.2015**

The petition dated 14.7.2015 filed by Tmt. S. Bhuvana, Muthukadai, Ranipet was registered as appeal petition No.56 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 30.9.2015. Upon perusing the appeal petition, Counter Affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

## ORDER

### **1. Prayer of the Petitioner :**

The Appellant prayed to direct Executive Engineer/O&M/Ranipet to effect Domestic and Commercial service connections in the premises.

### **2. Brief history of the case:**

2.1. The Appellant applied for 2nos new service connections one under tariff-1A and another under Tariff V in the name of Aasiriyee Prema Sivalingam Arrakkattalai for the premises available at 35A/1 M.B.T. Road, Muthukadai, Ranipet.

2.2. The Junior Engineer/O&M/Town-1 has rejected the application.

2.3. Aggrieved over the refusal of effecting supply to its premises, the Appellant filed a petition before the CGRF of Vellore EDC and the CGRF of Vellore EDC had dismissed the petition.

2.4. Aggrieved by the order of the CGRF of Vellore EDC, the Appellant filed this appeal petition before the Electricity Ombudsman.

### **3. Orders of CGRF :**

3.1 *Orders of forum : The petition is disposed off, stating that ownership documents is not in the name of Aasiriyee Prema Sivalingam Arakattalai, 35A/1, M.B.T. Road, Muthukadai, Ranipet, Further, as per Hon'ble Madras High Court order Thiru. Sivalingam is not entitled for possession beyond 12.3.2014. Hence, the request of petitioner requesting for LT Supply in the above premises in the name of Aasiriyee Prema Sivalingam Arakattalai is not feasible of compliance.*

### **4. Contentions of the Appellant :**

4.1. The Appellant has requested for a Domestic and Commercial service connection.

- 4.2. She has cited regulation 27 in support of her request for effecting supply.
- 4.3. The tax receipts and water tax receipt in the name of Thiru. M. Sivalingam and the Consent letter dt.7.5.2015 given by Thiru. M. Sivalingam have been furnished along with the Application seeking supply in the name of Aasirree Prema Sivlingam Arakkattalai.

**5. Contentions of the Respondent :**

- 5.1 The Petitioner Tmt. S. Bhuvana, President, Aasiriyee Prema Sivalingam Arakkattalai, 35A/1, M.B.T. Road, Muthukadai, Ranipet has applied for new LT service in the above address where the LT service (TF 1 and TF V) already exist in the name of Thiru. M. Sivalingam were disconnected as per the directions of the Hon'ble Madras High Court order dt.5.3.2014.
- 5.2 The section officer's decision to deny to effect new LT services to the petitioner Tmt.S. Bhuvana, President, Aasiriyee Prema Sivalingm Arakkattalai is just because of it is a disputed property and Thiru. Sivalingam is not entitled for possession beyond 12.3.2014 as per Hon'ble Madras High Court order.
- 5.3 The judgment order dt.5.3.2014 passed for the writ appeal nos.241 of 2014 and M.P.No.1 of 2014 filed by Thiru. M. Sivalingam against the order of dismissal passed by the learned single judge in W.P.No.15344 of 2013 dt.22.11.2013. The last para 5 of the judgment reads xxxxxxxx The appellant was given time only till 12.3.2014 by the Apex Court. Therefore, he cannot ask for continuous supply of electricity beyond the said date granted for handing over possession. When the appellant is not entitled for possession beyond 12.3.2014, there is no question of

granting continuous electricity supply thereafter for the very same premises  
xxxxx.

- 5.4 The petitioner requesting the order of the EE/O&M/Ranipet to effect supply quoting TNERC Supply Code section 27 which is not applicable to her request. However, the TNERC Distribution Code chapter 27 'Requisition for supply for energy is applicable to the petitioner's request. In the TNERC Distribution Code Chapter 27(1), which quoted that every distribution licensee shall on an application by the owner or occupier of any premises, give supply of electricity to such premises within one month after receipt of application requiring such supply on production of ownership documents.
- 5.5 In this case, neither Thiru. Sivalingam is entitled for the possession of the property beyond 12.3.2014 nor petitioner's claim as occupier on the support of No objection letter from Sivalingam which is not valid after the judgment of the Court.

**6. Hearing held by the Electricity Ombudsman:**

- 6.1. In order to enable the Appellant and the Respondent, to put forth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 30.9.2015.
- 6.2. Thiru M. Sivalingam, has attended the hearing on behalf of the Appellant and put forth his arguments.
- 6.3. Thiru D. Haribabu, Assistant Executive Engineer / O&M/Urban/Ranipet attended the hearing on behalf of the Respondent and put forth their side arguments.

**7. Arguments putforth by the Representative of the Appellant :**

- 7.1. Thiru. M. Sivalingam attended the hearing on behalf of the Appellant and putforth his side arguments.
- 7.2. The Appellant's representative argued that the Aasiriyee Prema Sivalingam Arakkattalai is carrying out its activities in the above address and hence a service connection is necessary to continue its activities
- 7.3. He argued that the Appellant is seeking the service connection as an occupier of the premises. Hence, he argued that as per Regulation 27(4) of the Distribution Code, the Appellant is eligible to get a service connection.
- 7.4. He also argued that the Appellant is also willing to furnish an undertaking to the effect that she will agree for disconnecting the service connection whenever such direction is issued by the licensee.
- 7.5. The Appellant's representative also argued that considering the activities of the Arakkattalai, the service connection requested may be effected so that the Arakkattalai can continue its service to the society.
- 7.6. The Appellants representative also informed that E.A. 62 of 2014 in EP No.51/2011 in OS No.257/98 is pending in the court of subordinate judge Vellore and Mr. M. Sivalingam is in possession of the premises.
- 7.7. He also argued that electricity is a basic requirement for any premises. Hence, it shall be effected to the above premises also.

**8. Arguments putforth by the Respondent's Representative :**

- 8.1. Thiru. D. Haribabu, Assistant Executive Engineer/O&M/Urban/Ranipet attended the hearing on behalf of the Respondent and putforth his side arguments.

- 8.2. He informed that there were service connections in the said premises in the name of Thiru. M.Sivalingam and were disconnected as per the direction of the Court.
- 8.3. The Service connections were also reconnected as per interim direction of Court in W.P.No.15344/2013 dt.7.6.2013.
- 8.4. As per the order dt.14.3.2014 of the High Court of Madras Judicature in W.A.No.241 of 2014 and M.P.No.1 of 2014 the Appellant is not entitled for continuation of supply beyond 12.3.2014 as, the Appellant was entitled for possession of the premises only upto 12.3.2014. As the Hon'ble High Court has not permitted continuance of supply to the above premises the Respondent argued that the supply cannot be effected in the same premises now.
- 8.5. He also argued that the documents submitted by the Appellant along with the Application seeking service connection are not conforming to the valid documents as specified in Regulation 27 (4) of the Distribution Code for effecting supply to an occupier.

## **9. Findings of the Electricity Ombudsman**

I have heard the arguments of both the parties and perused the documents furnished by them. On a careful consideration of the above, the issues to be decided are:-

- (i) What are the provisions given in the Distribution code for effecting supply to an occupier of a premises?
- (ii) Whether the application submitted by the Appellant fulfills the above requirement?

**10. Findings on the first issue:**

10.1. The Appellant's representative argued that the Appellant seeks service connection for the premises as an occupier of the premises. He also cited regulation 27 (4) of the Distribution Code in support of his argument.

10.2. As the Appellant has cited Regulation 27(4) of the Distribution Code the said Regulation is extracted below:-

*27. Requisitions for Supply of Energy:*

xxxxx xxxxx xxxx

xxxxx xxxxx xxxxx

*(4). An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce valid proof of his/her being in occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.*

*Explanation:- For the purpose of this sub-regulation, the expression "valid proof" means any proof of occupancy such as registered power of attorney or latest rent receipt issued prior to the date of application or lease deed or possession order from appropriate authority or decree or judgment of Courts.*

10.3. On a careful reading of the said Regulation 27 (4), it is noted that an intending consumer who is not the owner of the premises shall produce the consent letter as per Form 5 specified by the Hon'ble Commission to get a service connection. Further even if the owner refuses to give consent the intending consumer can get a service connection provided the consumer produces valid proof in support of the claim of the occupier and also execute an indemnity bond in form '6' specified by the Commission indemnifying the licensee against loss on account of dispute

arising out of effecting service connection to the occupant and the intending consumer has to agree to pay security deposit of twice the normal rate.

10.4. The valid proof that is to be furnished by the intending consumer as per regulation is any one of the following:

- (i) Registered power of attorney
- (ii) Latest rent receipt issued prior to the date of application
- (iii) Lease deed
- (iv) Possession order from appropriate authority
- (v) Decree or judgment of the Court

10.5. As per regulation, the intending consumer who is not the owner has to produce either a consent letter from the owner in the prescribed format or valid proof as detailed in para 10.4. in support of being the occupier of the premises besides furnishing an indemnity bond in the prescribed format and payment of security deposit at twice the normal rate.

**11. Findings on the second issue:**

11.1. The Appellant argued that the owner of the premise Thiru M.Sivalingam has given consent letter for effecting service in the name of Aasiriyee Prema Sivalingam Arakkattalai and enclosed a copy of the consent letter dated 7.5.2015 issued by Thiru M. Sivalingam.



11.2. The Appellant also furnished a copy of property tax receipt paid by Thiru M. Sivalingam for the period 2014-15 I and also vacant land tax paid for the period from 1994 to 2001 in the name of Thiru M. Sivalingam in proof of ownership.

11.3. The Appellant also furnished a copy of water tax receipt issued by Ranipet Municipality for the year 2014-15 I and 2014-15 II in support of the ownership of Thiru. M. Sivalingam.

11.4. The Appellant's representative also argued that the case EA62 of 2014 in E.P.No.51 of 2011 in OS No.257/98 is pending in the Court of subordinate judge Vellore and Thiru.M. Sivalingam is still in possession of the premises.

11.5 The Respondent informed that the LT services (TF IA and TF V) which were effected in the name of Thiru. M. Sivalingam in the same premises were disconnected as per the direction of Hon'ble High Court of Madras in order dt.5.3.2014.

11.6 The Respondent also argued that the premises is a disputed property and Thiru.M. Sivalingam, is not entitled for possession of the premises beyond 12.3.2014 as per the orders of High Court of Madras. The Appellant has cited the order of Madras High Court in W.A. 241 of 2014 and M.P.No. 1 of 2014 dt.5.3.2014 in support of the above arguments.

11.7 The Respondent argued that Thiru. M. Sivalingam is not entitled for possession of the premises after 12.3.2014. Hence, he argued that he cannot be considered as owner of the property after 12.3.2014. In view of the above situation, the consent letter issued by Thiru. M. Sivalingam cannot be treated as a valid document issued by the owner of the property.

11.8 On a careful analysis of the arguments put forth by the rival parties, it is noted that the ownership of the premises is in dispute. The ownership issue could be decided only by the civil court and Electricity Ombudsman has no jurisdiction to decide on the ownership issue.

11.9 As the Respondent argued that as the Hon'ble High Court of Madras in its order dt.4.3.2014 in W.A.No.241 of 2014 and M.P.No. 1 of 2014 has not granted continuance of supply to the premises as prayed by Thiru. M. Sivalingam the relevant portion of the order is extracted below :

*"We do not find any merit in this appeal. A mere filing of a petition seeking review will not give any right to a party. Admittedly, the time granted by the Hon'ble Apex Court has expired. The appellant was given time only till 12.3.2014 by the Apex Court. Therefore, he cannot ask for the continuous supply of electricity beyond the said date granted for handing over possession. When the appellant is not entitled for possession beyond 12.3.2014, there is no question of granting continuous electricity supply thereafter for the very same premises. In such view of the matter, we do not find any error in the order passed by the learned single judge. Accordingly, the writ appeal fails and the same is dismissed. No Costs. Consequently connected miscellaneous petition is also. Dismissed."*

11.10 On a careful reading of the above para of the judgment , it is noted that Thiru. M.Sivalingam, has been granted time by the Hon'ble Apex Court till 12.3.2014 to hand over the possession of the premises. Therefore, he cannot ask for continuous supply of electricity beyond the above date. It has also been recorded that the Appellant is not entitled for possession beyond 12.3.2014 and there is no question of granting continuous electricity supply thereafter for the very same premises.

11.11 As per the above order, the supply effected in the name of Thiru. M. Sivalingam cannot be continued beyond 12.3.2014. As per the above order, Thiru. M. Sivalingam is not entitled for possession of the said premises beyond 12.3.2014. Hence, I am in agreement with the argument of the Respondent that Thiru. M. Sivalingam could not be considered as the owner of the said premises and the consent letter given by Thiru. M. Sivalingam cannot be a valid document for effecting supply in the name of the Appellant.

11.12 In para 10.5 of the findings on first issue, the valid proofs that are to be submitted by an occupier, in case of non production of consent letter from the owner of the premises as per Regulation 27(4) of the Distribution Code have been given. The Appellant has not furnished any of the documents specified in the regulation in support of her claim of an occupier. Hence, I am of the view that the prayer of the Appellant to effect supply to the premises considering her an occupier is not feasible of compliance as per the documents furnished along with the application seeking service connection.

**12. Conclusion :**

12.1 In view of my findings in the second issue furnished in para 11 above, I am unable to interfere with the orders CGRF of Vellore EDC.

12.2 With the above findings, the A.P.No.56 of 2015 is finally disposed by the Electricity Ombudsman. No costs.

**(A. Dharmaraj)**  
Electricity Ombudsman

To  
1) Tmt.S. Bhuvana,  
Teacher,  
Prema Sivalingam Trust,  
35A/1, M.B.T. Road,  
Muthukadai, Ranipet – 632 402.

2) The Superintending Engineer,  
Vellore Electricity Distribution Circle,  
TANGEDCO (formerly TNEB),  
Gandhi Nagar,  
Vellore- 632 006.

3) The Chairman,  
(Superintending Engineer),  
Consumer Grievance Redressal Forum,  
Vellore Electricity Distribution Circle,  
TANGEDCO (formerly TNEB),  
Gandhi Nagar, Vellore- 632 006.

4) The Chairman & Managing Director,  
TANGEDCO,  
NPKR Maaligai,  
144, Anna Salai,  
Chennai – 600 002.

5) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
No.19A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.

6) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**  
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