



TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmi pathy Salai, (Marshal Road),
Egmore, Chennai – 600 008.

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.17 of 2017

Thiru. R. Venkataraman,
RVR House, 1, 2 & 3 Thirumalai Street,
Jai Balaji Nagar, K.K. Nagar,
Chennai – 78.

..... Appellant
(Party in person)

Vs

1) The Superintending Executive Engineer,
Thanjavur Electricity Distribution Circle,
TANGEDCO,
No.1, Vallam Road,
Thanjavur – 613 007.

2) The Executive Engineer/O&M,
North/Kumbakonam,
Thanjavur Electricity Distribution Circle,
TANGEDCO,
Thiruvaidaimarudhur Salai, Rajan Thottam,
Kumbakonam.

..... Respondents
(Rep by Thiru. Rajasekar, EE/North/Kumbakonam)

Date of hearing : 3.5.2017

Date of order : 12-6-2017

The petition dated 18.2.2017 filed by Thiru R. Venkataraman, K.K. Nagar, Chennai – 600 078 was registered as Appeal petition No. 17 of 2017. The above appeal petition came up for hearing before the Electricity Ombudsman on 3-5-2017. Upon perusing the appeal petition, counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant :

The grievance was against the proposal of buying unapproved agricultural lands from the private parties for the proposed SS site at Pandanallur.

2. Brief History of the case:

2.1 TANGEDCO proposed to establish a 110/33/11 KV Substation at Pandanallur of Thanjavur Distribution Circle.

2.2 The land owned by Sri Pasupatheeswarar Temple in Survey No.216 & 217 & 218 was selected for establishing the above SS. The Commissioner, HR & CE has quoted a total cost of Rs.8.66 crores for the said land. As the above cost is high, the CE/Civil Design has suggested to find alternate site preferably Govt. poromboke land if not patta land with lesser cost.

2.3 Accordingly, the private patta land in SF No.93/1, 108/3, 108/4, 108/5, 101/2A, 101/2B to the extent of 2.89 acres have been identified for establishment of the above substation and District Revenue Officer, Thanjavur have been addressed for valuation of the patta land.

2.4 The Appellant filed petition before the authorities of licensee to procure poromboke land and to avoid purchasing land from private party at a higher cost. He filed a petition before the CGRF of Thanjavur EDC through online on 24.12.2016. As there was no reply from the CGRF, he filed a petition dt.18.2.17 before the Electricity Ombudsman on 20.2.2017 as 50 days have since been passed from the date of filing petition before the CGRF, the petition was registered as A.P.No.17 of 2017.

3. Contention of the Appellant furnished in the Appeal petition:

3.1 I file this appeal before this Hon'ble Forum after exercising my right in presenting my Grievance petition before the Thanjavur CGRF and that no action was taken against my Grievance Petition Registered through On line on 24.12.2016 vide Petition ID 2412160917930.

3.2 There was no Written communication to me rejecting the Grievance Petition till date of the Appeal Petition Filing. The Grievance Petition was against the proposal of buying unapproved agricultural lands from private parties for the proposed SS site at Pandanallur.

3.3 Several objection letters were sent to the SE/TEDC ,but no opportunity was given to me for a Personnel hearing and to hear my points raised in the Interest of public.

3.4 When there was an objection from public on the purchase of private lands the SE TEDC failed to scrutiny the petition ,but on the other hand moved further to procure the Private lands and hence I have to register this Petition before the CGRF Tnj.

3.5 There are Poramboke lands in Pandanallur in Survey Nos 217, 218, 219, 213, 209, 221 etc which are Government lands as per records eventoday.

3.6 The Tangedco had sought permission from a wrong person namely the Sri Pasupatheeswarar Temple Trustees /Executive Officer of Pandanallur who are not the Competent authorities to quote for the lands belonging to the Government.

3.7 The temple Trustees involved in Fraudulent activities and created pattas in their names on the water Channels around the Temple and sold to several persons .They also encroached all the adjoining lands belonging to Government .They alienated the properties of the Temple and destroyed the Heritages.

3.8 I filed a Public Interest Litigation Case in WP 1511/2017 and the Hon'ble Chief Justice was pleased to pass on 18.01.2017 an order to clear all the Encroachments and restore back the water channels within three months.

3.9 I produce all documentary evidences to show that they are lands belonging to the Government and requested the SE/ TEDC and others to approach the District Collector in granting the land for the SS at Pandanallur. The SE TEDC ignored the letter and did not approach the Collector ,since the Private Lands were finalized by them at a very High price.

3.10 The Price quoted by the Temple Trustee was taken as a guideline by the SE/TEDC and compared for selection of the site The Government lands mentioned in my Petitions are in the Heart of the Town and which was selected by the Expert Team of TANGEDCO.

3.11 The land selected now by the SE TEDC is an un- approved agricultural lands which the High Court in recent orders has banned against Registrations of such lands

4. Arguments furnished by the Respondents :

4.1 The Online Petition Ref. No. 2412160917930 dt.24.12.2016 had been received by the SE/TEDC/Thanjavur. The CGRF meeting was conducted on 28.12.2016 and this petition was not considered since the petition up to 25.11.2016 was considered for the CGRF. But the petitioner was called to attend the meeting vide க.எண்.மே.பா.பொ/ தமிழ்/ உசெபொ/வளர்/ மு.நிவ/கோ.கு.தீ.ம/எண்.160/16, நாள்.09.12.2016 for other petitions received at CGRF by the same petitioner. The petitioner did not turn up for the meeting dated on 28.12.2016 stating some reason.

4.2 The proposal to establish a 110/33/11 KV substation at Pandanallur with in Kumbakonam North division in Thanjavur circle under Transmission & Distribution programme was decided. A suitable place was identified on the main road to an extent of 2 Acres 51 cent in SF No.216 (0.69 cent), 217(0.6 cent) & 218(1 acre 22 cent) and just opposite to Pandanallur TANGEDCO office. The above selected land is owned by Sri Pasupatheeswarar Temple.

4.3 After obtaining the land valuation from District Revenue Officer, Thanjavur. The Commissioner, HR&CE Chennai, was addressed vide க.எண்.மே.பொ/ தமிழவ/ தஞ்/ உ.செ.பொ/ வளர்ச்சி/ உ.பொ-2/கோ.பந்தநல்லூர் / T110/33 11KV துணை மின் நிலையம்/LA/அ.எண்.312/2013 தேதி 05.09.2013 to issue a pre-entry permission to start the establishment of the substation with the view of celebrating national level Mahamaham, festival at Kumbakonam in the year of 2016.

4.4 The commissioner, HR&CE, Chennai stated in his letter ந.க எண்.48515/2008/ஆர்.1 நாள் 09.5.2014 that Govt price for koil land is Rs.132/ - per sq.feet and in addition New land acquisition Act for village land 400% of Land cost and Additional 50% Raise in the cost. The total cost of the land for 2.51 Acres was Rs.8,66,00,862/-

4.5 In this regard, Chief Engineer/Civil Designs/TANGEDCO/Chennai vide Lr.No.CE/CD/SE/ C/Distn/EE1/A3/CHD/FLA/D.276/14 dt.07.07.2014 had stated that "The HR & CE Department has demanded revised consent for payment of Rs.8,66,00,862/- for the subject land as against the market rate of Rs.1,44,32,852/-. The revised rate demanded by the HR&CE

department is 600% of the market rate and it seems to be exorbitantly high. It is suggested that the possibility of finding an alternate land, preferably Govt. poromboke land, if not patta land with lesser cost may be explored.

4.6 Accordingly, the Govt. poromboke land at Neikuppai to an extent of 1.06 Ares in SF.NO.26 was identified. Substation erection officials had rejected the proposal since there was no road approach. Efforts were made to identify some other Govt. promboke lands but in vain.

4.7 Hence private patta land in SF No.93/1 108/3, 108/4, 108/5, 101/2A 101/2B to the extent of 2.89 Acres has now been identified for the establishment of 110/33/11 KV substation. The District Revenue Officer, Thanjavur has been addressed for Valuation of the patta lands.

4.8 After obtaining the land valuation from District Revenue Officer, Thanjavur, Negotiation will be made with the private land parties for procurement of the land.

4.9 TANGEDCO summarily rejects the purchase of disputed and objected lands. It is mentioned by the petitioner that the land under question is already disputed. Hence, TANGEDCO is of the opinion to purchase the private land now identified.

5. Arguments of the Appellant furnished in the Rejoinder :

5.1 The process of selection of a suitable site for a Sub Station was started much earlier before 2008 and a suitable place was identified just opposite to the EB office on the Main Road in Pandanallur. The Land Documents were verified . valued inspected and a decision was made to Procure .Hence the Letter dated 27.11.2008 by the EE (O&M) Kum North

was sent to the Executive Officer of the Sri Pasupatheeswarar Temple.

5.2 The price was so low and very economical since the guideline price was low and necessary clearance was given by the Revenue Department.

5.3 The further transaction and facts on the this' issue till 5.09.2013 is suppressed by the Respondents and they are put into strict proof to put before the reasons for the delay for more than 5 years before this Forum.

5.4 The Respondents with an intention to procure private lands for personnel gains delayed the Process for more than 5 years and it is the responsibility of the Respondents to produce letters to prove that they were not guilty.

5.5 The lapses and negligence of the Respondents in not following the site procurement process in time incurred a huge Loss for the Corporation due to guideline /Market Price Elevation .If the Respondents were duty conscious and had acted promptly in the process of the Procurement ,they would have saved several lakhs and gained Public appreciation ,but other hand their act has incurred heavy Loss to the Corporation and loss to Industries and agriculture and the Respondents are now proposing the Corporation to Purchase Un-approved agricultural Lands from Private Parties running in several crores.

5.6 The act of the Respondents clearly proves that there is a motivation behind the delay ,which this Forum should record and pass suitable actions against the Respondents.

5.7 The corporation could have saved several lakhs if the process of Procurement was completed in time during 2008-2009 itself.

5.8 The Respondents did not scrutiny the Estimate given by the HR&CE and find out whether it was in order. Survey numbers were not legally owned and they were not competent enough to give an estimate for sale and the Respondents did not pursue the matter to obtain special waiver and other concessional price from the HR&CE Commissioner as it was under his discretionary powers.

5.9 The Respondents utilized the price quotation of the HR&CE for comparison to procure Private Patta lands and misinterpreted the advise of the Chief Engineer -Civil Designs to the Chief Engineer - Distribution - Trichy Region which read as "In view of the above it is suggested that the Possibility of finding an alternate land preferably Government poramboke land if not patta land with lesser cost may be explored and ignored the suggestion of the Chief Engineer to prefer Government Poramboke Land.

5.10 The Respondents hurriedly tried to procure the Private Patta Lands during the Mahamagam Celebrations but could not proceed due to objections registered as early as 2.03.2016 to the Government and objection Petitions were continuously sent since the Respondents were interested to procure the Private Patta lands and the quotation of the Temple lands was taken for comparison.

5.11 proposed land now identified by the Respondents are agricultural lands under the classification "Wet Channel Irrigation Double Crop Type -11 "which are now banned for registration other than agriculture.

5.12 There are objections raised among the villagers for the proposal of Sub Station in their agricultural lands which has been suppressed by the Respondents .The agriculturists in that area propose to stage demonstration against the Corporation for destroying the agricultural lands.

5.13 The guide line price projected are inflated by the Respondents in line with the Temple Lands quotation .The actual guideline value as on date of the Proposed land is Rs 1,00,000.00 per acre and it works to only Rs 2,51,000.00 for 2.51 acres only against the Respondents projections of Rs 1.64 Crores ,which cannot be approved.

5.14 It will be a difficult task for the Corporation to erect the Sub station overcoming the objections.

5.15 The lands Proposed are jointly owned properties and there is a dispute in their Family partition which the Respondents have suppressed the fact.

5.16 The Respondents have not followed the guidelines in the process of Identification of the land for the Sub Station and the formalities for the Land acquisition and did not follow the procedures transparently through Open Tender through the Media and showed more interest to procure under a single Tender and thus delayed the process and created Demand to execute during the Mahamagam celebrations.

5.17 The Temple Trustees encroached the water Bodies and other Poramboke lands belonging to the Government through forgery fabricated documents and enjoyed Possession and sold to third parties .In the recent Madras High court Judgment in WP 1151/2017 filed by me ,the Hon'ble Chief Justice ordered to remove the Encroachments within three months and the Revenue department have started initiating eviction activities to complete on or before 18.05.2017.

5.18 There are Poramboke lands within the Fort campus in survey No .209.213,217,219,220 and 221 ,which are identified now and hence these lands may be approached for the proposed SS at Pandanallur. The necessary initiative to be carried out by the Respondents to approach the District Collector.

6. Hearing held by the Electricity Ombudsman :

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 3-5-2017.

6.2 Thiru R. Venkataraman, the Appellant herein attended the hearing and putforth his arguments.

6.3 Thiru M. Rajasekar, Executive Engineer / O & M / North/ Kumbakonam the Respondent II herein attended the hearing and putforth his side arguments.

7. Findings of the Electricity Ombudsman:

7.1 On the hearing date, the Appellant has reiterated the contents of the Appeal Petition. The Respondent -2 has attended the hearing and reiterated the contents of the counter.

7.2 On a careful examination of the prayer, the prayer is regarding the proposal to buy land from private parties for the proposed SS site at Pandanallur.

7.3 As the grievance of the Appellant is not related to his service but on a proposal for purchase of a land by the licensee for establishment of a sub station, I would like to decide first whether the Electricity Ombudsman has jurisdiction to entertain the above issue. before going into the merits of the case. In this regard, I would like to refer the definition of the complaints given in the Regulations for CGRF & Electricity Ombudsman in Regulation 2(f) which is extracted below :

“2(f) “complaint” means any grievance made by a complainant in writing on:-

- (i) defect or deficiency in electricity service provided by the licensee;*
- (ii) unfair or restrictive trade practices of licensee in providing electricity services;*
- (iii) Charging of a price in excess of the price fixed by the Commission for consumption of electricity and allied services;*
- (iv) Electricity services which will be unsafe or hazardous to public life in contravention of the provisions of any law for the time being in force..”*

7.4 On the hearing date the Appellant argued that his complaint comes under unfair or restrictive trade practices of licensee in providing electricity services.

7.5 The issue raised by the Appellant is not related to his service but relating to a proposal for procurement of land for establishment of 110/33/11 KV substation at Pandanallur.

7.6 As the complaint is not relating to the services of the licensee in providing supply to the consumers, but on a proposal for procurement of land for establishment to SS, I am of the view that it does not fall under any category of

complaint defined in regulation 2(f) of the Regulations for CGRF & Electricity Ombudsman.

7.7 Further, establishment of 110 KV SS will come under the purview of the Transmission Licensee (TANTRANSCO) (ie) Tamil Nadu Transmission Corporation Ltd., The CGRF & Electricity Ombudsman could redress the grievance between the consumer and the Distribution Licensee only[(ie) TANGEDCO]. Therefore, the issue raised by the Appellant does not fall under the jurisdiction of CGRF and Electricity Ombudsman.

7.8 In view of the reasons furnished in para 7.6 & 7.7, I am of the considered view that Electricity Ombudsman does not have jurisdiction to entertain the above complaint and issue orders. Accordingly, the above petition is dismissed.

8. Conclusion :

8.1 In view of the findings in para 7 above, the Appeal petition 17 of 2017 is dismissed. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) Thiru. R. Venkataraman,
RVR House, 1, 2 & 3 Thirumalai Street,
Jai Balaji Nagar, K.K. Nagar,
Chennai – 78.

2) The Superintending Executive Engineer,
Thanjavur Electricity Distribution Circle,
TANGEDCO,
No.1, Vallam Road,
Thanjavur – 613 007.

3) The Executive Engineer/O&M,
North/Kumbakonam,
Thanjavur Electricity Distribution Circle,
TANGEDCO,
Thiruidaimarudhur Salai, Rajan Thottam,
Kumbakonam.

4) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Thanjavur Electricity Distribution Circle,
TANGEDCO,
No.1, Vallam Road,
Thanjavur – 613 007.

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

6) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.

7) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
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