



TAMIL NADU ELECTRICITY OMBUDSMAN

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Egmore, Chennai – 600 008.

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.90 of 2016

Thiru. K. Rajkumar,
Flat No.B4, Amaravathi Apartments,
No.21, 3rd Main Road,
Banu Nagar,
Pudur, Ambattur, Chennai – 600 053.

..... Appellant
(Party in Person)

Vs

1) The Executive Engineer/O&M/Ambattur,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
3rd Main Road,
Ambattur Industrial Estate,
Ambattur, Chennai – 58.

2) The Assistant Executive Engineer/O&M,
Oragadam,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
No.195, Red Hills Main Road,
Chennai – 600 053.

3) The Assistant Engineer/O&M,
Banunagar,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
No.195, Red Hills Main Road,
Chennai – 600 053.

..... Respondents
(Rep by Thiru. K. Rajasekaran, AEE/Oragadam &
Tmt. K. Nalini, AE/Banunagar)

Date of hearing : 7.2.2017

Date of order : 26-5-2017

The petition dated 28.10.2016 filed by Thiru K. Rajkumar, Ambattur, Chennai was registered as Appeal petition No. 90 of 2016. The above appeal petition came up for hearing before the Electricity Ombudsman on 7-2-2017. 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 Appellant prayed to clarify the following :

- (i) Flat B6 & B7 has been combined and a service connection No.434-005-2450 was effected in B6 flat for which no tax was paid.
- (ii) In Flat A1 to A5 tariff of the service connection was changed to commercial tariff which is contravention to High Court order.
- (iii) The conditional undertaking details were not informed to the concerned service holder when transferring the name.

2. Brief History of the case:

2.1 The Appellant filed a petition before the CGRF about effecting a single service for flat B6 & B7 and other issues.

2.2 The CGRF has issued its order on 27.9.2016. Aggrieved over the above order, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Orders of the CGRF :

3.1 The CGRF has issued its order on 27.9.2016. The relevant para of the order is extracted below :

“4.Findings of the Forum:

The Petitioner has represented that service connections were effected to Amaravathi Residential Apartment which is a unsafe building. He has stated that in the Amaravathi Apartment TANGEDCO had provided only one service connection for two flats B6&B7. The Respondent has stated that Flat No.B6 & B7 were purchased by one owner and utilised as one dwelling unit, hence only one service connection was effected.

As per regulation 27(14) of TNE Distribution Code, more than one service connection will be given only if there is permanent physical segregation of area for which different service connections are applied for.

In Amaravathi Apartments, it is noted that Flat No.B6 & B7 were purchased by single owner and utilised as one dwelling unit with no physical segregation. At this juncture, only single service connection is feasible.

The Petitioner has stated that conditional undertaking were not mentioned to the applicant at the time of effecting name transfer on 21.9.13. Tariff change on 30.11.13.

The Respondent has stated that the domestic service connections were effected to Amaravathi Apartments after obtaining the conditional undertaking from the applicant Thiru. Kasthuriraj with two witnesses. Subsequent name transfer and tariff change were done as per TNE Distribution Code.

The Petitioner has stated that the applicant Thiru. C. Kasthuriraj had applied for one common service connection and one common meter only in his application to TANGEDCO. In the Conditional undertaking dt. 27.4.13 submitted to the section office TANGEDCO only single applicant Thiru. C. Kasthuriraj declared in it, with inclusion of common meters two nos.

It is noted that 2 nos common service connection were effected to Amaravathi Apartments 1 no. LT service connection number 434—005-2439 stands in the name of Thiru. Kasthurairaj and another service connection number 434-005-2449 stands in the name of K. Beena.

As per rule in vogue, only one service connection shall be given for the premises for all common purpose in respect of multi tenement or residential complex. At this juncture, it is not feasible to have more than one common service connection in Amaravathi Apartments.

5. Order :

In view of the above, the respondent is directed to disconnect/dismantle the one of the existing common service connections available in Amaravathi Apartments within 30 days from the date of receipt of this order and report compliance to the forum within 5 days of the implementation of the order.”

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

4.1 TNEB consumer guidance procedure for domestic connection, reads : As per division bench order dt.23.8.2006, for all special buildings in Chennai metro politan area, planning permit from competent authority has to be submitted along with application. Produce proper documents/records, relating to the approval, permit obtained from appropriate authority, for which electricity supply is required.

4.2 According to the Competent Authority CMDA approved & sanctioned PP No.B / SPLBLDG/82A & B /2010 all the 40 flats in residential Amaravathi Apts, SPLBLDG are single Entity (RTI reply by CMDA) Builder C. Kasturi Raj Application Registered on dt.17.8.2012 by TANGEDCO service connections for 40 dwelling units + 1 no common service connection.

4.3 Flat No.B6 & B7 in Amaravathi Apts, constructed & combined as One not approved as combined by CMDA / area statement / typical floor plan. Flat B6 holding electricity service connections no.434 – 005-2450 No property tax registered nor levied & collected by Revenue Department/ward 80/zone7/Ambattur /Ch 53 from effect year 2012, 2013. For the no, one's property flat B6 TANGEDCO provided electricity service connections from dt.4.5.2013. TANGEDCO registered & provided EB card. TANGEDCO provided EB meter. TANGEDCO had collected security deposit, meter

deposit, CC charges. For flat B7- property tax registered – property ID No.07010-02626 tax levied and collected by revenue department – effect year 2012-2013.

4.4 Conditional undertaking office of the Superintending Engineer/ CEDC/ West/ Thirumangalam/.Ch 40 in Memo No.SE/CEDC/West/ Dev/ AEE/ AEII/ F.CC.Th/ Kasturiraj/D.601/13, dt.19.4.2013 said Conditional undertaking may be obtained from each applicant before effecting service connection to the building.

4.5 Flat A1 to A5 in residential amaravathi Apts holding commercial tariff from residential. Did the Honble High Court Madras order in W.P.No.26562 of 2012 dt.11.12.12 directive to TANGEDCO said Consider and provide commercial service connection to the petitioners residential apts . Conditional undertaking details were not mentioned to the petitioner/applicant C. Kasturiraj by Tangedco, at the time of effecting Tariff Change Dt.31.11.2013 referred by the SE/CEDC/West Chennai 40 in LR dt.17.6.2016. (RTI reply to me) C. Kasturiraj applied & obtained commercial service connection from Tangedco contravention of the High Court Order issued to him. Did C. Kasturiraj apply and obtain 415 V Commercial connection for flats A1 to A5 holding commercial tariff Effect dt.30.11.2013.

4.6 No electrical room as per CMDA approval & sanctioned area statement stilt cum stilt floor plan electrical amenities/.usage/be provided from the electrical room, Amaravathi Aparts (Chennai Corpoartion/Zone7/Ambattur / Executive Engineer PIO furnished RTI reply enclosed.

4.7 Electricity codes exist to protect the safety of the inhabitants of apts. Tangedco failed to correct the measures to ensure the safety of residents in Amaravathi Apts.

4.8 It is evident C. Kasturiraj Appellant had played fraud before and after the High Court order in W.P.No.20562 of 2012 dt.11.12.2012 to prevail illegal unauthorised

electricity service connections in residential Amaravathi Apartments, for his own gain/benefits.

5. Arguments furnished by the Respondents :

5.1 The builder Thiru. Kasthuriraj applied for 41 nos of domestic service connections along with planning permit No.B3/13939/2009 dt.8.3.10 granted by CMDA to Amaravathi Apartments constructed at No.5,6 & 7, Palaniappa Nagar, Banu Nagar, Chennai 53. The applications were registered on 17.8.12. Necessary estimate got sanctioned and work completed. But service connections were not provided for want of completion certificate from CMDA. The same was intimated to the Builder.

5.2 The builder filed a writ petition in the Hon'ble High Court of Madras, against Tangedco in W.P.No.26562 of 2012. Hon'ble High Court of Madras issued order dt.11.12.12 directing the tangedco to consider and provide electricity service connection to the petitioner's residential apartments at PI No.5,6 & 7 at 3rd Main Road, Palaniappa Naar, Ambattur, Chennai without insisting upon the completion certificate from CMDA. Based on the Court direction, service connections were effected on 4/05/2013 in the Amaravathi Apartments after obtaining conditional undertaking from the builder Thiru. C. Kasturiraj.

5.3 In Amaravathy Apartments out of 40 dwelling units, Flat No. B6, & B7 were purchased by one single owner and utilised the same as one single dwelling unit. Hence, only one service connection was given, as there is no physical segregation between Flat No. B6 & B7 as per TNERC Regulation 27(14).

5.4 I deny the contention of the Appellant that conditional undertaking details were not mentioned to the petitioner/applicant Thiru. Kasturiraj,. The Conditional undertaking signed by Thiru. Kasthuriraj and on behalf of all other flat owners (before taking possession of the flat by independent owner) was obtained by TANGEDCO before effecting Electricity service connections to Amaravathy Apartments. The same was mentioned to the applicant Thiru. C. Kasturiraj at the time of Tariff change. Hence, the name transfer and tariff change were done as per the TNE Distribution Code.

5.5 I deny the contention of the Appellant that there is no unsafe, illegal and unauthorised Electricity Service Connections in Amaravathy Apartments. In the consumer premises EB meter boards were installed as per the rules in the stilt floor with grilled gate.

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 7-2-2017.

6.2 Thiru K. Rajkumar, the Appellant herein attended the hearing and putforth his side arguments.

6.3 Thiru K. Rajasekaran, Assistant Executive Engineer / O & M / Oragadam the Respondent II herein and Tmt. K. Nalini, AE/Banunagar, the Respondent 3 herein have attended the hearing and putforth their arguments.

7. Arguments putforth by the Appellant on the hearing date :

7.1 The Appellant reiterated the contents of his appeal petition.

7.2 The Appellant argued that for B6 & B7 flats only one service was given. The combining of the Flats B6 & B7 as one dwelling units is not as per the plan approved by CMDA no property tax was levied and collected for B6 flat. Tax has been collected for B7 flat only. But the service was effected in B6 and the service connection no. is 434-005-2450.

7.3 He argued that the service connection was effected after obtaining undertaking from Thiru. C. Kasthuriraj. But, the above fact was not informed to the service owner while name transferring the above service.

7.4 The Appellant argued that the tariff of service connections effected in Flat A1 to A5 have been changed under commercial category. The Hon'ble Court has given direction to effect only residential service connection in the said apartments. Therefore, he argued that the conversion of tariff from residential to commercial is against the direction of the Hon'ble High Court .

7.5 The Appellant also argued that the CGRF has directed the Respondent to remove one of two common services effected in the Apartments. But, the Respondent have not disconnected one common service.

7.6 The Appellant argued that as per the sanctioned plan, there shall be an electrical room. But, there is no such electrical room.

8. Arguments putforth by the Respondents on the hearing date :

8.1 The Respondent reiterated the contents of the counter.

8.2 The AEE/Oragadam argued that as B6 & B7 was combined and used by a single owner as single dwelling unit only. There is no physical segregation between B6 & B7. Therefore, only one service connection was effected which conforms to Regulation 27(14) of the Distribution Code.

8.3 The AEE informed that the conditional undertaking was effected by Thiru. C. Kasthuriraj while effecting service connection for all the flats pending receipt of completion certificate as per the order of Hon'ble High Court in W.P.No.26562 of 2012. An undertaking was obtained from Thiru. C. Kasthuriraj to abide by the decision of the Hon'ble Division Bench of the High Court as appeal against the order of W.P.No.26562 of 2012 was pending. He also informed that CMDA has issued completion certificate for the said apartments on 14.10.2016. Therefore, he informed that there is no issue regarding the completion certificate. He also argued that the fact of furnishing the undertaking to obey the direction of Court was known to all consumer of that apartment.

8.4 The AE argued as the usage in Flat No. A1 to A5 are for commercial purpose, the tariff was changed to tariff V as per the tariff categorisation issued by Hon'ble TNERC. Hence, argued that the licensee has acted as per tariff order only in changing the tariff.

8.5 The AEE informed that the EB meter were erected in stilt floor with grided gate as per rules in force and argued that all safety precautions have been taken as far as EB connection are concerned.

9. Findings of the Electricity Ombudsman :

9.1 On a careful examination of the prayer and arguments of the both sides, the issues raised within 1 & 2 by the Appellant are not on his own service but on the services issued in B6, A1 to A5 and about the common service.

9.2 In this regard, I would like to refer the definition of complainant and consumer in the Regulation for CGRF and Electricity Ombudsman which are extracted below :

"2(e) "complainant" means :

- (i) a consumer of electricity supplied by the Licensee including applicants for new connections;*
- (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;*
- (iii) the Central Government or any State Government - who or which makes the complaint;*
- (iv) one or more consumers, where there are numerous consumers having the same interest;*
- (v) in case of death of a consumer, his legal heirs or representatives.*

(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.*

(g) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person as the case may be."

9.3 On a careful reading of the said definition , it is noted that the grievance related to the Electricity service provided for the consumer for his own service alone could be redressed by CGRF & Electricity Ombudsman.

9.4 In this regard, the Secretary/ TNERC in his U.O. dt.7.10.2016 has clarified as below :

"1.From the definition of consumer, complainant and complaint in CGRF Regulation and its Annexure in the complaint format, it is implied that the grievance relating to supply of electricity for his own use shall only be redressed. . . .

9.5 In view of the above as the issues 1 & 2 raised by the Appellant is not related to his service but in respect of other services, the Electricity Ombudsman could not issue any order on the said issues.

9.6 In respect of the issue 3(viz) not informing the conditional undertaking executed by the promoter/service holder to the successors, the Respondent informed that they have obtained the conditional undertaking from Thiru. Kasthuriraj for himself and on behalf of other flat owner before taking possession by all the flat owner. The Respondent also argued that the name transfer of service connection were done as per the regulations inforce. Further, the Respondent also informed that the completion certificate has been issued by the CMDA on 14.10.2016.

9.7 It is noted that the undertaking was obtained from the service owner/promoter to abide by the decision of the Hon'ble Division Bench of the High Court Madras in the writ appeal or further appeals preferred by the Board against W.P.No.26562 of 2012.

9.8 The Appellant argued that the conditional undertaking details were not infirmed to them while name transferring the service.

9.9 The Respondent informed that the CMDA has issued completion certificate vide CC No.EE/North/250/2016 dt.14.10.2016. The Respondent also informed that as the completion certificate was received the undertaking has no effect.

9.8 As the CMDA has issued the Completion Certificate, I am of the view that the cause for which undertaking was obtained by the licensee is not existing now and the undertaking may not have any effect after issue of completion certificate by CMDA vide CC No. EE/North-II) 250/2016 dt.14.10.2016 Hence, at this distant point of time issuing order on the non existence issue will be infructutous only. However, I am of the opinion that the licensee would have informed about the

undertaking to the subsequent owners, while transferring the name as the name transfers were done before issue of completion certificate.

9.10 It is noted that the common SC No.434-005-2449, issued in the name of K. Beena was disconnected on 10.2.2017.

10. Conclusion :

10.1 In view of any findings in para 9.5, as the issue raised in prayer 1 & 2 of the Appellant is not related to his service but services owned by others, I am not issuing any order on the said issues.

10.2 In respect of conditional undertaking as the CMDA has issued completion certificate for the said building, the undertaking furnished in the absence of the completion certificate may not have any effect. Hence, I am not issuing any order on the above. However, it is observed that the licensee should have informed about the conditional undertaking furnished while effecting name transfer to the transferee.

10.3 With the above findings, the A.P.No.90 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) Thiru. K. Rajkumar,
Flat No.B4, Amaravathi Apartments,
No.21, 3rd Main Road,
Banu Nagar,
Pudur, Ambattur,
Chennai – 600 053.

2) The Executive Engineer/O&M/Ambattur,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
3rd Main Road,
Ambattur Industrial Estate,
Ambattur, Chennai – 58.

3) The Assistant Executive Engineer/O&M,
Oragadam,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
No.195, Red Hills Main Road,
Chennai – 600 053.

4) The Assistant Engineer/O&M,
Banunagar,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
No.195, Red Hills Main Road,
Chennai – 600 053.

5) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
33/11 KV Thirumangalam SS Complex,
Anna Nagar, Chennai – 40.

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

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

8) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.