

Before the Ombudsman

KPFC BHAVAN, C.V.Raman Pillai Road , Vellayambalam,

Thiruvananthapuram-695 010.

Order Dated 10th January 2007.

Present: M.Sivathanu Pillai, Ombudsman-in Charge.

Appeal petition No 4 of 2006.

CGRF order No.CGRF-CR/COMP.69/2006-07/219 DATED 27-10-06.

Buena Vista International Pvt Ltd,
Binanipuram, Edayar, Kochi 683 502.

Appellant

Vs

Deputy Chief Engineer,
Electrical Circle, KSEB
Perumbavoor 683 452.

Respondent

Date of hearing: 10th January 2007.

Petitioner is having an SSI unit at the Industrial Department Area, Edayar, Ernakulam District. Petitioner was manufacturing curry powder since 1995 and has availed a HT connection from Kerala State Electricity Board (herein after called 'Board'). Petitioner has stated that the factory came to a stand still in March 2005. Petitioner was paying demand charge of Rs. 28350/- every month although there was no power consumption. Petitioner has stated that a request was given to Assistant Engineer, Muppathadom, on 20.9.05 to convert HT connection to LT connection, but no action was taken by Board and was continued to be billed for demand charges. Petitioner has stated that he was told to submit an application in prescribed format, which was submitted on 14.11.05. The petitioner has stated that the Perumbavoor office of Board has intimated him on 23.3.06 to submit a fresh application. An inspection was made by the Assistant Engineer on 23.02.06 and certified that the connected load is reduced to 16.2 KVA only. Supply to the unit was disconnected on 23.05.06 on the ground that demand charges were not paid. Petitioner has stated that even though all the formalities had been completed Deputy Chief Engineer, Perumbavoor had requested vide letter dated 23-03-06 to submit the details again.

Petitioner has sought for orders to convert the HT connection with effect from September 2005 and waive demand charges for the remaining period and disburse the security amount after adjusting the

demand charges up to September 2005 and for restoration of disconnected supply.

CGRF has stated that the petitioner has submitted an application for conversion from HT to LT on 20.9.05. Petitioner was intimated on 14.11.05 to submit an application in the prescribed format. Again the petitioner was intimated to submit a fresh application on 23.03.06. Deputy Chief Engineer, Electrical Circle, Perumbavoor intimated the petitioner to clear the arrears vide letter dated 06.07.06.

The petition was heard on 20th December 2006. Petitioner while presenting the case did not make any reference to the agreement executed with Board. Representative of Board also could not give details of consumption during the period of non-payment by the petitioner. Both wanted more time to study the concerned documents. Next sitting was posted for 10th January 2007.

Petitioner stated during the sitting on 10th January 2007 that their letter dated 20th September 2005 should be treated as the formal notice for termination of HT agreement. Petitioner further argued that they had submitted the undertaking in stamp paper on the basis of information collected from Board offices and hence the reference to the B.O dated 02.07.2001 was also based on the information collected from Board offices. Petitioner further stated that they had also stopped payment of Demand Charges from November 2005. However they continued to draw power on the assumption that they are not liable to pay demand charges. Petitioner stated that they had reduced their connected load to 16.2 KVA in February 2006 on their own and it was not on the basis of any intimation from Board. Petitioner stated that that they should have been given LT connection within one-month from date of application as per clause 43.1 of Electricity Act 2003. Also petitioner pointed out that as per clause 5.5 of the Supply Code 2005, any defect in the application should have been pointed out by Board within seven days from the date of application.

Respondent stated that petitioner was paying energy charges up to March 2006 only. When payment was stopped supply was disconnected. Petitioner replied that payment for April 2006 also made and submitted a copy of the letter to Special Officer (Revenue) of Board intimating transfer of Rs 3273/-.

Respondent stated that in order to terminate the HT agreement consumer has to give an application and remit fee. Petitioner stated that as

per the agreement clause only registered notice is required. They have an acknowledged copy of their request made in September 2005. Further petitioner submitted a copy of letter No.HTB 7/752/2410 dated 07-01-2006 from Special Officer (Revenue) of Board to Deputy Chief Engineer,Electrical Circle, Perumbavoor in which it is stated that consumer has vide application dated 20th September 2005 requested for dismantling of HT connection. In this letter it is also requested that the date of dismantling may be intimated.

From the above it is clear that petitioner's request dated 20th September 2005 can be taken as the formal notice for termination of HT agreement. Board can collect demand charges on the basis of HT agreement only for a period of three months from 20th September 2005. Thereafter the HT agreement ceases. The reason given by respondent for not effecting disconnection when petitioner failed to remit demand charges is not convincing. Also respondent could not explain the logic in raising demand charges after disconnection.

Regarding the request for giving connection at LT. it has to be noted that the connected load of the consumer has been reduced to 16.2 KVA in February 2006 only. Assistant Engineer of Electrical Section Muppathadom has inspected the premises on 23rd February 2006 and has intimated Assistant Executive Engineer Aluva that the connected load is only 16.2 KVA. Petitioner is eligible for LT connection from that date. For availing connection at LT a separate agreement has to be executed. Before that petitioner has to clear all the arrears accrued for connection at HT.

Petitioner has stopped payment of demand charges from November 2005. If the supply were disconnected, then the arrears would have been reduced to one months demand charges only. Anyhow as per agreement petitioner is bound to pay demand charges for October, November and December 2005. Thereafter no demand chares as per the HT agreement is due from the petitioner. For January and February 2006, the consumer is not eligible for LT connection because the connected load was above 100 KVA. The only way out is to collect demand charges as per actual demand and not contract demand. From March 2006 petitioner need pay at LT tariff only. Delay on the part of Board to intimate the petitioner to complete the formalities cannot be accepted because as per the provisions of clause 5.5 of Supply Code Board should have pointed out the defects in September 2005 itself. In fact clause 43.3 of the Act imposes penalty for delay in giving connection. In this case this is not evoked because supply was maintained till May 2006.

Petitioner should be treated as LT consumer from March 2006. Charges due from the petitioner till December 2005 should be worked out on the basis HT agreement. For January 2006 and February 2006 petitioner has to pay demand charges on the basis of actual demand and not on the basis of contract demand but at HT Industrial rates. Reconnection should be given immediately when petitioner clears the arrears as ordered above and submits necessary papers. Arrears should be worked out and intimated to petitioner within fourteen days from date of this order. All details should be given to the petitioner within a week after payment of arrears by petitioner. For the period of disconnection no charges are due from petitioner. Petition is disposed off.

**Sd/-
OMBUDSMAN**

P4/2006/.....Dated

Forwarded to

Buena Vista International Pvt Ltd,
Binanipuram, Edayar, Kochi 683 502.

Chief Engineer(Electrical)
Distribution (Central), KSEB,
Vytila,Kochi.

Deputy Chief Engineer,
Electrical Circle,KSEB
Perumbavoor 683 452.

Secretary-in-Charge.