

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

Petition No. OP 69/2021

Present : Adv. A. J. Wilson, Member

In the matter of :Petition filed under Section 142 of Electricity Act, 2003 - Complaint in the matter of contravention of provisions of Electricity Act, 2003, Supply Code, 2014 and Orders of the Commission – Delay/denial of service connections and making of illegal demands.

Petitioners : (1) Sri Sunil Kumar. V,
Managing Director,
M /s Asset Homes Private Limited
Asset Centrale, Kundanoor Junction
Maradu P.O, Ernakulam
Kochi – 682304

(2) Smt. Anitha Beena, D/o Yahia,
Asset Corrodor, Old NH Bye Pass
Edepally North, Ernakulam, 682024

Respondents : (1)Smt. Sunitha Jose,
Engineer, Electrical Division,
Vydhuthi Bhavanam, Power House Road,
Ernakulam 682018

(2)Sri. Neelakanda. S,
Executive Engineer, Transmission Division,
Old Jankar Jetty Road, High Court Jn.,
Ernakulam – 682031.

(3)Smt. Puspha.T., Deputy Chief Engineer
Transmission Circle,
KSEB Ltd., Kalamasserry,
HMT Colony P.O., Ernakulam – 683503

(4) The Chairman and Managing Director,
Kerala State Electricity Board Limited,
Vydhuthi Bhavanam, Pattom,
Thiruvanathapuram 695 004.

Date of Hearing : 07.02.2022
Time : 03:00 PM
Mode of Hearing : E-hearing through Video Conferencing

Order dated: 01.12.2023

1. M/s Asset Homes Private Limited is a Private Ltd Company engaged in the business of development of residential and other buildings. The 1st petitioner Sri. Sunil Kumar. V, the Managing Director, of M/s Asset Homes Private Limited, and the 2nd petitioner Smt. Anita Beena, the land owner of a property on which the 1st petitioner has constructed a residential cum-commercial building in the name and style 'Asset Corridor' have filed the petition seeking action under Section 142 of the Electricity Act, 2003 against contravention of provisions of the Electricity Act, 2003, Supply Code, 2014, and Orders of the Commission and to suitably punish the respondents for the injury and loss suffered by the petitioners on account of delay/denial in providing of service connections and for making of illegal demands in this connection.
2. The chronology of events narrated by the petitioners in the petition are summarised below:
 - a) For construction purposes, the petitioners had obtained a Service Connection to the property in the name of Smt. Anitha Beena, the landowner of the property. As the construction neared completion, the 1st petitioner vide letter dated 15.10.2018 had informed the Assistant Engineer of the Electrical Section in Edapally, Kochi about the nature of the building under construction and the anticipated future power requirements for the entire building (combined Commercial and Domestic Tariff) totalling to 833.25 kW. The 1st petitioner also requested the Assistant Engineer to examine the feasibility of providing service connections to the building.
 - b) For the above purpose, KSEB Ltd insisted on an advance payment of Rs 20,000/- along with GST. The petitioner paid the said amount as KSEB Ltd refused to accept the power requirement application without payment. On receipt of the application for power requirement, the Assistant Engineer called for some additional details to prepare the estimate. On submission of the necessary details, the Assistant Engineer forwarded the application to the Executive Engineer, Electrical Division, Ernakulam vide letter dtd 10-01-2019 wherein it was mentioned that the connection could be provided from the existing Ponnekkara 11 kV Feeder of the Edapally 110 kV Substation. The Assistant Engineer then communicated with the Station Engineer, 110 kV Substation, Edappally informing about the power requirement of M/s Asset Homes Private Limited, specifying the VRC of the Feeder (2.695%), and requesting the feasibility of supplying the required power from the Edapally 110 KV Sub-Station. The Assistant Engineer also inquired about any associated expenditure that might be required for the transmission part of the work to provide service connections for the total load as previously intimated.
 - c) The Assistant Engineer prepared an estimate of Rs. 29,14,778/- for power allocation of 630 kVA for M/s Asset Homes and forwarded it to the Executive Engineer, Electrical Division, Ernakulam along with the

Estimate Report, VRC, and other related documents vide letter dated 10-01-2019 wherein it was also specified that the petitioner has been instructed to remit an amount of Rs. 59,175/-, towards supervision charges and GST. Subsequently, KSEB Ltd informed the 1st petitioner vide letter dated 15-03-2019 that the power requirement could be met and the revised estimated cost for distribution work will be Rs. 31,89,679/- and the Supervision Charge will be Rs. 73,928/-. Therefore, the petitioner was directed to remit an amount of Rs.50,328/- after deducting the advance amount of Rs.23,600/- already paid towards supervision charges and was also required to remit an amount of Rs.6,80,367/- as 'the expenditure from the transmission wing' to avail power.

- d) On receipt of the letter dated 15.03.2019 from the Executive Engineer, Electrical Division, Ernakulam, the 1st Petitioner vide letter dated 08-04-2019 informed KSEB Ltd of their willingness to procure and install the 630 KVA transformer and one 250 kVA DG set and the connected installations at the premises and requested to provide a detailed estimate cost-itemswise, for scrutiny of the rates in the estimate.
- e) However, the 1st petitioner had protested against the demand for Rs.6,80,637/- for alleged work on the Transmission Side and had demanded: *"details of the work on the Transmission Side, as well as an estimate, worked out on the basis of the current and applicable Cost Data for Transmission Work"*. The 1st Petitioner had also objected to the entire procedure being followed by KSEB Ltd with regard to "Power Allocation". Subsequently the Executive Engineer, Electrical Division, Ernakulam as per letter dated 06.05.2019 requested the Executive Engineer, Transmission Division, Ernakulam, KSEB Ltd to provide a "detailed estimate for the amount of Rs. 6,80,367/-".
- f) Thereafter, the Assistant Executive Engineer, Electrical Sub Division, Palarivattom vide letter dated 11.07.2019 provided a revised estimate of Rs.36,25,844/- for work on the Distribution side. Subsequently, due to the reason that PWD had denied road-cutting permission, the Executive Engineer, Electrical Division, Ernakulam, KSEB Ltd vide letter dated 02.12.2019 demanded the revised estimated amount for work on the Distribution Side as Rs.36,57,138/- and Supervisory Charge and some materials as Rs.2,96,238/-. The 1st petitioner paid the supervision charge of Rs. 2,96,238/- on 06-02-2019.
- g) Subsequently, the 1st petitioner informed the KSEB Ltd that the rates applied and the supervision charges levied are not in accordance with the Schedule of Rates for Distribution work as approved by the Commission for the year 2019-20 and are not in compliance with the provisions of Kerala Electricity Supply Code 2014. Afterwards, the 1st petitioner received a letter dated 28.02.2020 from the Executive Engineer, Electrical Division Ernakulam seeking an amount of Rs.55126/- being the

differential cost towards 'A Type Poles'. The 1st petitioner paid and satisfied the above amount on 12-03-2020.

- h) After completing the installations and testing etc., M/s Asset Homes Private Limited obtained energization approval from the Deputy Chief Electrical Inspector on 31.08.2021. Following the Energization Approval and the completion of all other formalities, the following online Applications for Service connection was submitted by them on 10.09.2021
 - a. Application No. 2155442100571- for the supply to the common areas of the residential portion of the above building (Connected Load 20.52 kW)
 - b. Application No 2109021558973- for supply to the common areas of the commercial portion of the above building (Connected Load 24 52 kW)
 - i) Subsequently, the 1st petitioner was informed from the Office of the Executive Engineer, Electrical Division, Ernakulam, KSEB Ltd that the applications for Service connections would not be processed unless the demand made by the Transmission Wing for Rs 6,80,367/- is not paid.
 - j) Thereafter, the 1st petitioner informed the 1st respondent vide letter dated 10-09-2021 that no detailed estimate concerning the work required to be done at the Edapally 110 kV Transmission Sub-Station, specifically for providing service connection to the Petitioners was received and that the demand of any lump sum amount on a pro-rata basis or a kVA basis was held to be illegal by the Commission through its order dated 22.01.2015 in OP 22 of 2011.
 - k) Subsequently, the Executive Engineer, Electrical Division, Ernakulam vide letter dated 11.10.2021 intimated the 1st petitioner that the demand of Rs.6,80,368/- made by the Transmission Wing was revised to Rs 13,23,000/-. According, to the Executive Engineer, the estimate of Rs.6,80,368/- has been computed at the rate of Rs 1079.95/- per KVA, whereas the revised estimate of Rs. 13,23,000/- has been calculated at the rate of Rs. 2100/- per KVA. It was also intimated that the upward revision of the estimate was made to meet the increased load requirement for the existing 12.5 MVA, 110/ 11KV Transformer with 20 MVA.
 - l) In view of the above, the petitioners have submitted that the Respondents are acting contrary to the statutory provisions and the orders of this Commission and harassing consumers by devising practices and demands contrary to the statutory provisions and binding orders of the Commission.
3. The petitioners have specifically mentioned the following illegalities committed by KSEB Ltd in the petition.
- a. Insisting on the repealed concept of Power Allocation

- b. Demand of amounts from the petitioners to the common development of transmission infrastructure.
 - c. Denial/delaying service connections on the ground that Transmission Development Charges have not been paid.
4. According to the petitioners, KSEB Ltd is illegally denying/delaying service connection to the Petitioners. Connections are to be provided, if the requirements under **Regulation 78** of Supply Code, 2014 are satisfied within the time frame as stipulated by the Regulations. The petitioners also stated that the illegal action of KSEB Ltd is delaying the handing over of the project to the respective owners and also exposing the 1st petitioner to penal provisions.
5. Hence, the petitioners prayed that the Commission may initiate action against the respondents under the provisions of Section 142 of the Electricity Act 2003, and to suitably punish the respondents and also order compensation to the petitioners on account of the denial/delay in providing Service Connection. The petitioners have also sought interim relief in the matter praying before the Commission to stay the demand of Rs.13,23,000/- made by KSEB Ltd to provide the service connections to the building for supply to the common areas of the residential/commercial portion and pass such other interim orders/directions as the Commission may deem fit and proper to pass on the facts and in the circumstances of the case.
6. The respondents submitted their detailed comments and counters on the petition submitted by the petitioners. According to the respondents, the allegations raised by the petitioners have no basis and may be rejected.
7. The Commission has conducted e-hearing on the petition on 07.02.2023. Vide daily Order dated 09.02.2022, the Commission scheduled the 2nd hearing on 08.03.2022 but it was postponed subsequently.
8. It is seen that M/s Asset Homes Pvt Ltd had filed a writ petition on the matter WP(C) 25468/2021 wherein the Commission was arrayed as the 4th respondent. In this case, the Hon'ble High Court issued the following orders vide the interim order dated 27.01.2022:

"Without prejudice to the contentions of the petitioner in the writ petition, there will be a direction directing the petitioner to remit the amount covered by Rs.13,23,000/-, within a period of one week and also ordered that on remittance of the said amount KSEB Ltd shall provide service connections to the petitioner as early as possible. If the writ petition is allowed, the petitioner will be entitled to a refund of the amount so remitted."
9. It is understood that in furtherance to the above orders of the Hon'ble High Court, M/s Asset Homes Pvt Ltd has remitted the above said amount on 31.01.2022 and the KSEB Ltd. has provided HT service connection to the consumer.
10. It is seen that the matter of pendency of the petition in OP No. 69/21 before this Commission was brought to the attention of the Hon'ble High Court by

the petitioner in WP(C)No.25468/21 contending that they had been constrained to approach the 4th respondent KSERC by filing a petition under Section 142 of the Electricity Act, 2003 for taking action against the erring officials and that the said complaint will be considered in its due course only sometime in January 2022. However, the Hon'ble Court has not issued any direction in the interim Order dated 27.01.2022 against the Commission for taking any action on the Complaint filed or for disposal of the same.

11. As far as the Commission is concerned, the matter in OP No.69/2021 is subjudice now as the same matter is pending consideration of the Hon'ble High Court in WP(C)No. 25468/21. Hence, the Commission is legally restrained from taking any decision on the said petition right now. The Commission can proceed with the action requested by the petitioners under Section 142 of the Electricity Act, 2003, only if, the alleged contraventions of the provisions of the Electricity Act, 2003, etc. are proved or decided against the officials of KSEB Ltd. So, the matter in this regard can be decided and proceeded with only after the disposal of the WP(C)No. 25468/21 by the Hon'ble High Court.
12. In the circumstances, the Commission is of the considered view that there is no meaning in keeping this petition pending till the disposal of WP(C) No.25468/21 by the Hon'ble High Court. Hence the Commission has decided to dispose of the petition by granting liberty to the petitioners to approach the Commission again, if required, after the disposal of WP (C) No. 25468/21 by the Hon'ble High Court.

Orders of the Commission

13. The Commission considered the matter in detail and observes that as the petitioners have been provided with the electric connection by the KSEB Ltd, upon remittance of Rs. 13,23,000/-, in pursuance of the Interim Order dated 27.01.2022 of the Hon. High Court of Kerala in WP(C) No.25468/2021, the Commission can proceed with the action requested by the petitioners under Section 142 of the Electricity Act, 2003, only if, the alleged contraventions of the provisions of the Electricity Act, 2003, etc. are proved or decided against the officials of KSEB Ltd. after the disposal of WP(C) No. 25468/2021 by the Hon'ble High Court. As such, the Commission hereby Orders to dispose of the OP No.69/2021 filed by the petitioners by granting liberty to them to approach this Commission again, if required, subject to the disposal of the above-said writ petition by the Hon'ble High Court.

Adv. A. J. Wilson
Member

Approved for issue

Sd/-
CR Satheeshchandran
Secretary

