

V.T. Mathew Vs. Assistant Engineer, K.S.E.B. Section, Kozhencherry and Others

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Feb-25-2014

Judge : The Honourable Mr. K. Chandradas Nadar, Judicial Member & the Honourable Mr. V.V. Jose, Member

Appeal No. : First Appeal No. 559 of 2012 (Arisen out of Order Dated 15/05/2012 in Case No. CC/11/171 of District Pathanamthitta)

Appellant : V.T. Mathew

Respondent : Assistant Engineer, K.S.E.B. Section, Kozhencherry and Others

Judgement :

V.V. Jose :Member

The complainant in CC 171/2011 in the file of CDRF, Pathanamthitta is the appellant here. The appeal is against the dismissal of his complaint in the Lower forum. Complainant was a regular consumer of the opposite party for last six years as Consumer No.447. The connection was changed to the nearby building owned by the complainant by the officials of the opposite party; as the complainant got a three phase connection in his newly built home. The tariff of the said connection was changed to commercial for last six years and regular in payment also. While

so the Pathanamthitta Divisional squad inspected the premise on 31/05/2011 and issued a penal bill of Rs.73,000/- alleging the connection as unauthorised and they disconnected the connection also. According to the complainant the issue of penal bill and disconnection is illegal and it caused hardship and mental agony to the complainant and his rented shop owners. Hence this complaint for a direction to set aside the penal bill of Rs.73,000/- and to allow a compensation of Rs.50,000/- for the deficiency of service of the opposite party and costs.

2. According to the version filed by the opposite party the tariff of consumer No.447 was changed to LT VII A during the construction of the new house of the complainant and the location was also changed to the wall of a single storey building after the demolition of the old house. The division squad conducted an inspection in the premises on 31/05/2011 and found unauthorized extension of power to a nearly four storied building crossing a private road to four rented shop rooms. Based on the mahasser 1st opposite party served a provisional bill of Rs.73,000/- dated 6/6/2011. 1st opposite party conducted a personal hearing on 23/06/2011, due to the complaint of the complainant. As there was no reliable explanation for reassessment, a final order of assessment for Rs.73,000/- was served on 28/06/2011. Hence the opposite party prayed for a dismissal of the complaint.

3. Evidence of the complainant consist oral deposition of PW1 to PW4 and five documents were marked as Ext.A1 to A5. From the opposite side DW1 and DW2 were examined and one document Ext. B1 was also marked.

4. After evaluating the evidence and testimony of both parties the Forum concluded that the case of the complainant is not sustainable for valid reasons. The Forum found that the complainant constructed a new house and obtained new power connection to the said new building. At the same time the power connection retained which was previously held by the complainant and transformed as a commercial connection was later used for extension of power supply to the shops of newly constructed four storied commercial building by using PVC wires. Nothing was brought before the Forum to impeach the finding of the division squad of electric division Pathanamthitta. Forum also found that there was no material on

records to disprove or challenge the cogent evidence to the allegations of opposite party. Forum found the opposite party has acted only in accordance to law and there is no any illegality or infirmity in issuing Ext. A1. However while dismissing the complaint the Forum gave directions to make the balance payment and to surrender the electric connection if so advised and directed to consider 06/01/2012 is the date till dues are to be paid.

5. Aggrieved by the said order appeal is directed by the complaint on various reasons. It appears that the complainant feels that his action is justifiable as he is paying commercial tariff for the consumption of electricity in the old connection. He would also content that the opposite parties action in permitting to hold the old connection without disconnection is a deficiency of service. According to him the extension of power from the old connection to the new built four storied building is not unauthorized. He further states it is visible to the electrical department while taking the bimonthly billing didnt object. Lastly the appellant prays that the same should be regularised.

6. Heard counsels of both sides. From the evidence, records and testimony of the complainant itself admits that the old connection, though commercial was held by him and used for extension of power to some shop of a newly built four storied building. The action or inaction of the KSEB on an earlier time does not confer privilege to the complainant to misuse consumption of energy under any circumstances. His mere admission and request to regularise, the misuse itself proves his knowledge of misuse of power. We dont find any legal infirmity in the order of the Lower Forum. We also does not find any deficiency of service, on the part of the opposite party. We upheld the order of the Lower forum.

In the result, the appeal is dismissed upholding the order of the Lower forum in CC 171/11 dated 15/05/2012. In the circumstances there is no cost.

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