



## **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.73 of 2015**

Thiru. B.Ellak ka kumar,  
32, Kamaleeswaran Koil Street,  
Chidambaram

..... Appellant

**Vs.**

The Superintending Engineer,  
Cuddalore Electricity Distribution Circle,  
TANGEDCO (formerly TNEB),  
230 KV Auto SS campus,  
Capper Hills, Cuddalore – 4..

..... Respondent

#### **Date of Order : 3.11.2015**

1. The Appeal Petition dt.7.9.2015 received from Thiru. B. Ellak ka Kumar was registered as Appeal Petition No. 73 of 2015.
2. The Appellant prayed to waive the additional claim of Rs.71,605/- levied by the licensee based on a audit report.
3. The CGRF of Cuddalore EDC has issued its order on 30.6.2015. Aggrieved by the above order, the Appellant has filed this Appeal Petition dt. 7.9.2015 before the

Electricity Ombudsman on 14.9.2015. The Appeal Petition was filed with a delay of 75 days. The Appellant informed that as he was suffering from severe jaundice, he was unable to move out of the house and hence there was delay in submitting the appeal petition. As per regulation 8 of the Regulations for CGRF and Electricity Ombudsman, the Electricity Ombudsman can entertain the appeal petition even after expiry of the 30 days time permitted for filing the appeal, if he is satisfied that there was sufficient cause for not filling it within the period. As the delay is due to the ill health of the Appellant, the delay in submission of the appeal petition is condoned, and the petition is registered as appeal petition no.73 of 2015.

4. A copy of the above appeal petition was sent to the Respondent (viz), the Superintending Engineer/Cuddalore EDC, Cuddalore to file a counter if no settlement is reached vide letter dt.21.9.2015.

5. The Executive Engineer/Chidambaram in his letter dt.19.10.2015 has stated that a meeting was conducted in his office on 17.10.2015 with the Appellant and in the meeting, the Appellant has informed that he has deposited a sum of Rs.71,605/- with the Principal District Munsif's Court, Chidambaram wherein a case is pending in this regard in OS No.24 of 2014. In the above meeting, it has been decided that the licensee may get back the amount from the court duly conducting the court case. A copy of the minutes signed by the Appellant and officers of the TANGEDCO is also submitted in original. The relevant paras of the minutes of the meeting are extracted below :

*“சென்னை Ombudsman petition No73/2015 இன்படி இசைவிணக்கம் கூட்டம் நடைபெற்றது.*

1) திரு. B. எல்லக்குமார் அவர்களின் மின் இணைப்பு எண்.02-047-1094க்கு 11/2009 முதல் 7/2010 வரை மீட்டர் பழுது காலத்திற்கு ரூ.71,605/- தொகையானது சரியானதே என்று தீர்மானிக்கப்பட்டது.

2) மேலும், இந்த தணிக்கை சம்பந்தமாக சிதம்பரம் மாவட்ட முன்சீப் நீதிமன்றத்தில் வழக்கு எண்.1A 104 of 2014 OS 24 of 2014ல் வழக்கு நடைபெற்று வருகிறது.

3) இரண்டு வருட காலத்திற்கு முன்பு உள்ளதை ஆடிட் செய்து திடீர் என்று அறிவித்தால் மனுதாரருக்கு நலம் பயக்காது என்று மனுதாரர் தெரிவித்தார்கள்.

4) ஆனால், வாரிய விதிப்படி இரண்டு வருடத்திற்கு மேல் இருந்தாலும் ஆடிட் தொகை விதிக்கலாம் என்று விதியில் கூறப்பட்டுள்ளது.

5) அதற்கு மனுதாரர் முழுதொகையான ரூ.71,605/-னை நான் கோர்ட்டில் செலுத்திவிட்டேன் என்றும், தாங்கள் விதிமுறைகளை கோர்ட்டில் சமர்ப்பித்து தொகையினை பெற்றுக் கொள்ளுங்கள் என்று தெரிவித்தார்கள்.

6) ஆகவே, இந்த இசைவிணக்கம் கூட்டத்தில் நீதிமன்றத்தில் வழக்கு நடத்தி ஆடிட் தொகையினை பெறவேண்டும் என தீர்மானிக்கப்பட்டது.”

6. On a careful reading of the minutes of the meeting signed by the Appellant and the licensees officers, it is noted that a case is pending in the Principal District Munsif's Court, Chidambaram on the subject matter and the case No. is OS No.24 of 2014. The Appellant has already deposited the Audit short fall amount with the court.

7. In this connection, I would like to refer regulation 17(4) of the Regulation for CGRF and Electricity Ombudsman which is extracted below :

“No complaint to Electricity Ombudsman shall lie unless ;

(a) the complainant before making a complaint to the Electricity Ombudsman shall made a written representation to the forum of the licensee named in the complaint and either the forum has rejected the complaint or the complainant had not received any reply within a period of two months from date of filing of the grievance or the complainant is not satisfied with the reply given by the forum.

*(b) The complaint is made within three months after cause of action has arisen.*

*(c) The complaint, which is not settled, is not in respect of the same subject, which was settled through the office of the Electricity Ombudsman in any previous proceedings whether received from the same complainant or along with one or more complainants or anyone or more of the parties concerned with the subject matter;*

*(d) The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court; and*

*(e) The complaint is not frivolous or vexatious in nature.”*

8. On a careful reading of regulation 17(4)(d), it is noted that the Electricity Ombudsman cannot entertain a petition if any proceedings before any court is pending or a decree or award or final order has already been passed by any competent Court.

9. As a case in the same subject matter is pending in Principal District Munsif's Court, Chidambaram in OS No.24 of 2014. I am of the view that subject matter is sub-judice and the above appeal petition cannot be entertained by the Electricity Ombudsman for issue of any orders. Accordingly, the above appeal petition no.73 of 2015 is dismissed. No Costs.

**(A. Dharmaraj)**  
Electricity Ombudsman

To

1) Thiru. B.Ellak ka kumar,  
32, Kamaleeswaran Koil Street,  
Chidambaram.

2) The Superintending Engineer,  
Cuddalore Electricity Distribution Circle,  
TANGEDCO (formerly TNEB),  
230 KV Auto SS campus,  
Capper Hills, Cuddalore – 4..

3) The Chairman & Managing Director,  
TANGEDCO,  
NPKR Maaligai,  
144, Anna Salai,  
Chennai – 600 002.

4) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
No.19A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.

5) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**  
Tamil Nadu Electricity Regulatory Commission,  
No.19-A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.