



# TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmiipathy Salai, (Marshal Road),  
Egmore, Chennai – 600 008.

Phone : ++91-044-2841 1376 / 2841 1378/ 2841 1379 Fax : ++91-044-2841 1377

Email : [tnerc@nic.in](mailto:tnerc@nic.in)

Web site : [www.tneo.gov.in](http://www.tneo.gov.in)

**Present : Thiru A. Dharmaraj, Electricity Ombudsman**

## **Appeal Petition No. 27 of 2015**

M/s Madras Cancer Care Foundation,  
214, P.H. Road,  
Kilauk,  
Chennai – 600 010.

..... Appellant  
(Rep by Dr S.P. Shivakumar)

Vs.

The Executive Engineer/O&M  
Egmore, Division,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
47, Malayappan Street,  
Otteri, Chennai – 12.

..... Respondent  
(Rep by P. Ramesh, Assistant Executive Engineer)

**Date of hearing : 8.5.2015**

**Date of Order : 5.6.2015**

The Petition dated 13.3.2015 filed by M/s. Madras Cancer Care Foundation was received as Appeal Petition No.27 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 8.5.2015. Upon perusing the appeal petition, counter affidavit filed by the Respondent and after hearing both sides, the Electricity Ombudsman passes the following order.

## **ORDER**

### **1. Prayer of the appellant:**

The Appellant prayed to provide a separate service connection in the name of Madras Cancer Care Foundation for 110 KW as per TNERC Distribution Code clause 27(14).

### **2. Brief History of the case:**

2.1. M/s Madras Cancer Care foundation is a part of cancer care research and relief trust. They are a group of medical and surgical oncologist and have established their practice in the basement of Kumaran Hospital on rental basis.

2.2. They have applied for a service connection for a load of 110 KW. The application was not accepted by the AEE/TANGEDCO as there is an existing service connection in the name of Kumaran Hospital in the premises.

2.3. They filed a petition before the CGRF of Chennai EDC/Central and the CGRF in its order dt.21.1.2015 has dismissed the petitioner stating that as per TNERC Distribution Code 27(14), the request of the complainant for availing a separate service connection is not feasible of compliance.

2.4. Aggrieved over the order of the CGRF, the appellant filed the appeal petition before the Electricity Ombudsman.

### **3. Condonation of Delay :**

3.1. The CGRF order was issued on 21.1.2015 as per regulation 8 of CGRF and Electricity Ombudsman, the appeal petition has to be submitted within 30 days from the date of the CGRF order. Hence, the due date for filing an appeal petition is 20.2.2015. But, the appellant has filed its appeal petition on 13.3.2015 with a delay of 20 days.

3.2. In this regard, regulation 8 of the Regulations for CGRF and Electricity Ombudsman is extracted below :

*“8 Any person aggrieved by an order made by the forum may prefer an appeal against such order to the Electricity Ombudsman within a period of 30 days from the date of the order, in such form and manner as may be prescribed by the Commission.*

*Provided that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of 30 days if the Electricity Ombudsman is satisfied that there was sufficient cause for not filing it within that period.*

*Provided further that the Electricity Ombudsman shall entertain no appeal by any party, who is required to pay any amount in terms of an order of the forum, unless the appellant has deposited in the prescribed manner, twenty five percent of the amount as ordered by the forum.”*

3.3. On a careful reading of the said regulation 8 of Regulations for CGRF & Electricity Ombudsman, it is noted that the Electricity Ombudsman may entertain an appeal after expiry of the said period of 30 days if he is satisfied that there was sufficient cause for not filing it within the period.

3.4. The Appellant informed that as they are out of station it took some time for getting legal opinion and it was the reason for delay.

3.5. As the delay is only 20 days and as the Appellant stated that there was some delay in getting the legal opinion as they are out of station, the delay of 20 days in filing the appeal petition is condoned and the petition is registered as A.P.No. 27 of 2015.

#### **4. Orders of CGRF :**

4.1 The CGRF of Chennai EDC/Central issued its order on 21.1.2015, the relevant paras of the said order is extracted below :

*(1) Based on the arguments made by the licensee and the complainant, the Forum, on 12.11.2014, directed the TANGEDCO officials to inspect the premises and to submit a revised report. Revised report was received from the licensee stating that the basement floor is utilized by Madras Cancer Care Foundation only. Also stated that there are three service connections available in the premises for M/s Kumaran Hospital (P)Ltd.*

*(2) Upon analyzing the documents enclosed it is clear that in the rental agreement executed on 10th day of July 2014 between Madras Cancer Care Foundation and M/s Kumaran Hospitals (P) Ltd, in the address No. 214, E.V.R Periyarsalai, P.H.Road, Kilpauk, Chennai-10, only two rooms in the basement (Drugs Trial room & Chemotherapy room) measuring about 250sqft are given by M/s Kumaran Hospitals to Madras Cancer Care Foundation for rent. The*

*lease agreement mentioned by Madras Cancer Care Foundation, in the letter to CGRF dated.18.09.2014, was not submitted. Hence, as per TNERC Distribution code 27(14), the request of complainant for availing separate service connection is not feasible for compliance. The action taken by the licensees is correct as per TNERC Distribution code 27(14) and no further direction is required in this regard.*

**5. Contentions of the Appellant set out in the petition :**

5.1 Madras Cancer Care Foundation (MCCF) is a part of CRRT cancer research & relief trust. They are a group of medical & Surgical oncologist who have established their practice in the basement of Kumaran Hospitals on rental basis.

5.2 In order to effectively diagnose & manage the cancer and other patients a CT SCAN machine is necessary. CT scan is a machine with which high end investigative and therapeutic life saving work can be done in the filed of oncology, cardiac, neuro, vascular and gastroenterology.

5.3 Not only the patients of this hospital but the patients from the surrounding nearby hospitals will also be benfited by this machine. MCCF is planning to install this machine in the basement of the Kumaran Hospitals which is rented to them. In order to run the machine they would be requiring a load of 110 KW. So, they requested to provide with 110 KW of electricity in the name of MCCF.

5.4 Their application for 110 KW in the LTCT service was not acceptd by AEE/TANGEDCO because there is an existing service for 110 KW in the name of Kumaran Hospitals in the premises. Even after submission of records for Madras Cancer Care Foundation as a separate establishment,

AEE/TANGEDCO treats this as a single organization and refuse to give new CT connection.

5.5 They have taken the entire basement on rental basis. The existing electricity is wanted by Kumaran Hospitals itself. They are aware of the TN Distribution Code clause 27 (14). A physical segregation has been done to demarcate the basement from the rest of the floors. So they requested the Chairman CGRF to consider their case on merits and requested to issue necessary orders to TANGEDCO to effect the new CT service connection in the name of Madras Cancer Care Foundation in the basement floor.

5.6 This issue was put forth before the consumer grievance Redressal forum wherein after inspection; CGRF has issued an order on 16.12.2014. In the order CGRF has reported that the premise was inspected and that the basement floor is utilized by MCCF only. But, CGRF also wrongly decided that only two rooms at the basement measuring about 250 sq. ft only was used by MCCF and others by Kumaran Hospitals. It is to state that the two rooms itself is a big general ward occupying the entire basement which houses twenty patient beds for cancer chemotherapy. The other small rooms in the basement floor are also utilized by MCCF for drug trials, office rooms, cancer physiotherapy, counseling room, lab services and their consultation rooms in all measuring around 3500 sq ft. on rental basis.

5.7 MCCF Madras Cancer Care Foundation is a separate trust represented by its managing trustee Dr. Ayyappan and MCCF Functions alongside CRRT (Cancer Research & Relief Trust) represented by the same

trustees, on service motto to serve the poor patients with beds and other facilities along with the life saving essential equipment for critical cancer patients. MCCF & CRRT does a lot of free treatment for cancer patients by operating free of cost and giving chemotherapy free of cost to many deserving patients.

5.8 MCCF is a trust run by a group of doctors where in the management of Kumaran Hospitals is in no way connected with it and Kumaran Hospital is run by a completely different management headed by its managing director Dr. S. Palanisamy and its Executive Director Dr. S.P. Shivakumar. MCCF & Kumaran Hospitals are totally different organizations paying income tax separately & are owned by totally different owners. MCCF is a trust and Kumaran Hospital is a private limited company. Both these organizations are different but serve from a common place for a common goal of providing cheap and quality health care for the patients.

5.9 The CT scan machine is a very important diagnostic and therapeutic tool that is present in all major corporate hospitals. With the aid of this machine more advanced surgical work can be done very effectively thus enabling good quality care for cancer patients and other specialities. With this machine installed in our hospital it will benefit most of the cancer patients admitted with minimal cost. Normally only high end corporate hospitals have this machine where in its very expensive, but ours is a medium sized hospital and a number of doctors and team are joining together for a common purpose of treating the cancer and other patients either free or at affordable rates.

5.10 CGRF should not view this as a commercial establishment but rather encourage medium sized hospitals like ours and doctors team to do service to the needy patients by allowing us to install machines like CT Scan so that we can in turn help the poor patients by doing quality work.

**6. Contentions of the Respondents furnished in the counter :**

6.1 In M/s Kumaran Hospitals (P) Ltd the following service connections are available for basement to 4<sup>th</sup> floor. The building is about 30 years old.

1. 153-002-1051-111KW
2. 153-002-1477-30 KW
3. 153-002-1304-50-KW

6.2 In the above building, Madras Cancer Care Foundation was applied for a CT service connection for 110 KW enclosing lease deed agreement with M/s Kumaran Hospitals.

6.3 They state that they are separate establishment and functioning at Kumaran Hospital on rental and lease basis. On inspection at site it was observed that there is physical segregation.

6.4 In their lease deed also they have mentioned only part of basement and part of ground floor is used for Madras Cancer Care Foundation. They proposed a scan centre here, not only for Kumaran Hospitals but also to all the nearby hospitals and enclosed few hospitals letter and requested for a 110 KW separate service connection in the name of Madras Cancer Care Foundation as per TNERC Distribution Code 27(14).

6.5 Based on the site inspection as per TNERC Distribution Code 27(13) cancellation notice was issued by AEE/O&M/Vepery.

6.6 At the site Madras Cancer Care Foundation is functioning in the basement floor of a Kumaran Hospital for Cancer patients with physical segregation (separate entry) Kumaran Hospital is functioning from ground floor and above for various types of treatment for more than 25 years.

6.7 The consumer Grievance Redressal Forum, CEDC/Cental/TANGEDCO Ltd., passed an order as follows on 16.12.2014. "Upon analyzing the documents enclosed it is clear that in the rental agreement executed on 10<sup>th</sup> Day of July 2014 between Madras Cancer Care Foundation and M/s Kumaran Hospitals Pvt Ltd., in this address No.214, E.V.K. Periyar Salai, P.H. Road, Kilpauk, Chennai 10 only two rooms in the basement (Drugs Trial Room & Chemotherapy room) measuring about 250 Sq.ft are given by M/s Kumaran Hospitals to Madras Cancer Care Foundation for rent, the lease agreement mentioned by Madras Cancer Care Foundation in the letter to CGRF, dated 18.9.2014 was not submitted. Hence, as per TNERC Distribution Code 27(14) the request of complaint for availing separate service connection is not feasible for compliance. The action taken by the licensees is correct as per TNERC Distribution Code 27(14), and no further direction is required in this regard".

6.8 Since, both are Hospital "as per TNERC Distribution Code 27(15)(A) Not with standing anything contained in sub regulations 14 and 15 a person or an establishment or an entity shall be given only one service connection in a



premises or in contiguous premises to run a business or service or occupation or another form of activity including its associated activities and for activities even if there is a permanent physical segregation. Hence, the request of Madras Cancer Care Foundation could not be considered.

## **7. Hearing held by the Electricity Ombudsman**

7.1 To enable the Appellant and the Respondents to put forth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 8.5.2015.

7.2 Dr. S.P. Sivakumar attended the hearing on behalf of the Appellant and put forth his arguments.

7.3 Thiru T.Ramesh, Assistant Executive Engineer/O&M/Vepery attended the hearing on behalf of the Respondent and put forth his arguments.

## **8. Arguments put forth by the Appellant on the Hearing date :**

8.1 Dr.S.P. Shivakumar who represented the Appellant reiterated the contents of the Appeal Petition.

8.2 He argued that Kumaran Hospitals is a Pvt Ltd., company and MCCF is a trust and both are different establishments.

8.3 The MCCF is functioning in the premises owned by Kumaran Hospital Pvt Ltd., as a tenant only.

8.4 He also furnished copies of Articles of Association of Kumaran Hospitals Pvt Ltd., and a copy of Income Tax Return assessment for the assessment

year 2013-14 submitted by the Kumaran Hospitals in support of argument that M/s Kumaran Hospitals Pvt Ltd., is a separate entity.

8.5 The Doctor argued that as they want to install a CT Scan machine in the Hospital they need about 70 KW load which could not be met by the existing supply.

8.6 He argued that MCCF is a Trust run by the Group of Doctors, as per the partnership deed and the partners of the Group of Doctors have no stake in the Kumaran Hospitals Pvt Ltd citing the names of the Directors of the Kumaran Hospital & partnership deed of the MCCF.

8.7 As M/s Kumaran Hospitals Pvt Ltd and Madras Cancer Care Foundation are two different entities, the Doctor argued that the argument of the Respondent that as per Regulation 27(15A) service could not be effected in the name of MCCF in the Basement floor is not maintainable.

8.8 The Doctor argued that as per the above regulation only more than one service shall not be effected to a single entity in a single premises for its associated activities or its Associates. As M/s MCCF are neither the Associates of M/s Kumaran Hospitals nor the service is required for Associated activities of M/s Kumaran Hospitals, he argued that the argument of the Respondent is not sustainable.

## **9. Argument of the Respondent :**

9.1 The AEE/O&M/Vepery reiterated the contents of the counter.

9.2 He argued that the application was rejected since in the lease deed it was stated that MCCF has based on portion in ground and basement floor.

9.3 He argued that the copy Articles of Association of Kumaran Hospitals Income Tax return of Madras Cancer Care Foundation were furnished today only. Hence, he needs 7 days time to study the above and furnish his written argument.

9.4 The Assistant Engineer informed that now MCCF has occupied only the basement floor and there is physical segregation between the ground and other floors and the basement floor, rented out to the MCCF.

9.5 He also informed that the rental agreement now submitted along with the appeal petition and the rental agreement and the lease documents submitted along with the application seeking service connection were not the same. The rejection was based on the documents submitted along with the application seeking service connection, but in the Appeal they have submitted fresh documents.

## **10. Written argument of the Respondent :**

10.1 As per the instruction of Ombudsman during the enquiry on 8.5.2015 M/s Madras Cancer Care Foundation handed over the following additional documents for consideration.

i) Kumaran Hospital Pvt Ltd., deed of Directors from Assistant Registrar of Companies Tamil Nadu, Chennai dt.15.4.2015.

ii) Income Tax Return of Madras Cancer Care Foundation.

iii) Articles of Association of Kumaran Hospitals for establishing a private limited establishment.

Madras Cancer Care Foundation already submitted :

i) Registered deed of declaration of trust in the name of Cancer Research and relief trust vide registration documents No.217/2003.

ii) Rental agreement between M/s Kumaran Hospital and Madras Cancer Care Foundation.

iii) Income Tax Return in the name of Cancer Research Relief Trust

iv) Income Tax Return of Madras Cancer Care Foundation.

v) Partnership deed of the firm of Madras Cancer Care Foundation to establish Madras Cancer Care Foundation is separate establishment and functioning in the basement floor on rental basis with Kumaran Hospitals.

10.2 Even though they have submitted the documents for both are different establishment, as per TNERC Distribution Code 27(15)(a) both are Hospitals. Hence, the request of Madras Cancer Care Foundation could not be considered please.

## **11. Findings of the Electricity Ombudsman :**

11.1 On a careful consideration of the arguments furnished by the parties concerned, it is noted that the Rental Agreement now furnished by the appellant along with his appeal petition and the rental agreement and lease deed furnished along with the application seeking service connection are different.

11.2 The salient features of the rental agreement submitted by the Appellant along with the appeal petition are furnished below :

### Rental Agreement :

Date of Agreement  
Licensor

1.2.2015  
M/s Kumaran Hospitals Pvt Ltd.,  
214, EVR Periyar Salai,

	P.H. Road, Kilpauk, Chennai 10. represented by its Executive Director Dr. S.P. Sivakumar
Licensee	Madras Cancer Care Foundation represented by Dr. Ayyappan
Period of agreement	12 months commencing from 1.2.2015
Schedule of Property	Kumaran Hospitals Basement Floor, area : 3500 sq.ft.

11.3 The salient features of the lease agreement and rental agreement copy enclosed along with the application seeking service are given below :

(A) Lease Agreement :

- |                          |  |
|--------------------------|--|
| (i) Date of agreement :  | 12.3.2014  |
| (ii) Leaser              | M/s Kumaran Hospitals Pvt Ltd.,<br>No.214, EVR Periyar Salai,<br>Kilpauk, Chennai -10<br>represented by its Executive Director<br>Dr. S.P. Sivakumar                           |
| (iii) Lessee             | M/s Madras Cancer Care<br>Foundation<br>represented by its proprietor Dr.<br>Ayyappan  |
| (iv) Period of agreement | 11 months from 12.3.2014<br>and shall renewed for 5 more such<br>terms of 11 months each   |
| (v) Schedule of Property | (i) Room with a built up area of 384<br>sq.ft (16x24) in the southern end of<br>basement<br><br>(ii) Room with a built up area of 250<br>sq.ft (16x16) in the north end of the |

	ground floor in the building situated at 214 EVR Periyar Salai, Kilpauk, Chennai-10
(B) <u>Rental agreement :</u>	
(i) Date of agreement	: 10.7.2014
(ii) Licensor	M/s Kumaran Hospitals Pvt Ltd., No.214, EVR Periyar Salai, Kilpauk, Chennai -10 represented by its Executive Director Dr. S.P. Sivakumar
(iii) Licensee	M/s Madras Cancer Care Foundation represented by its proprietor Dr. Ayyappan
Period of agreement	12 months commencing from 10.7.2014 and expiring on 9.7.15.
Schedule of property	M/s Kumaran Hospitals Pvt Ltd., No.214, EVR Periyar Salai, Kilpauk, Chennai -10 250 sq.ft basement floor.

11.3 It is seen from the above details, that the service connection was originally requested for some portion in ground floor and some portion at Basement floor. But, now, the appellant is requesting supply for the basement floor alone. Hence, there is change in the place for which service connection was sought for originally and now in the appeal petition.

11.4 During the hearing, the Appellant's representative informed that they have confined their activities in basement floor only and requested service connection in their name to erect CT Scan etc., required for their Madras Cancer Care Foundation as they are the legal tenants of basement floor and are a separate entity.

11.5 The Respondent also informed that as per the site condition the Madras Cancer Care Foundation has occupied the basement floor and there is a physical segregation between the basement floor and other floors.

11.6 As the documents furnished by the Appellant before me is a new set of documents and are not furnished either before the CGRF or to the licensee while seeking service connection and the Appellant also informed that they require service connection for the basement floor as per documents furnished now, I am of the view that the area for which the service connection sought for in the Application and in the appeal petition is different and the old application becomes infructuous. Hence, there is no point in issuing orders on the application rejected by the licensee based on the previous set of documents.

11.7 As the Appellant is seeking service connection based on a rental agreement entered on 1.2.2015 after the issue of orders of CGRF, the Appellant may file an application seeking service connection with the above rental agreement and other documents required with the concerned office of the licensee and in that case the licensee has to examine the above application as per the existing regulations and effect service connection if it is found to be in order.

11.8 With reference to the remarks of the Respondent furnished in para 10.2 of this order (as per the written argument dt. nil, received on 18.5.2015) that a separate service connection could not be effected in the name of the Appellant citing regulation 27(15A) of the Distribution Code, the following is my observation.

Extract of Regulation 27(15A) :

*“Notwithstanding anything contained in sub-regulation (14) and (15), a person or an establishment or an entity shall be given only one service connection in a premises or in contiguous premises to run a business or service or occupation or another form of activity including its associated activities and for activities of the associates even if there is a permanent physical segregation.”*

“Subregulation 15(A) of Regulation 27 of the Tamil Nadu Electricity Distribution Code, contemplates a situation where the applicant seeking service connections for a premises is 'a person 'or' an establishment 'or' an entity, but in the instant case, since it is obvious that the service connection required is for a different entity the respondent's interpretation to sub-regulation 15(A) of regulation 27 of Distribution Code does not appear to be correct.

11.9 Hence, the Respondent is directed to interpretate the regulation 27(15A) of Tamil Nadu Electricity Distribution Code correctly and act accordingly while scrutinizing the applications seeking service connections.

**12. Conclusion :**

12.1 In view of the findings in para 11, and as the Appellant is seeking service connection based on a rental agreement entered on 1.2.2015, the Appellant is informed that he may file his application seeking service connection along with all required documents to the appropriate office of the licensee and in such a case the licensee is directed to examine the above application and effect service connection if it is found to be in order.

12.2 With the above findings A.P.No. 27 of 2015 is finally disposed of by the Electricity Ombudsman. No Costs.

**(A. Dharmaraj)**  
Electricity Ombudsman

To  
1) M/s Madras Cancer Care Foundation,  
214, P.H. Road,  
Kilauk,  
Chennai – 600 010.



2) The Executive Engineer/O&M  
Egmore, Division,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
47, Malayappan Street,  
Otteri, Chennai – 12.

3) The Chairman,  
(Superintending Engineer),  
Consumer Grievance Redressal Forum,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
110/33 KV Valluvar Kottam SS Complex,  
MGR Salai, Nungambakkam,  
Chennai-600034.

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

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

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