



TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmi Pathy 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 Web site : www. tneo.gov.in

BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 45 of 2012

Thiru V. Durai Pandi,
S.No. 324/2, Kalkkottai
Sirunaickenpatty P.O.
Nilakkottai Taluk
Dindigul Distirct
Pin code 624 219

. . . . Appellant
(Rep by party in person)

Vs

The Superintending Engineer,
Dindugul Electricity Distribution circle
Dindugul

. Respondent
(Rep by Thiru. Jeyaseelan,
EE/O&M/Batlagundu)

Date of hearing : 29-11-2012 & 9.1.2013

Date of Order : 14-3-2013

The above appeal petition No. 45 of 2012 came up for hearings before the Electricity Ombudsman on 29-11-2012 & 9.1.2013. Upon perusing the above petition, counter, connected records and after hearing both sides the Electricity Ombudsman passes the following order.

Order

1. Prayer of the Appellant:

The appellant prayed for effecting the LT Industrial service connection and requested compensation for the delay in effecting the supply.

2. Brief history of the case:-

The Appellant is an intending consumer. He has applied for an Industrial service for a load of 15 HP. As the service was not effected, the Appellant has filed a petition before the CGRF of Dindigul EDC. The petition was acknowledged by the CGRF on 11.7.2012. As there was no reply from the CGRF even after a lapse of 70 days the Appellant filed a petition to Electricity Ombudsman on 9.10.2012. The service was effected on 12.10.2012.

3. Contention of the Appellant:-

3.1 The Appellant submitted an application on 24.4.2012 (In the written argument the date was mentioned as 25.4.2012) seeking electricity connection to start a small scale industry for a load of 15 HP (motor 9 HP + lighting load 6 HP) at S.F.No. 324/2, Kalkottai, Sirunaicken patty post.

3.2 The Assistant Engineer/ Nilakkottai section rural cancelled his first application along with the registration fee of Rs.50/- collected.

3.3 Fresh application was submitted on 2.6.2012. But it was registered by Assistant Engineer/Rural on 13.6.2012 after a delay of 11 days. A sum of Rs.7,200/- being the EMD was also paid by him.

3.4 As there was no action, the Appellant contacted AEE & EE over phone and expressed his grievance.

3.5 As everything was failure, he made a grievance petition to the chairperson of the Consumer Grievance Redressal Forum of Dindigul Electricity Distribution Circle on 11.7.2012.

3.6 The performance has to be maintained with distribution standards. The rules and regulations must be taken with due importance to satisfy the consumer.

3.7 He may be compensated for the delay in effecting the service connection and the Board may take responsibility over the issue since the machine was erected and the wiring completed to avail the service connection.

4 Contentions of the Respondent:-

The Respondent has contended the following:-

- i) Thiru V. Duraipandi has filed a petition before CGRF of Dindigul EDC on 11.07.12 and the same was acknowledged on 27.7.12.
- ii) The petitioner has approached the CGR Forum after registration of new industrial service application with a prayer of undue delay made by the Assistant Engineer / Rural / Nilakottai in registering of his industrial application.
- iii) After receipt of new industrial application from the petitioner on 25.04.12, site inspection was personally made by the Assistant Engineer /Rural / Nilakottai on the same day. During his site inspection, it was noticed that, no wiring works have been completed and the petitioner was not ready to get service connection. The same was informed to the petitioner and intimated that the application may be submitted after completion of wiring works.

- iv) After a month, the petitioner has approached Assistant Engineer /Rural/ Nilakottai on 05.06.12 with industrial application with an undertaking that, all the wiring works were completed and ready to get service connection. The application was registered on 05.06.12 and the petitioner was intimated to pay EMD amount within 3 days as per the existing rules in vogue. He also informed to provide necessary physical segregation between the agricultural service and proposed new industrial premises since both were in same survey field number.
- v) The petitioner has not paid the EMD amount within 3 days and hence the application was cancelled by Assistant Engineer /Rural / Nilakottai on 08.06.12. Again, the application was registered freshly with registration fee and EMD amount on 13.06.12. Necessary estimate has been prepared and submitted to the SE/Dindigul EDC for approval. The estimate was returned to EE/ Batlagundu for want of physical segregation and some other technical feasibility. The petitioner has been again informed by the Assistant Engineer/Rural/Nilakottai on 27.07.12 to produce the confirmation on physical segregation. The petitioner has assured the provision of physical segregation in his letter dated 06.08.12. Again, the estimate was submitted to the SE/Dindigul EDC and approval accorded. The petitioner has been intimated to pay the Development charges etc to enable the TANGEDCO officials to effect the service.

- vi) The petitioner has paid such amount on 11.10.12 and the industrial service connection was effected on 12.10.12 (Sc. No. 05-249-001-1486), hence the prayer of petitioner has been settled.
- vii) In the above circumstance, it is submitted that there is no delay on the part of TANGEDCO in processing the application. There is no question of penalty in this case do arise and all the procedures in vogue are correctly followed by TANGEDCO.

5. Hearing held by the Electricity Ombudsman:-

In order to enable the Appellant and the Respondent to putforth their Arguments in person a hearing was held before the Electricity Ombudsman on 29.11.2012 and 9.1.2013.

6. Argument of the Appellant:-

6.1 The Appellant himself presented the case.

6.2 He argued that his first application dt 25.4.2012 was not registered by the Assistant Engineer when contacted for non registration, he said due to computer problem he was unable to register it. But no cancellation letter was issued for the first application.

6.3 As requested by the Assistant Engineer he furnished a fresh application on 2.6.12 and it was registered only on 13.6.12 and he paid the EMD of Rs.7200/- on the same date.

6.4 He argued that the fencing arrangement was done earlier and was inspected by the Assistant Engineer. Hence, there is no delay on his part in making the fence.

6.5 He also argued that there is a heavy financial loss to him due to delay in effecting the service as he has purchased the equipments and erected them in the industry with proper wiring. He requested sufficient compensation to make good the financial loss.

6.6 He also pleaded that because of the delay in effecting the service, there was mental agony and it shall also be compensated.

7. Argument of the Respondent:-

The Respondent was represented by Thiru. Jeyaseelan, EE/O&M Batlagundu.

- (i) The EE/O&M informed that the application submitted on 25.4.2012 was not registered. It was returned to the Appellant in person on the same day as wiring was not completed.
- (ii) The application was registered only on 5.6.2012
- (iii) As Appellant has not paid the EMD it was cancelled after giving a notice.
- (iv) The application submitted on 13.6.2012 was registered and EMD amount was also collected on the same date.
- (v) Estimate was prepared by Assistant Engineer on 30.6.2012 and submitted to Superintending Engineer for approval as there was improvement works for want of regulation.
- (vi) The estimate was returned by Superintending Engineer on 17.7.2012 with certain clarifications one of the clarification is whether any physical segregation between the existing agricultural service connection and the proposed new industrial service as both are in the same premises.

Accordingly, the Appellant was requested to inform the availability of physical segregation between the Agricultural service and the proposed industrial service.

- (vii) The Appellant in his letter dt 6.8.12 informed that fencing has already been arranged. The letter was received only on 13.8.2012 at the section office and a reply for the clarification sought from Superintending Engineer's office was furnished to Superintending Engineer, Dindigul Electricity Distribution Circle and the estimate was sanctioned on 28.9.2012.
- (viii) The Appellant was informed to pay the Development charges, Service connection charges, meter caution deposit etc on 8.10.2012. The applicant paid the charges on 11.10.2012 and the service was effected on 12.10.2012.
- (ix) The Executive Engineer informed that as erection of Distribution transformer is involved, the service is to be effected within 90 days from the date of receipt of the application of the Appellant and as there was no physical segregation between the agricultural service and the proposed industrial service, there was delay in sanctioning the estimate. But, the delay is only on the part of the consumer and not on part of the licensee.

8. Written Argument of the Appellant:-

The appellant has furnished his written argument vide his letter dt.7.12.2012. The contentions of the appellant are furnished below :

- (i) He submitted an application seeking service connection under IIB tariff on 25.4.2012. The AE/Rural Nilakkottai informed that as the inter net connection is not working, the registration will be done on rectification of the net connection and collected the documents along with Rs.250/- towards registration fee.
- (ii) Whenever he contacted him, the AE informed that the registration is pending due to non working of computer. On 29.5.2012 around 9.31am he contacted the AE over mobile and on 11.6.2012 he contacted ADE in this regard and has recorded the conversation and the same is furnished in the CD. He also sent a letter which was received by the AE on 11.6.2012.
- (iii) Thiru Alagarsamy, AE/Rural Nilakottai came with three persons to the appellants site and used unparliamentary words against Thiru. Muthupandi and slapped him. A complaint has been made on this account to the police and furnished a copy of CSR in proof of the above.
- (iv) He prayed to take action on the AE after examining the truth on the above.

9. Written Argument of the Respondent:-

The EE/O&M/Batlagundu who has represented the Respondent on the hearing date has furnished the written argument vide his letter dt. 1.12.2012. In the written argument he has contended the following:-

- i) Thiru V. Duraipandi has filed a petition before CGRF of Dindigul Electricity Distribution Circle on 11.07.2012 and the same was acknowledged on 27.07.2012. Based on that a call letter had been sent through couriers on 10.09.2012 informing the date and time of forum enquiry as 12.09.2012/11.30 hrs and asked him to participate and offer the grievances.
- ii) On 12.09.2013, at 11.30 Hrs, Thiru V. Duraipandi was not present. The reply letter had been sent vide reference dt 12.10.2012.
- iii) Regarding EMD as prescribed in regulation 34 of Tamil Nadu Electricity Regulatory Commission Distribution code "The applicants required to pay Earnest Money Deposit will be asked to pay Earnest Money Deposit along with the Registration fee for registration of application". On 05.06.2012 Thiru V. Duraipandi had not paid EMD but he paid only Registration fees on that day.
- iv) On 5.6.2012, The Assistant Engineer /Rural / Nilakkottai had sent a letter to Thiru V. Duraipandi stating the defects which were found at the applicant site vide letter க. எண் : உமிபொ / கி / நிலவை / கோ.கட்டு/ அ.எண்: 246 / 12 ; நாள் : 05.06.2012 and the letter was acknowledged by Thiru V. Muthupandi on 05.06.2012. In this letter out of 9 defects pointed out by Assistant Engineer, one is no physical segregation between the existing Agricultural service & the proposed site.
B) Then again the Assistant Engineer / Rural / Nilakkottai had sent a letter on 26.07.2012 stating that there is no physical segregation

between existing Agricultural service and the proposed industrial site.

This letter க.எண் : உமிபொ / கி / நிலவை / கோ.கட்டு/ அ.எண் : 344 /12; நாள் : 26.07.2012 was acknowledged by Thiru V. Duraipandi on 26.07.2012.

- v) A reply letter dt. 6.8.2012 from Thiru V. Duraipandi had been received by Assistant Engineer / Rural / Nilakkottai only on 13.08.2012. In this reply letter he informed the fencing arrangement.
- vi) In view of the above, the time taken to rectify the defects by Thiru V. Duraipandi worksout to 63 days (ie) from 05.06.2012 to 06.08.2012.

Date of Application	:	05.06.2012
Date of Defect intimated	:	05.06.2012
Date of intimation after rectification	:	06.08.2012
and Date of Service	:	12.10.2012

Out of 130 days since from the date of Application 63 days had been taken by Thiru V. Duraipandi to complete the defects rectification and hence he would like to state that the delay in effecting the service connection is only on the part of the applicant.

10. Rejoinder of the appellant to the written arguments of the respondent :

The appellant also submitted a rejoinder for the written argument of the respondent . In the rejoinder dt.9.1.2013, he has stated the following :

(i) The grievance petition submitted to CGRF was acknowledged only after 16 days.

(ii) He informed that the call letter for the CGRF meeting was not received by him.

(iii) He argued that as per Distribution Code the EMD has to be paid along with registration fee. But having registered the application a reasonable

time would have been given for payment of EMD. He also argued that the time of 3 days given for payment of EMD is not in force and there is no such rule or condition specified in the Distribution Code.

(iv) He denied the averment of the respondent that the letter under D.No.246 dt. 5.6.2012 was acknowledged by Muthupandi on 5.6.2012. It was acknowledged only on 8.6.2012 as per the evidence produced.

(v) He also informed that he has not received the orders of CGRF dt. 12.10.2012 and alleged that the order is a fabricated one.

(vi) The Appellant informed that the availability of physical segregation was already informed to AE. The registration of application would not have been done on 13.6.2012 if there is no physical segregation.

(vii) The application given on 25.4.2012 was neither acknowledged nor returned to him indicating the defects but was registered only on 5.6.2012 and was cancelled on 8.6.2012. Another application submitted by him on 13.6.2012 was registered and service was effected on 12.10.2012. Hence, he contended that the officials have taken 170 days to effect supply to his service.

11. Issues for consideration :

I have heard both side arguments and perused the documents adduced before me. On a careful consideration of the arguments of both sides, I fix the following as issues for consideration.

- (i) What is the time schedule for effecting supply to the Appellant's industry?
- (ii) Whether the appellants contention of delay in registering the application submitted on 25.4.2012 is also to be taken for calculating the delay in effecting the service ?.

- (iii) Whether the application for the supply of electricity alleged to have been given by the Appellant on 02-06-2012 and registered on 13-06-2012 is complete in all respects as required under section 43 of the Electricity Act, 2003 ?
- (iv) On which date the application of the Appellant for the supply of electricity can be said to be complete in all respects as per the Explanation to section 43 of the Electricity Act, 2003, if it is held that the application filed on 02-06-2012 and registered on 13-06-2012 is not complete in all respects as per the said section 43 of the Act.
- (v) Whether the Appellant is entitled to compensation if any ?

12. Findings on the first issue:

12.1 In order to find the time schedule for effecting the service connection, Regulation 4 of the Tamil Nadu Electricity Distribution Standards of performance Regulations has to be referred. Accordingly, the said Regulation 4 of Tamil Nadu Electricity Distribution Standards of Performance is extracted below:-

“4. Duties of the Licensees to Supply on Request

Section 43 of the Act deals with duty to supply and read as below:

43. (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply :

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):
 Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.”

The Licensees shall endeavor to give supply within a week but not exceeding 30 days wherever no extension or improvement works are involved in giving supply.

The Licensees shall observe the following time schedule for supply of electricity involving extension of distribution lines, etc.

Table – 1

Category (1)	Time Schedule for LT (2)
a) Involving no extension of improvement works	preferably within a week but not exceeding 30 days
b) Extension and improvement without transformers:	60 days
c) Extension and improvement with transformers	90 days

Table – II

Category (1)	Time Schedule for HT/EHT (2)	
	HT	EHT
a) Involving no extension of improvement	60 days	150 days
b) Involving the enhancement of Power Transformer/Addition of Power Transformers	120 days	180 days
c) Involving the Commissioning of substation	180 days	270 days

(I) The Licensee shall issue advice slip/notice/letter indicating the prescribed charges payable with proper acknowledgement.

(II) The Consumer shall remit the above charges within the stipulated period but not exceeding fifteen Days from the date of receipt of advice slip/notice/letter.

(III) In exceptional / deserving cases, permission may be granted by the respective Chief Engineer and Superintending Engineer or the person designated for this purpose by the Licensee for remittance of charges by the Consumer beyond the prescribed fifteen Days for HT/EHT and LT services respectively.

(IV) The time taken by the Consumer to remit the prescribed charges from the date of receipt of demand notice will not be covered in the above time schedule.

(v) This time schedule is also applicable for additional loads”

12.2 On a careful study of the said Regulation it is noted that the licensee has to observe the following time schedule for effecting supply to the applicants under LT category.

- a) Involving no extension or improvement : preferably within a week but not exceeding 30 days
- b) Involving extension and improvement : 60 days without distribution transformer
- c) Involving extension and improvement : 90 days with Distribution transformers

12.3 The Executive Engineer who attended the hearing informed that the above service involves improvement with erection of 1 No 100 KVA, 22KV Distribution transformer to improve the LT Regulation and also submitted a copy of estimate in support of the above. On an examination of the estimate copy, it is noted that the estimate was sanctioned for Rs.10,12,660/- (Gross) and Rs.9,36,430/- Nett which includes erection of 100 KVA /22 KVA transformer and erection and reinforcement of lines also. Hence, it fits into the category of involving extension and improvement with Distribution Transformer. Therefore, the time schedule for effecting the service is 90 days after receipt of application requiring supply.

13. Findings on the second issue:

13.1 The appellant argued that there was delay in registering his application given on 25.4.2012 . He argued that the above application was registered on 5.6.2012 only. Hence, he requested action for delay in registering the application. He has also furnished a CD said to have contained the conversation between him and the AE and AEE in proof of delay in registering the application.

13.2 The recorded conversation submitted by the Appellant was heard on 9.1.2013 in the presence of the EE/Batlagundu and AE and the appellant. In the conversation said to have been taken place on 29.5.2012 between the AE& the appellant, the following are observed as the points figured in the conversation.

(a) There is a doubt about the tariff applicable (ie) IIIB or V. The appellant informed that the tariff applicable is IIIB as he is having similar service connection at Chennai.

(b) More than a month has lapsed from the date of giving the application as per the appellants version.

(c) The AE intimated that the meter board position has to be lowered and the appellant informed that it has been done already.

(d) The AE assured to register the application on confirming the applicable tariff and intimate the fact to the appellant over phone.

13.3 In the conversation said to have been taken place on 11.6.2012 between the appellant and the AEE, the following are observed.

(a) The application may be made in the name of individual instead of company's name.

(b) The AEE informed the appellant that the AE has informed that the appellant has not attended the defects in the application though he has agreed to attend the defects.

(c) The appellant informed that the AE has informed him that there is no query in the application.

(d) The appellant informed that the application was personally handed over and the indemnity bond was sent by courier on the next day.

(e) The non availability of notary public's signature was discussed. The appellant informed that AE informed that he will arrange for it and also attest the documents.

(f) The appellant informed that he visited the AEs office about 10 times. The net failure was informed as reason for non registration of the application and the AE assured to register the application.

(g) The AEE informed that the application returned with minor queries may be attended and resubmitted.

(h) The appellant informed that he is yet to receive the queries.

13.4 In the conversation said to have been taken place on 13.6.2012 between the AE and the appellant , the following are observed.

(a) The appellant informed that he is ready to help him as per EB rules.

(b) Supply will be given within a week if application is as per EB rules

(c) EB meter is available

(d) Whether any change(in ownership) after gift settlement has to be confirmed.

(e) Service may be obtained in the name of the appellant instead of company's name or documents shall be in company's name.

(f) The load details are not available in the TIG certificate submitted. There was discussion also why the above load details are required.

(g) The appellant also informed that he is aware that the application given by him in the name of the company is invalid. But, informed the AE that at time of submission of the application, the AE has said that the application is OK. The AE also informed that as it was HT reading time his concentration is only on HT reading.

(h) The AE advised him to give a fresh application in his name.

13.5 The AE/Nilakottai in whose presence, the CD was played agreed that he had discussion with the appellant regarding the application over phone. But informed that the voice in the recorded version seems to be different from his voice.

13.6 To confirm whether the above voice recorded in the CD are of the AE, appellant and AEE, it has to be certified by the experts. Then only the above could be taken as a valid document to be considered as evidence.

13.7 On a careful hearing of the conversation recorded in the CD, it was noted that there was some doubt about the applicable tariff, there was some defect in the meter board position, non availability of signature of the notary public, non availability of attestations were figured in the discussion. These defects also find a place in the defects intimated to the appellant in licensee's letter dt. 5.6.2012. Hence, it is construed from the conversation that there are defects in the

application submitted by the appellant. Of course, the appellant's contention that the application is with the AE for more than a month has also come in the discussion (all the above observations are without prejudice to the certification of voice by the experts).

13.8 The appellant argued that the application given by him on 25.4.2012 is registered on 5.6.2012. On verification of the application registered on 5.6.2012, it is seen that the appellant has not mentioned the date of submission of the application. Hence, the date of submission could not be ascertained from the application.

13.9 The respondent agreed that an application was submitted by the appellant on 25.4.2012. But he said that the application was returned to him in person without registration as the wiring was not completed at the premises. In this regard, I would like to observe that the licensee ought to have returned the application indicating the defects noticed following the provisions of regulation 27(3) of the Distribution Code instead of handing over the application back to the applicant in person.

13.10 Further, it is seen that even the application registered on 5.6.2012 was cancelled due to non-payment of EMD and there were 9 defects in the application. Here, it is observed that though the respondent has given 3 days time for payment of EMD as per his letter dt.5.6.2012 the above letter was received by the appellants representative only on 8.6.2012 the date on which the application was cancelled.

13.11 As the appellant has not informed that he has submitted the application along with EMD on 25.4.2012 the application is not eligible for registration as per regulation 34(1) of the Distribution Code.

13.12 It is noted that the application registered on 5.6.2012 is having 9 defects and was cancelled due to non payment of EMD. Hence, it is established that even on 5.6.2012, the application is incomplete. Hence, I am of the view that the application said to be submitted on 25.4.2012 would also be in the same state and hence not eligible for registration. Further, the application registered on 5.6.2012 is in the name of V. Duraipandi (Manager), M/s Eswari health Products. But the application registered on 13.6.2012 is in the name of V. Duraipandi only. (ie) there is a change in the name of applicant itself.

13.13 However, it is observed that the licensee would have returned the application indicating the defects instead of returning back the application to the appellant in person. The above is the procedure to be followed as per the note under regulation 27(3) of the Distribution Code. Hence, there is a procedural lapse on the part of the respondent in not following the relevant regulation while returning the defective application, but the above lapse could not give room for calculating the delay in effecting service from 25.4.2012 since the application complete in all respects alone has to be taken for arriving the delay in effecting the service.

14. Finding on the third issue:-

14.1. With regard to the above issue, it is necessary to reproduce section 43 of the Electricity Act, 2003 which relates to duty to supply on request and which is

relevant for deciding the issues involved in the instant case. Section 43 as amended by Central Act 26 of 2007 reads as follows:-

“43. Duty to supply on request – (1) (Save as otherwise provided in this Act, every distribution) licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply ;

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(Explanation – For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances)

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1).

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default”.

14.2. In the Explanation to the said section 43 as inserted by Central Act 26 of 2007, the expression “application” has been defined meaning the application complete in all respects in the appropriate form, as required by the distribution licensee along with documents showing payment of necessary charges and other compliances.

14.3. From the above definition of “application” in the said explanation to section 43 of the Act as reproduced above it would be clearly seen that every application should be complete in all respects in the appropriate form as required by the distribution licensee along with the documents showing payment of necessary charges and other compliances. As per regulation 27 (3) of the Tamil Nadu Electricity Distribution Code the application for LT supply (except agricultural category) including hut service shall be in Form 1 and 3 of Annexure III. Form No. I of Annexure III is the statutory form prescribed under the said Regulation 27 (3) of the Distribution Code for the requisition of supply for Low Tension energy (except agriculture and hut). As per the said form, it is clearly seen that the application should be dated and it should be accompanied by the documents of proof of ownership (Sale Deed or Property / Water / Sewerage Tax Receipt) and consent letter from the owner wherever applicable.

14.4. In the instant case, the fresh application alleged to have been given by the Appellant on 02-06-2012 and registered on 13-06-2012 is not dated. The date column at the end of the form has not been filled up by the Appellant and it is left blank. Further it is not accompanied by the Settlement Deed indicating proof of

ownership of the Appellant over the land for which electricity supply is required by him. It is seen that the appellant has enclosed only an unattested copy of settlement deed along with first application registered on 5.6.2012 which was cancelled on 8.6.2012. Since the above statutory requirement of section 43 of the Act read with Regulation 26 (3) and Form I of Annexure III of the Distribution Code have not been complied with by the Appellant in the instant case, it is to be noted that the application alleged to have been given by him on 02-06-2012 and registered on 13-06-2012 cannot be said to be an application within the meaning of "application" as defined in the said Explanation to section 43 of the Act and the Regulation 27 (3) of the Distribution Code referred to above.

14.5. Since the non-compliance of the said section 43 of the Act is visited with a penalty as indicated therein the said section 43 has to be strictly construed and there cannot be any liberal interpretation of the said section 43 of the Act in favour of the Appellant. The mere registration of the application, which is not in conformity with the said section 43 of the Act read with Regulation 26 (3) and Form I of Annexure III of the Distribution Code cannot entitle the applicant to claim compensation unless the application given by the Appellant is complete in all respects as required under the said section 43 of the Act.

14.6. From the reading of the said Explanation to section 43 of the Act it can be clearly seen that there is a statutory requirement for every application namely proof relating to ownership of the land or consent letter from the owner. The above statutory requirements has been prescribed in the Form I of Annexure III of

the Distribution Code. Further another statutory requirement as specified in regulation 27 (14) of the Distribution Code reads as follows:-

“27 (14) Where more than one person or more than one establishment is in occupation of a door number or sub door number more than one service connection will be given only if there is a permanent physical segregation of areas for which different service connections are applied for”.

14.7 In the instant case, the Appellant at the time of furnishing the second application alleged to have been submitted on 02-06-2006 has not complied with the said regulation 27 (14) of the Distribution Code also. In his letter dated 06-08-2012, the Appellant has simply stated that he has already provided the physical segregation. But the date on which physical segregation has been provided for is not furnished by the Appellant.

14.8. From the above position, I hold the view that the second application registered on 13-06-2012 cannot be said to be complete in all respects as per the statutory provisions of law referred to above on the date of registration.

15. Finding with regard to the Fourth issue :-

15.1. With regard to the fourth issue, it is to be noted that as per Explanation to section 43 of the Electricity Act, 2003, the application should be complete in all respects and it should be accompanied by documents showing the payment of fees and other compliances. As per regulation 27 (3) read with Form I of Annexure III of Distribution Code, every application for LT service shall be in form No.1 and should be accompanied by document showing proof of ownership of the

land for which supply is required or consent letter from the owner. In the instant case it is seen that the Appellant inherited the land from his father by a Settlement Deed. As per Evidence Act, a fact can be proved by oral or documentary evidence. In the instant case as per the statutory form prescribed in the Distribution Code, the Appellant should produce document of Settlement Deed as proof of ownership. The Appellant has submitted two applications. The first application was registered on 05-06-2012 and the second application was said to be submitted on 02-06-2012 and was registered on 13-06-2012. The Respondent in its letter dated 05-06-2012 has pointed out the defect of non-furnishing the attestation on the copy of the Settlement Deed for proof of ownership and provision of physical segregation between the agricultural service and industry. In view of the fact that the requirement of document showing proof of ownership is mentioned in the statutory form itself namely, Form I of Annexure III of Distribution Code, the Appellant cannot plead ignorance. Further in the said letter dated 05-06-2012, the Respondent has clearly pointed out about the non-availability of the attestation in settlement deed furnished in proof of ownership. The above letter dated 05-06-2012 has been issued subsequent to the date of second application i.e. 02-06-2012. Further in the telephonic conversation as recorded in the Computer CD produced by the Appellant, it is seen that non availability of attestation by a Notary Public has been discussed.

15.2. The point for consideration for the purpose of deciding the third issue, is that on which date the Appellant has produced the attested copies of the Settlement Deed to the Assistant Engineer. It is to be noted that the application

can be said to be complete in all respects as per the Explanation to section 43 of the Act, if only the above attested copy of the Settlement Deed is furnished by the Appellant. In the letter dated 06-08-2012, the Appellant has stated that he has discussed this with the Assistant Engineer on the date of submission of application. As elaborately stated above, mere discussion is not sufficient and it will not amount to compliance of the said Explanation to section 43. The Appellant has enclosed the attested copy of Settlement Deed along with the letter dated 06-08-2012 as required by the statutory application Form I to the Distribution Code. On verification of the above document, it is noted that the attestation was made only on 20.6.2012 (ie) subsequent to the date of registration of the second application. It can be said very clearly that the Appellant have sent the attested copy only on 06-08-2012 and the same was received by the Assistant Engineer on 13.8.2012. From the above position, I hold the view that the application of the Appellant can be said to be complete in all respects only on the date of receipt of the attested copy of the Settlement Deed by the Assistant Engineer and the said receipt of document by the respondent. Hence the time-limit as set out in regulation 4 of SPR namely 90 days can be said to run only from the date of receipt of the attested copy of Settlement Deed showing the proof of ownership of the land (ie) from 13.8.2012.

15.3 In this context, it is relevant to point out that the Hon'ble Commission in its order dated 29-06-2009 in M.P.No.30 of 2008 (order with regard to Saw Mill) has considered the above section 43 as amended by Central Act 26 of 2007. At para 3.8, the Hon'ble Commission has observed as follows:-

“It is clear that after 15-06-2007, the Distribution Licensee is bound to provide electricity supply only if an application for electricity connection is supported by legal compliances”. Applying the above ruling of the Hon’ble Commission to the instant case it may be pointed out that the Appellant, on the date of filing the second application namely, 02-06-2012 which is registered on 13-06-2012, has not complied with the legal compliances namely permanent physical segregation of the land as required by Regulation 27 (14) of the Distribution Code and furnishing of the attested copy of the Settlement Deed as required by the statutory form prescribed under the Distribution Code etc., on the date of registration of the application. The application requesting supply registered on 13.6.2012 is satisfying all the statutory compliances on 13.8.2012 (ie) on the date of receipt of attested copy of settlement deed and the confirmation regarding the availability of the physical segregation from the existing agricultural services.

16. Findings on the Fifth issue :

16.1 As per my findings on the first issue, the time schedule permitted as per the Tamil Nadu Electricity Distribution Standards of Performance Regulation, for effecting service to the appellant’s industry is 90 days.

16.2 The appellant argued that he has given his application on 25.4.2012 and the supply was effected on 12.10.2010. Hence, the respondent has taken 170 days to effect supply as against the permitted days of 90 days and hence requested for suitable compensation for the delay in effecting the supply. The legal maxims, “ He who wants equity must do equity” and “ he who wants relief before the Court must come with clean hands” are applicable to the instant case,

since the appellant has committed serious default in not complying with the statutory provisions of law as stated in detail in para 14 while submitting the application seeking electricity service connection, he is not entitled to any compensation based on the date of submission of the application. In this regard it is relevant to point out that as per my findings on the second issue it has been held that the appellant's request of taking the date of application as 25.4.2012 for calculations of delay is not correct. Further, since the application registered on 13.6.2012 is not complete in all respects as per the provisions of law, the question of claiming any compensation for delay in effecting supply based on the date of registration of application also does not arise.

16.3 As per my findings on fourth issue, the date on which the application given by the appellant is complete in all respects as per the statutory provisions of law is 13.8.2012. The service was effected on 12.10.2012 (ie) the service was effected within 59 days from the date on which the application attains the statutory compliance. Hence, the respondent has effected the service within the time schedule of 90 days stipulated in regulation 4 of the Tamil Nadu Electricity Distribution Standards of Performance Regulation 2004.

16.4 As the service was effected within the time schedule given in the Tamil Nadu Electricity Distribution Standards of Performance Regulation, I am of the view that there is no delay in effecting supply and hence the appellant is not entitled for any compensation.

16.5 Eventhough I find the above issues against the Appellant. I feel it necessary to meet the contentions of the Appellant so that this order should be a speaking order.

16.6 One of the main contentions of the applicant as given in the rejoinder of the Appellant which has to be met by me is as follows:-

(a) The contention of the appellant is that as per Distribution Code the EMD has to be paid along with registration fee, and that having registered the application a reasonable time would have been given for payment of EMD. The appellant also contended that the time of 3 days given for payment of EMD is not in force and there is no such rule or condition specified in the Distribution Code.

(b) With reference to the above contention, it is to be noted that as per regulation 34 (1) of the Distribution Code, the Earnest Money Deposit has to be paid along with registration fee for application. Hence, the above contention which is contrary to the said regulation 34 (1) of the Distribution Code is liable to be rejected.

16.7 Another main contention as set out in Item 6 of the rejoinder is as follows. The said contention reads as follows:-

a. "10 (vi) He (Appellant) informed that the availability of physical segregation was informed to AE. The registration of application would not have been done on 13.6.2012 if there is no physical segregation".

b. With regard to the above contention, it is to be noted that as per the note to regulation 27 (3) of the Distribution Code, the application if it is incomplete should be returned without registration indicating the defects. In the instant case, it is

seen that the Appellant has furnished a Computer CD said to have contained the conversation between him and the Assistant Engineer and the Assistant Executive Engineer in proof of delay in registering the application.

c. (i) The recorded conversation submitted by the Appellant was heard on 9.1.2013 in the presence of the EE/Batlagundu and AE and the appellant. In the conversation said to have been taken place on 29.5.2012 between the AE& the appellant, the following are observed as the points figured in the conversation.

(ii) There is a doubt about the tariff applicable (ie) IIIB or V the appellant informed that the tariff applicable is IIIB as he is having similar service connection at Chennai.

(iii) More than a month has lapsed from the date of giving the application as per the appellants version.

(iv) The AE intimated that the meter board position has to be lowered and the appellant informed that it has been done already.

(v) The AE assured to register the application on confirming the applicable tariff and intimate the fact to the appellant over phone.

16.8 In the conversation said to have been taken place on 11.6.2012 between the appellant and the AEE, the following are observed.

(a) The application may be made in the name of individual instead of company's name.

(b) The AEE informed the appellant that the AE has informed that the appellant has not attended the defects in the application though he has agreed to attend the defects.

(c) The appellant informed that the AE has informed him that there is no query in the application.

(d) The appellant informed that the application was personally handed over and the indemnity bond was sent by courier on the next day.

(e) The non-availability of Notary Public's signature was discussed. The appellant informed that AE informed that he will arrange for it and also attest the documents.

16.9 From the conversation as recorded in clause (b) to para 16.8 above, it would be clearly seen that the Assistant Executive Engineer informed the Appellant that the Assistant Engineer has informed that the appellant has not attended the defects in the application though he has agreed to attend the defects.

16.10 From the above conversation, it is to be noted that the Appellant has orally agreed to attend the defects in the application forum. From the above recorded conversation, it is also seen that the Appellant has enclosed copy of the Settlement Deed without attestation by the Notary Public. It is only in the letter dated 06-08-2012, the Appellant has stated that he has discussed with the Assistant Engineer in regard to furnishing of attested copy of the Settlement Deed which ought to have been enclosed by the Appellant along with the application as mandatorily required in the statutory form. It is to be stated that regulation 27 (3) of the Distribution Code and Form No. I of Annexure III of the Distribution Code

and section 43 of the Act do not contemplate any discussion or oral agreement with regard to the statutory requirements as set out in the said provisions of law. The statutory form prescribed under regulation 27 (3) of the Distribution Code namely Form I of Annexure III only stipulates the filing of document on proof of ownership along with application itself which was filed on 02-06-2012 and registered on 13-06-2012. It is to be noted that in the letter dated 06-08-2012, the Appellant has stated that he has already made fencing arrangement but he has not indicated in the said letter dated 06-08-2012 as to the date on which he has made the fencing arrangement. In the conversation recorded above, the Assistant Engineer has stated to the Assistant Executive Engineer that the Appellant has not rectified the defect eventhough he has agreed to do so.

16.11 Further in the instant case another important factor ought to be noted. In the instant case, there are two applications given by the Appellant. The one was alleged to have been given by the Appellant on 24-04-2012 and registered on 05-06-2012 (first application) and another one (second application) said to be given on 02-06-2012 but registered on 13-06-2012. It is significant to note that both the above two applications are not in conformity with the statutory requirements of section 43 of the Act read with regulation 27 (3) and 27 (14) of the Distribution Code and Form I of Annexure III of the said Distribution Code. Both the above applications are undated and they are not accompanied by the documentary proof of ownership of land (ie) attested copy of the settlement deed as required under the above statutory provisions of law. The Appellant's contention is that the second application was given on 02-06-2012 but it was registered only on 13-06-

2012. That being so, the defects pointed out by the Respondent in letter dated 05-06-2012 which is subsequent to the date of filing of the second application (02-06-2012) can be very well taken to be the defects pointed out by the Respondent in regard to the second application also, though the first application was alleged to have been cancelled by the Respondent.

17. Conclusion:

17.1 In view of my findings in paras 12 to 16 above, it is held that the Appellant is not entitled for any compensation.

17.2 However, I would like to record the following observations :

As per the note under regulation 27(3) of the Distribution Code, the application given for availing supply shall be acknowledged in writing even if it is incomplete and shall be registered if it is in order. If the application is incomplete, the defects shall be indicated and the application is to be returned without registration . But, in this case, it is observed that the above regulation has not been followed. Had this been followed, the case would not have arisen at all. Hence, the respondent is directed to instruct his officers to follow the regulation in letter and spirit without any omission to avoid such lapses in future.

17.3 With the above findings, the AP 45 of 2012 is finally disposed off by the Electricity Ombudsman. No cost.

(A. Dharmaraj)
Electricity Ombudsman

To

1. Thiru V. Durai Pandi,
S.No. 324/2, Kalkkottai
Sirunaickenpatty P.O.
Nilakkottai Taluk
Dindigul Distirct
Pin code 624 219

2. The Superintending Engineer,
Dindigul Electricity Distribution circle
TANGEDCO(formerly TNEB),
Meenakshinaickenpatty Post,
Dindigul 624 002.

3. The Chairman (Superintending Engineer),
Consumer Grievance Redressal Forum,
Dindigul Electricity Distribution circle
TANGEDCO(formerly TNEB),
Meenakshinaickenpatty Post,
Dindigul 624 002.

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 WEBSITE**
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore,
Chennai – 600 008.