

KERALA LOK AYUKTA

PRESENT

THE HON'BLE MR.JUSTICE K.K.DENESAN, UPA LOK AYUKTA

Wednesday, the 13th day of May, 2015

COMPLAINT NO. 506/2011 C

Complainant

/: Subhash.S,
Gallery, Poundkadavu,
Valiyavelli P.O.,
Trivandrum-695 021.

Respondents

- : 1. Asst. Engineer,
Electrical Section,
KSEB, Kulathoor,
Trivandrum.
2. Sri. K.Prasannan,
Thalvilakom,
Kulathoor (P.O),
TVPM-695 583.
(Impleaded as Addl. R2 as per order dated
01.03.2012 in IA 96/12)
3. The Village Officer,
Attipra.
4. Revenue Officer
Zonal Office,
TVPM Corporation,
Attipra.
5. Secretary,
TVPM Corporation,
Thiruvananthapuram.
(Suomoto impleaded as addl. R3 to R5 as
per order dated 31.7.13.)

By Adv. Sri. B.Sakthidharan Nair (R1)

Senior Government Pleader (R3)

By Adv. B.Vasudevan Nair (R4, R5)



C.No.506/11 C

ORDER

Complainant is an ex-service man residing in Attippra Village, Thiruvananthapuram Taluk. He filed the complaint impleading the Asst. Engineer, Electrical Section, KSEB, Kulathur, Thiruvananthapuram as the sole respondent. He has approached this Forum raising the allegation that the respondent has given illegal electric connection to a building assigning consumer No. 7132 under LTVI A coming within the area of operation of Electric Section KSEB, Kulathur, Thiruvananthapuram. Complainant alleges that the building to which supply of electricity was given is wrongly styled as 'Gurumandiram' and that the said building stands on government land comprised in Sy.No. ^{168/2}160/2 of Attippra village. This fact was ascertained by the complainant from the Village Officer, Attippra invoking the provisions of the Right to Information Act. Similarly he could gather information from the Electric Section, KSEB, Kulathur that the name of the consumer as entered in the official records of KSEB is Sri. K.Prasannan. On enquiry, it was understood that the person who is shown as the consumer did not produce the ownership certificate in respect of the building to which supply of electricity was



given as consumer No. 7132. Respondent who got knowledge about the enquiries made by the complainant about the electricity connection to the above mentioned building is understood to have issued notice to the consumer requesting him to produce the ownership certificate on or before 22.2.10, to avoid disconnection. The consumer failed to produce the ownership certificate. Consequently, electricity supply was disconnected on 5.3.10. Complainant got information from the Zonal Office of the Corporation of Thiruvananthapuram consisting of Kulathur Panchayath that the above mentioned building was constructed without getting permission or licence from the Corporation and that no ownership certificate has so far been issued from the Corporation, as far as the said building is concerned.

2. Though the illegality was undone by disconnecting the supply to the unauthorized building, surprisingly some Officers of KSEB restored the supply to the said building within 45 days of the disconnection. This was done on 19.4.10. Objection was raised against the restoration of electricity connection to the same building. But no action was taken by the respondent. It is in the above circumstances that this complaint has been filed. Averments made in the complaint would go to show that the building referred to above is



being used by anti-social elements whose activities cause public nuisance. A criminal case was registered and investigated by the police against the members of the gang for committing public nuisance and final report against the accused was filed before Judicial Magistrate First Class-II, Thiruvananthapuram.

3. Complainant has taken up the cause in public interest and has approached this Forum for investigation into the action of KSEB.

4. Investigation was ordered. Respondent entered appearance through Standing Counsel, KSEB and filed defence statement. Complainant filed replication.

5. Respondent raised the question of maintainability of the complaint on the ground that the consumer who is likely to be affected in the event of this Forum entering findings as prayed for by the complainant is a necessary party to these proceedings and, therefore, the complaint is bad for non-joinder of necessary parties.

6. In response to the above objection of the respondent, complainant filed application seeking impleadment of Sri. Prasanna, Kaivilakam, Kulathur P.O., Thiruvananthapuram-695583 as respondent No.2. That application was allowed by this Forum and notice was issued to the additional second respondent. But the second respondent did not appear on the posting date despite receipt



of notice. As it was found that his presence is necessary for effective investigation, coercive steps were taken to secure his presence.

7. At that stage of the investigation, standing counsel for the respondent submitted that service connection was given to the building though it did not have any door No. assigned by the legal authority. Learned counsel also submitted that supply had to be restored on the strength of an indemnity bond executed by the occupier of the building. In the light of the above submission made by the standing counsel for KSEB, the first respondent was directed to produce before this Forum copy of the indemnity bond along with a statement explaining the circumstances under which the bond was executed.

8. In the meantime there arose the necessity, in the light of Ext.P1 dated 5.12.09 showing that the land on which the building was constructed was purampoke land, to direct the Village Officer, Attippra to inspect the site and collect relevant information with reference to the revenue records kept in the Village Office and to file detailed report in the matter. It was ordered that a copy of the complaint along with Exts.P1 and P2 should be served on the Senior Government Pleader attached to the Special Attorney, Kerala Lok



Ayukta, so that his services also could be utilized for effective investigation in this case.

9. Though the above order and the copy of the complaint were served on the Village Officer, there was no response. Hence the Village Officer was directed to appear in person. Simultaneously orders were issued to the Station House Officer of the Police Station concerned to execute B/w issued against the second respondent who had failed to appear. Coercive action thus taken proved fruitful. Second respondent appeared in person on 5.2.13. He was given opportunity to offer his comments against the averments and allegations in the complaint. Village Officer, Attippra appeared in person. He filed report furnishing the information sought for in the order dated 3.7.12. Copy of the report was served on the complainant and the respondents 1 and 2 to enable them to file objection, if any, against the report of the Village Officer.

10. Investigation continued. When the complaint came up for consideration on 13.5.13, it was submitted by the complainant that he has no objection against the report, because, facts stated therein are true. Standing Counsel for KSEB who agreed with the contents of the report of the Village Officer submitted that electricity supply to the building was disconnected by the Officers of the KSEB



as the supply was found to be objectionable, but it was restored, soon thereafter, under the pressure exerted by some members of the local people and as per instructions given by higher officials.

11. On 31.7.13 the first respondent Asst. Engineer, KSEB submitted his report together with the certificate issued by the Revenue Officer, Corporation of Thiruvananthapuram. Copies of the same were served on the complainant and the Senior Govt. Pleader.

12. In the light of the additional information received during the investigation, three more persons were impleaded as additional respondents, namely, (1) Village Officer, Attippra as additional respondent No.3, (2) Revenue Officer, Zonal Office, Thiruvananthapuram Corporation, Attippra as additional respondent No.4 and (3) Secretary, Thiruvananthapuram Corporation, Thiruvananthapuram as additional respondent No.5. Pursuant to notices issued to the additional respondents, they entered appearance through their counsel on 27.9.13 and sought for time to file statement. Second respondent who is stated to be the consumer and the beneficiary of the alleged unauthorized connection did not show any interest to contest. He did not file any statement.

13. When this complaint came up for consideration on 23.1.14 the following interim order was passed.



"From the pleadings so far made it would appear that the 4th respondent has given certificate to one 'Gurumandhiram' in respect of building bearing No. TC 81/2385 for the purpose of proving the ownership of that building before KSEB on 5.7.2013. It is the definite case of the complainant that the building to which illegal connection has been allegedly given stands in government property and that the building does not bear door number. Contention of the complainant is that the ownership certificate obtained by Gurumandhiram was misused for getting illegal connection to a building which does not bear door number. Village Officer reports that the property where the building in question is situate belongs to government and it has been so declared by the competent authority.

In the above circumstances, respondent No.1 is directed to conduct inspection of the building to which electricity connection has been given as consumer No.132, verify whether that building bears any door number, ascertain whether the said building is occupied by anybody and collect all relevant details. A statement furnishing those factual details gathered during the inspection shall be filed by the first respondent on the next posting date.

Communicate copy of this order to the Standing Counsel for KSEB for information and



compliance by the first respondent. Post on 11.3.2014."

Thereafter, yet another interim order had to be passed by this Forum on 11.3.14. The same reads:

"Respondents 4 & 5 have already filed statement. Counsel for the first respondent submits that report is filed by the first respondent in compliance with the order dated 23.01.2014. Copy of the report is also served on the complainant and the other respondents. Perused the report. The report of the Assistant Engineer, Electrical Section, Kulathoor shows that the property is waste land belonging to the Government, that no door number is affixed to the structure wherein 'Gurudeva Prathima' is installed but counsel for KSEB submits that for obtaining electrical connection ownership certificate had been produced as having been issued by the Corporation of Thiruvananthapuram, that it showed that the building is having door number T.C 81/2385 in Poundukadavu division and that it is on that basis that, the electric connection was given. He further submits that it is in consequence of the complaint that the electric connection was disconnected, but that, on subsequent verification as it was found that the building is given door number as seen from Ext. R7, the connection was restored. The report filed today by the Assistant



Engineer, Electrical Section, Kulathoor also shows that the Gurumandiram is situated within a rubble wall constructed out side the road. The second respondent is stated to be the person who is managing the affairs of Gurumandiram but despite receipt of notice, he has not cared to appear and file any statement. The report obtained by this Forum from the Village Officer, Attipra Village shows that the property having an extend of 2 hectares and 78.90 ares comprised in re-survey No. 168/2 in Attipra Village is property under the control of the Government as that has been taken over under provisions of the Kerala Escheats and Forfeitures Act 1964 vide order No. B.11-4107/2008 dated 31.05.2008 of District Collector, Thiruvananthapuram and that however, the Gurumandiram on his enquiry is found to be in existence at the place for the last more than twelve years. If that be so, the Gurumandiram was in existence even as on the date of taking over of the property by the Government under provisions of the Kerala Escheats and Forfeitures Act 1964. In that event the construction cannot be stated to be one effected encroaching on the Government land.

2. The complainant has a case that the door number assigned is the number assigned to another Gurumandiram located at Kolathukara at Kulathoor in Attipra Village and not the one to which electric connection is given by KSEB. That is a matter to be probed into by KSEB after verification by the



Corporation authorities. Respondents 4 and 5 shall conduct personal verification by themselves of the Gurumandiram complained of, get themselves satisfied as to whether the said construction was the one which was numbered by the Attipra Panchayath and was subsequently subjected to assessment by the Corporation of Thiruvananthapuram from 1998-99 onwards as stated by them in their written statement. Such verification has to be made with reference also to the Gurumandiram which is stated to be in existence at Kolathukara at Kulathoor in Attipra Village as contention of the complainant is that the assessment number was actually in relation to the Gurumandiram that was in existence at Kolathukara and was being given falsely as the number of the Gurumandiram to procure reconnection of the electric connection. The detailed report after verification shall be filed within three weeks from today. Post on 02.04.2014."

When the matter came up on 20.8.14, learned counsel for the 5th respondent drew my attention to report dated 29.3.14 filed by the said respondent furnishing details relating to two 'Gurumandiram' situate in two different compounds and having separate door numbers. Complainant submitted on that day that the Gurumandiram mentioned in the latter part of the report having door No. TC 81/1185 did not bear a door number earlier. According to him there is reason



to believe that the above door number was allotted illegally and that there are strong reasons to think that records were fabricated for doing illegal act. Hence direction was issued to the 5th respondent to produce the relevant register containing entries relating to the door number of the Gurumandiram in question for perusal by this Forum. It was made clear that the registers pertaining to the erstwhile Attippra Panchayath and the register, if any, maintained separately by the Corporation shall be produced. On 15.10.14 to which date the complaint stood posted for due compliance of the above order, Adv. Saritha P.R who appeared for the 5th respondent submitted that the registers concerned have been searched out and that the Officers of the Corporation have been directed to bring the same before this Forum. Smt. Saritha sought a week's time for producing the documents. Complaint was adjourned to 27.10.14. On that day the relevant register maintained in Thiruvananthapuram Corporation, in which entries relating to the door number connected with the building in question were made, was produced for the perusal of this Forum. Counsel sought for time to file photocopies of the relevant pages of the register and a statement furnishing the required details.

14. Complaint was adjourned to 3.12.14 and fresh notice was issued to the second respondent to enter appearance. Second



respondent appeared in person on 3.12.14. He submitted that he is a person suffering from Tuberculosis and is not able to travel frequently. He filed a statement to the effect that he has no objection against the reliefs sought for in the complaint and that he did not want to dispute the correctness of the averments in the complaint. He also submitted that he is not interested in the subject matter of the complaint and that he did not want to contest the matter. The above submissions were recorded.

15. On 4.2.15 the contesting parties were heard with reference to the materials on record. During the course of that hearing there arose the need to look into one more document, namely, the relevant page of the property tax assessment register of Thiruvananthapuram Corporation in respect of TC No. 81/2385 (old number). Learned counsel for the 5th respondent Corporation submitted that true extract of the relevant page of the tax assessment register with a statement furnishing the required particulars will be produced on 18.3.15. In due compliance of the undertaking, the learned Standing Counsel for Thiruvananthapuram Corporation produced the Tax Assessment Register containing the relevant page in which TC No. 81/2385 was entered. True photo copy of the relevant page also was produced.



16. I perused the relevant page of the original Tax Assessment Register and the same was returned to the Standing Counsel after keeping a photo copy of the said page with the records of this complaint.

17. On the basis of the materials thus placed on record, I once again heard the complainant who appeared in person, learned Standing Counsel for the first respondent, the learned Senior Government Pleader for the third respondent and the learned Standing Counsel for respondents 4 and 5.

18. Complainant has alleged that the first respondent gave electricity connection to an unauthorized building as consumer No. 7132 under LTVIA of Electricity Section, Kulathoor, KSEB, that the said building is wrongly named as 'gurumandiram', that it stands on government land comprised in survey No.160/2 of Attippra Village' that supply was given to that building without the applicant/consumer producing ownership certificate of the building, and that the connection, on realizing this fact, was taken away but within a short spell the supply was restored for extraneous considerations.

19. In the written statement filed by the first respondent the following information has been furnished.

**This connection was given to Sri.KPrasannan, who is known to be secretary, SNDP Sakha No.1122,*



Kulathoor P.O. Trivandrum. On verification it is now under stood that no ownership certificate or building permit number was issued by local body for the construction of Gurumandiram; hence no building number has been provided by the applicant along with application for service connection.

It is submitted that after receiving the copy of information given by the village officer, Attipra under R1 Act, against the application submitted by the complainant, a notice was issued to consumer by this respondent, directing to submit the ownership certificate for Gurumandhiram, at Poundukadavu, before 22.02.2011 to avoid disconnection. The notice issued to the consumer is produced as Ext. R-1.

But consumer did not respond to this letter till 22.02.2010 hence the connection was disconnected on 10.03.2010. On 11.03.2010 a request letter for reconnection received from The Secretary, SNDP Sakha 1122, Kolathukara. The request dated 19.03-2010 addressed to the respondent is produced as Ext R-2.

Few days after, a group of People who were believed to be the disciples of Sree Narayana Gurudeva (more than 50 in numbers) surrounded the office building of KSEB Kulathoor and demanded reconnection by shouting slogans. The respondent informed the matter to higher officials. For avoiding a communal issue, higher officials suggested to effect reconnection



temporarily. Hence the connection was restored on 19.04.2010. Thereafter on 23.04.2010 a notice was issued to consumer in con. Number: 7132 for submitting the relevant documents proving the ownership certificate for avoiding disconnection before 15.05.2010, but still there is no response to this notice".

Statement filed by the third respondent Village Officer shows that the allegations made by the complainant regarding the nature of the property and the ownership of the property are correct. The same reads:

"പരാതിക്കാർസ്പദമായ സ്ഥലം ആറ്റിപ്ര വില്ലേജ് റീസർവ്വേ 168/2-ൽ പ്ലാട്ട് 02.78.90 ഹെക്ടറിൽ ഉൾപ്പെട്ടതാണ്. ടി ഭൂമി Kerala Escheats and Forfeitures Act 1964 പ്രകാരം ജില്ലാകളക്ടറുടെ 31-5-2008 ലെ ബി.11-4107ഡ2008-ാം നമ്പർ ഉത്തരവ് പ്രകാരം സർക്കാരിലേയ്ക്ക് ഏറ്റെടുത്തിട്ടുള്ളതും നിലവിൽ സർക്കാർ അധീനതയിൽ ഉള്ളതുമാണ്. ടി ഭൂമിയിൽ സർക്കാർ ഓഫീസ് സമുച്ചയം നിർമ്മിക്കുന്നതിന് വേണ്ട പ്രോപ്പോസൽ നിലനിൽക്കുകയുമാണ്. ടി ഭൂമിയുടെ വടക്കുവശത്തുകൂടി പോകുന്ന കോർപ്പറേഷൻ റോഡിനോട് ചേർന്ന് ടി ഭൂമിയിലെ വടക്കുവശത്തുകൂടി പോകുന്ന കോർപ്പറേഷൻ റോഡിനോട് ചേർന്ന് ടി റീസർവ്വേ 168/2-ാം നമ്പർ ഭൂമിയിൽ ഒരു ഗുരുമന്ദിരം സ്ഥിതിചെയ്യുന്നതായി കാണുന്നു. പരിസരവാസികളോടന്വേഷിച്ചതിൽ ടി ഗുരുമന്ദിരം ഉദ്ദേശം 12 വർഷം



മുമ്പ് അവിടെ സ്ഥാപിച്ചിട്ടുള്ളതായി അറിയാൻ കഴിഞ്ഞു. ടി ഗുരുമന്ദിരം നിർമ്മിച്ചിരിക്കുന്നത് നിലവിൽ സർക്കാർ അധീനതയിലുള്ള ഭൂമിയല്ലാണ്. ടി Resy 168/2-20 നമ്പർ ഭൂമിയെ സംബന്ധിച്ച വില്ലേജ് രേഖകളുടെ പകർപ്പ് ഇതോടൊപ്പം ഹാജരാക്കുന്നു. ടി ഗുരുമന്ദിരത്തന്റെ അവകാശം സ്ഥാപിക്കുന്ന ഒരു രേഖയും വില്ലേജിൽ ഇല്ലാത്തതാണ് എന്ന വിവരം താഴ്മയായി റിപ്പോർട്ട് ചെയ്യുന്നു.”

Rough sketch produced along with the above statement of the Village Officer corroborates the above fact.

20. Respondent No.4 is the Revenue Officer, Zonal Office, Thiruvananthapuram Corporation and respondent No.5 is the Secretary of that Corporation. In the statement jointly filed by the above respondents on 23.1.14, the following facts are stated in the 7th paragraph.

“It is also submitted that on the basis of the application dated 2.7.2013 submitted by the Secretary of Gurumandiram these respondents have issued ownership Certificate in the name of Gurumandiram with respect to the building bearing No. TC 81/2385 for the purpose of producing the same before the KSEB on 5.7.2013 as per the proceedings bearing No.ZA3/2944/13. It is submitted that the ownership certificate has been issued by verifying the documents and records and after convincing that the said building



is in existence even before the annexure of Attipra Panchayath with the City Corporation of Thiruvananthapuram and the same was numbered by the Panchayath. The said fact is evident from the Assessment Register maintained the Attipra Panchayath. It is also submitted that the said building has been subjected to assessment by the City Corporation of Thiruvananthapuram from 1998-1999 onwards."

Statement thus made is consistent with the statement filed by the 5th respondent on 29.3.14 which is as follows:

"പരാതിക്കാരൻ സൂചിപ്പിച്ചിട്ടുള്ള ഗുരുമന്ദിരം നഗരസഭ നികുതി ചുമതൽ രജിസ്റ്റർ പ്രകാരം പൗണ്ടുകടവ് വാർഡിലെതന്നെകോരളംകുഴി എന്ന ഭഗത്താണ്. ആയതിന്റെ റി.സി. നമ്പർ 1/1185 ആണ് രജിസ്റ്ററിൽ 'ഗുരുദേവമന്ദിരം' എന്നാണ് രേഖപ്പെടുത്തിയിരിക്കുന്നത്"

Finally respondents 4 and 5 have filed an additional joint statement. Para 3 and 4 of the said statement furnish the following information;

"As per the property tax assessment registrar maintained in the office of the Thiruvananthapuram City Corporation Gurumandiram was originally numbered as TC 81/1185 and presently it is numbered as TC 99/167.

It is submitted that the said gurumandiram situates in Government puramboke land and the Panchayath

register attributing number to said Gurumandiram is not available. In the property tax assessment register maintained in the Corporation the earlier number allotted to the mandiram from Panchayath is also not seen entered."

21. Second respondent, who according to the first respondent had applied for supply of electricity to the building in question, appeared in person before this Forum and filed statement agreeing fully with the averments made by the complainant.

22. Materials on record clearly go to show that TC 81/1185 has been allotted to a building which is situated on government land. Ownership certificate issued by the Thiruvananthapuram Corporation is not in respect of the above building. TC No. shown in the ownership certificate pertains to another building. It is, therefore, evident that a futile attempt is being made by the first respondent to justify the supply of electricity to the unauthorized building by producing ownership certificate of another building which also is named as 'gurumandiram'. The truth is that the Engineers of KSEB, at the relevant time, did not take care to collect relevant particulars about the building from the applicant. Merely for the reason that a building has been unauthorizedly constructed by somebody on puramboke land belonging to the Government, the authorities of the



local bodies are not justified in allotting door number to that building. Allotting door number to such buildings is tantamount to approving and encouraging encroachment on government land. Giving electricity connection to such building is perpetuation of that illegality. Complainant has pointed out that the unauthorizedly constructed building did not have a door number at the time of giving service connection to that building by KSEB. He asserts that the door number was subsequently introduced to cover up the illegality. These facts make it evident that the authorities have acted against public interest.

23. Records maintained in the office of the above electrical section do not disclose the name and address of the owner of the said building. Second respondent (Sri. Prasannan) whose name was originally entered as the consumer has disowned the custody and possession of the above building. He really wants to be relieved from the burden. Electric connection cannot be given on the basis of false certificate and allotment of door number to a building which is constructed unauthorizedly on government land. Hence the first respondent has to disconnect the supply immediately, in public interest. It is significant to note that nobody has come forward to claim ownership and possession of the building having door



No.81/1185 of Thiruvananthapuram Corporation. Report of the Village Officer that the above building stand on puramboke land clinches the issue. Action shall be taken against the encroachers of the land by invoking Kerala Land Conservancy Act.

24. This is a case where private persons have been favoured in violation of the provisions of law. Defence set up by KSEB that supply was restored under pressure put by some people of the locality is liable to be rejected. According to me supply given to the building as consumer No.7132 of Electrical Section, KSEB, Kulathoor is liable to be disconnected immediately.

25. Complainant has succeeded in establishing that action of the first respondent in giving electric connection to the building by allotting consumer No. 7132 of Electric Section, Kulathur is unjust, unreasonable and improperly discriminatory. The above action is nothing but maladministration. It is not only maladministration but also abuse of power to show undue favour to the consumer who is the beneficiary of the illegality. Hence appropriate action shall be taken to undo that illegality. As per Section 12(1) of the Kerala Lok Ayukta Act, it is within the competence of this Forum to fix a time limit for redressing the grievance of a person and/or to undo the illegality. I, therefore, recommend that electric connection given as consumer



No.7132 of Electric Section, Kulathur shall be disconnected within three weeks from the date of receipt of a copy of this order. Thereafter the competent authority, namely, the Principal Secretary to Government, Power Department, Secretariat, Thiruvananthapuram will file action taken report as laid down in the Section 12 (2) of the Kerala Lok Ayukta Act.

For action taken report, post on 15.7.2015.

sd/
JUSTICE K.K.DENESAN, UPA LOK AYUKTA

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sd/
TRUE COPY
[Signature]
Off. Secretary