

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Order of the Commission dated this the 24th Day of September 2024

PRESENT:

ThiruK.Venkatesan

.... **Member**

and

ThiruB.Mohan

.... **Member (Legal)**

P.R.C. No. 3 of 2024

Mrs.P.Asha,
W/o.Pankaj,
No.1, Duraisamy Achari Street,
Tindivanam, Villupuram – 604001.

.... Petitioner

M/s.Stephen& Stephen
Advocates Associates

Versus

1. The Chief Internal Audit Officer,
TANGEDCO,
NPKRR Maaligai 1st Floor,
144, Anna Salai,
Chennai – 600 002.

2. The Superintending Engineer,
TANGEDCO, Villupuram EDC,
No.10, Power House Road,
Villupuram – 605602.

..... Respondents

Thiru.N.Kumanan and
Thiru.A.P.Venkatachalapathy,
Standing Counsel for TANGEDCO

This P.R.C. No. 3 of 2024 arises out of the Petition filed by Mrs.P.Ashawith a prayer to invoke section 142 of Electricity Act 2003 on the circumstances and the issue narrated in this S.R.No.52 of 2024 which is yet to be numbered and on the facts and circumstances of the issue and on the prevailing laws for non-compliance of regulation and statutes, and punish the respondents for their wilful disobedience and ignorance of

law, apart from directing the 1st respondent to withdraw the Audit Slip No.3 of 2023 immediately and to pass just & further or other orders to the members nominated / appointed under the provisions of TNERC Regulation for CGRF & Electricity Ombudsman 2004 for their strict adherence of statutory regulations and directions of TNERC and to pass further directions as the Commission deems fit in this issue, to meet the ends of justice.

This matter coming up for hearing on 03-09-2024 for deciding the very maintainability of the petition in the presence of M/s.Stephen& Stephen Advocates Associates for the Petitioner and Tvl. N.Kumanan and A.P.Venkatachalapathy, Standing Counsel for the Respondents,on consideration of the submissions made by the Counsel for the Petitioner and the Respondents, this Commission passes the following:

ORDER

1. The present Pre-Registration case arises out of the order of rejection made by the Registry of the Commission in S.R.No.52 of 2024 dated 24.06.2024 and thereafter by the Secretary vide his communication dated 03.07.2024. It is seen from the order of rejection made by the Registry and Secretary in regard to the acceptance of the petition that the petition was rejected primarily on the ground lack of jurisdiction on the part of the Commission to entertain the present petition advising the petitioner to approach the Electricity Ombudsman.

2. It is not necessary to set out entire contents of the petition filed by the petitioner as the issue lies in a very narrow compass, namely, whether the authorities below were right in rejecting the petition for the reason that the present petition is not maintainable under Section 142 of the Electricity Act 2003 as the issue purely pertains to a meter related one squarely falling within the jurisdiction of CGRF in view of explicit provision in Regulation 18 of the Tamil Nadu Electricity Supply Code and hence an appeal thereafter would lie only to the Electricity Ombudsman.

3. The petitioner submitted during the hearing before the Commission that the CGRF violated the provision of the Regulations and passed an order solely on the basis of audit finding despite the recommendations made by the field officials to the contrary in her favour in the hearing held before the CGRF. The sum and substance of the argument of the petitioner is that the present petition is, in effect, not for settlement of grievance as observed by the Registry and Secretary but only for punishing the official of the licensee for violation of the Regulations.

4. Having considered the arguments advanced by the petitioner, it is to be observed categorically that the prayer made herein for punishment of the officials of TANGEDCO though penal in nature, is directly relatable to the withdrawal of the impugned Audit Slip and the Regulation 11 of the TN Electricity Supply Code which relates to consumer grievance in the matter of defective meter. It can be seen that the petitioner herself relies upon Regulation 11 of Supply Code in para 9 of the petition which is related to meter defect. In view of the same, we find no error in the order of rejection passed by the

authorities below directing the petitioner to approach the Electricity Ombudsman as the very Regulation relied upon by the petitioner, namely, Regulation 11 is covered by Regulation 18 of the TN Electricity Supply Code which empowers only the CGRF to hear the disputes pertaining to meter defects. In such case, as a sequitur, the appeal lies only to the Electricity Ombudsman.

5. Be that as it may, during the proceedings before the Commission, the Counsel for the petitioner admitted that another petition has been filed before the Electricity Ombudsman on the same subject. In such case, it is to be understood that there cannot be parallel proceedings before the Commission and the Electricity Ombudsman on the same subject. When queried, the petitioner made a feeble attempt to hold on to section 142 as a means to punish the erring officials and further stating that the petition is not for settlement of grievance but for seeking punishment.

6. Even though the petitioner tried to distinguish the present petition as being penal in nature and hence admissible under section 142 of the Electricity Act 2003, we are unable to agree to the said contention for the reason that the petition is clothed with the ultimate aim of setting aside the Audit objection in a basically meter related matter which is purely technical in nature concerning consumer grievance. Even a cursory reading of the petition makes it clear that the dispute in the instant case, namely, Dummy Meter Change, is purely a question of fact which cannot be a subject matter of proceedings under section 142. Apart from the jurisdictional question, the petitioner's case also fails on the question of pursuing parallel proceedings. The proceedings under section 142

cannot be set in motion to settle consumer grievance indirectly. It is trite that what cannot be done directly cannot be done indirectly, moreso, when an alternative remedy which is available is more efficacious, and when the proceedings under section 142 becomes superfluous.

7. It is all the more important to observe here that as observed by the Registry and the Secretary, the petitioner's entire grievance rests on the fact that the CGRF, according to the petitioner, failed to pass a reasoned order. Needless to state here that the grievance on the alleged failure to pass a reasoned order cannot be taken up under section 142 and it can be taken up only under appellate jurisdiction by the Electricity Ombudsman. The proceeding under Section 142 cannot be seen as a parallel remedy to be kept in reserve to spring up and fill the gap anticipating failure in the alternative remedy.

In the result, for lack of jurisdiction the petition in S.R.No.52 of 2024 is dismissed as not maintainable.

(Sd.....)
Member (Legal)

(Sd.....)
Member

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission