

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION  
CHENNAI**

**Constituted under Section 82(1) of the Electricity Act, 2003  
(Central Act 36 of 2003)**

**PRESENT :**

**Thiru S. Kabilan** - **Chairman**  
**Thiru R. Rajupandi** - **Member**  
**and**  
**Thiru K. Venugopal** - **Member**

**M.P No.15 and 16 of 2009**

**Date of hearing – 14-10-2009**

**Date of Order:16-11-2009**

(1) Mrs. V. Suryakantham

Complainant in MP 15 of 2009

Counsel for Complainant:  
Thiru P. Gopinath  
Advocate

(2) Dr. V.S. Jeganathan  
Dr. J. Vinil Kumar

Complainants in MP 16 of 2009

**Vs.**

Tamil Nadu Electricity Board  
Represented by its Chairman  
No.144 Anna Salai  
Chennai-600 002.

Respondents  
Counsel for Respondents  
Thiru Mohamed Rafi

The above M.P. Nos. 15 and 16 of 2009 in M.P.No.8 of 2009 came up for final hearing before the Commission on 14-10-2009. The Commission upon perusing the above MP Nos.15 and 16 of 2009 and the connected records and upon hearing both sides passes the following

## **COMMON ORDER DATED 16<sup>th</sup> NOVEMBER 2009**

### **1. Prayer of the petitioner**

The prayers in M.P.Nos. 15 and 16 of 2009 are as follows:

- a. to pass suitable order or orders to enforce the order of this Commission
- b. to initiate contempt proceedings against all the respondents
- c. to levy maximum penalty to each respondent for every offence u/s 142 of the Act
- d. to pay costs to the petitioner
- e. to impose maximum punishment on the Respondents and thus render justice.

### **2. Facts of the case**

The facts in both the above MPs. 15 and 16 of 2009 are same. They are as follows:

- (a) Both the above petitioners in MPs 15 and 16 of 2009 filed petitions before the Commission for non-compliance of the Order of Tamil Nadu Electricity Ombudsman dated 19-9-2008, which directed the respondents to consider the request for name transfer sought by Thiru Anandan in favour of his wife and in the process, the request of the appellants for shifting two service connections to an undisputed place belonging to the wife of Thiru Anandan may also be considered in accordance with the Electricity Act and Regulations made thereunder.
- (b) The Commission in its Common Order dated 29-6-2009 passed in M.P.Nos. 7 and 8 of 2009, while holding the view that the order of the Ombudsman has been carried out and no further action is required on the petitions filed by the above petitioners, interalia observed as follows:

*“In the present case, the owner of the two commercial service connections has located the meter in an area, which belongs to three other co-owners and as a result the meters cannot be located there without the consent of those co-owners. If the co-owners object to such location, the meter should be shifted to the premises which it serves. The licensee is directed accordingly to take action within 30 days and report compliance to the Commission.”*

- (c) The petitioners have stated that the Respondent did not comply with the above directions of the Commission. Hence the petitioners filed the above MPs. 15 and 16 of 2009 before the Commission.

### **3. Contentions of Petitioners**

- (a) The Respondents have effected commercial connections to a person who does not have the ownership to the place where the connections are sought since 2003 to till date.
- (b) The petitioners are made to suffer without any relief when the respondents have resolved to disobey any directions.

### **4. Contentions of the Respondent Board**

- (a) There is no violation of any of the provision of the Act or the Rules or Regulations or any order of the Commission and hence the petitions are not sustainable.
- (b) All the meters are located in the common area only. So far as the location of the meters are concerned there is no dispute of any ownership as the meters are located commonly eventhough respect meters serving different flats. To install all the meters in common area a separate consent from other co-owners is not required to be obtained.
- (c) Mr. V. Anandan by his reply letter dated 7-10-2008 informed the respondent that he had not applied for the shifting of electricity service connections and being a joint owner of door No.97 and 98 RK Mutt Road, Mandaveli, Chennai 600 028, he is also entitled to the electricity service connections in

the said premises. Hence the respondents could not shift the electricity service connections from the premises.

#### **5. Contentions of the petitioners in the reply to the counter.**

- a. Neither Mr. Anandan nor his wife can claim ownership over the entire property to ask for the commercial connections for the basement and the jewellery shop.
- b. The respondents have powers under regulation 25 of the Tamil Nadu Electricity Supply Code to enter and fix the meters in the basement and in the event of any opposition the connections may be disconnected.

#### **6 Findings and conclusion of the Commission**

6.1. The Commission in Common Order dated 29-6-2009 in MP Nos. 7 & 8 of 2009 ruled that the two commercial service connections, which are currently located in the common area of the residential flats, ought to be shifted to the territory, which the two commercial service connections serve. This is because the meter of the service connection of one premises cannot be located in another premises without the consent of the owner / co-owner(s) of that premises. This interpretation flows from Section 43 of the Electricity Act 2003, which enjoins upon the distribution licensee to provide supply of electricity to a premise at an appropriate location on an application by the owner or occupier, who opts to file the application for the service connection. If the property is a joint property and if only one of the co-owners submits the application, he needs to secure the consent of the other co-owners. The same would apply to an occupier also.

6.2. In the present case, the owner of the two commercial service connections has located the meter in an area, which belongs to several owners. As the other co-owners have objected to such location, the meter

ought to be shifted to the premises, which it serves. The distribution licensee was accordingly directed to enforce Section 43 of the Electricity Act, 2003.

6.3. Mrs. Usha Anandan, owner of the commercial premises appeared before the Commission through her counsel and sought to be impleaded in the proceedings on the ground that she is prejudiced by the order of the Commission and that she has not been heard by the Commission. The Commission observes that the direction to the distribution licensee is based on the interpretation of Section 43 of the Electricity Act, 2003 and if any individual is affected in the process, it cannot be helped.

6.4. The limited scope of MP No.7 & 8 was for enforcement of the orders of the Ombudsman. The parties in the case were M/s. Suryakantham, Dr. V.S. Jegannathan and Dr. J. Vinil Kumar, petitioners and TNEB Respondent. Although she was affected by the order of the Ombudsman, Mrs. Usha Anandan did not seek to be impleaded before the Ombudsman. The effect of the orders of the Commission on Mrs. Usha Anandan is incidental.

6.5. In MP Nos. 15 & 16 of 2009 which were filed under Section 142 of the Act, the prayers are to impose maximum penalty under Section 142 of the Act upon the TNEB, who has been arraigned for non-compliance of the orders of the Commission. The jurisdiction of the Commission under Section 142 of the Act is confined to ascertain whether there is non-compliance of the orders of the Commission by TNEB. If an individual is affected in the enforcement of a legal provision, namely Section 43 of the Electricity Act, 2003, it is incidental. We do not believe that it is necessary to implead Mrs. Usha Anandan as a party in the proceedings before us, as she has no locus standi in this case.

6.6. The TNEB contends that the meters, which serve the commercial area, are located in the common area and therefore pleads that there is no need to shift the meters. The plea of the TNEB tantamounts to repeal of the order of the Commission, which can be done only through an appeal or

review. The TNEB, not having chosen to appeal or review against the order, is bound by it. The pertinent question here is that two out of the seven meters located in the common area serve exclusively the commercial area and therefore ought to be located in that commercial area only, in the face of stiff opposition from the other co-owners.

6.7. The distribution licensee is bound to shift the service connection to the commercial premises namely the jewellery shop and the basement floor in terms of Section 43 (1) of the Electricity Act, 2003 and Clause 7 (4) of the Tamil Nadu Electricity Supply Code 2004 which are extracted 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”*

*“7 (4) The meter shall ordinarily be installed at the point of entry to the consumer’s premises at a suitable and easily accessible place as the Engineer may decide”*

## **7. Conclusion**

7.1. We direct that the owner or the occupier of the commercial premises, viz. Mrs. Usha Anandan, may be given the option to shift the meters to either the jewellery shop or to the basement floor. If an application for shifting is not forthcoming from Mrs. Usha Anandan, TNEB cannot remain a mute spectator to the violation of law. They should shift the two meters to some convenient point within the jewellery shop or the basement floor at the cost of Mrs. Usha Anandan. TNEB should ensure that electricity supply is available at the two meter points and give the option to Mrs. Usha Anandan for drawing the supply from these two meter points.

7.2. The respondent should comply with the above direction within a period of 60 days of this order.

7.3. With the above directions M.P.Nos. 15 and 16 of 2009 are disposed of. No costs.

8. **Appeal**

An appeal against this order lies to the Appellate Tribunal for Electricity as per Section 111 of the Electricity Act 2003 within a period of 45 days.

**Pronounced in the open Court by this Commission on this day of  
16<sup>th</sup> November 2009**

**(K. VENUGOPAL)**  
Member

**(R. RAJUPANDI)**  
Member

**(S. KABILAN)**  
Chairman