

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/024/2020
(Present: A.S. Dasappan)
Dated: 17th September 2020

Appellant : Smt. Bindu Suresh
Parappillil House,
K.P. Vallon Road, Kadavanthra,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSEBL,
College, Ernakulam

ORDER

Background of the case:

The consumer No. 1155420021439 registered in the name of appellant Smt. Bindu Suresh. The electric connection in the said premises was effected under LT VIIA Tariff for hotel purpose and the sanctioned load is 6475 Watts in three phases, under Electrical Section, Girinagar. The Assistant Engineer, Electrical Section, Girinagar issued a short assessment bill dated 28-01-2020 by directing the appellant to pay Rs 207544/- towards the actual energy charges liable to be paid against the actual consumption of the consumer in the premises that escaped assessment. Against the short assessment bill, the appellant had approached the CGRF, Ernakulam by filing a petition OP No. 105/2019-20. The Forum in its order dated 10-06-2020 has issued the following orders. 'The impugned bill is quashed. Revised bill is to be issued by recalculating bimonthly consumption with the kWh readings downloaded from energy meter for each billing period'. Aggrieved against this, the appellant has submitted this appeal petition before this Authority On 10-07-2020.

Arguments of the appellant:

The appellant had given her building situated in Vallon Road on rental basis for running a hotel. The building was functioned as hotel for 8 months without rent or advance and which was closed for the last 8 months following court order. The meter reading in the functioning period was furnished as 'Door

Closed' and hence realized minimum electricity charge. At the time of vacating the hotel, the hotel owner received a bill for Rs.25,000/- and he remitted Rs.15,000/- deducting the cash deposit of Rs.10,000/-, which was without the knowledge of the appellant.

The appellant was staying in Andhra Pradesh while vacating the hotel and the hotel owner intimated the remittance of the above bill amount. The appellant thereafter contacted 'Girinagar Office' and informed one staff Sri. Manosh about the vacating of hotel and remittance of further bills and sought whether letter to be given. He replied that the fuses were kept in the office and they will reconnect the service whenever the premises is reoccupied and advised to remit minimum charge till then.

At present, the appellant received a bill for rupees two lakhs. The appellant has not received proper reply on the above bill and acted ignorantly.

While talking with the meter reader Sri. Niyas, the reasons are different in the three occasions of furnishing "Door Closed" and it is sure that the respondent acted in favour of the hotel owner.

On the above circumstances, the appellant requested to exempt her from paying the huge bill.

Arguments of the respondent:

The following are the facts that led to the issuance of the short assessment bill to the consumer.

The demand notice dated 28/01/2020 issued by the respondent under Regulation 134 of the Kerala State Electricity Supply Code and the enabling provisions under the Electricity Act, 2003 demanding the consumer to pay an amount of Rs. 207544/-(Rupees Two lakhs seven thousand five hundred forty four) as short assessment charges.

The demand raised is pertaining to the actual energy charges liable to be paid against the actual consumption of the consumer in the premises that escaped assessment. The said bill is legally valid and liable to be remunerated in terms of law. The demand notice was accompanied by the calculation details of the assessment by which the undercharged amount has been arrived.

The Regular CC bills issued to the consumer during the months 5/19, 7/19, 9/19, 11/19 were system generated average bills, since the readings were not available in the meter as per the statement taken from the meter reader. Meanwhile, during disconnection time on 23-4-19 and 20-6-19, readings were obtained with FR as 88537, 90167 respectively. It is reported that Final reading was obtained as 110745 for finalizing the Regular CC Bill on 28/1/2020.

The consumption during the period 23-3-2019 to 28-1-2020 (10 months) were not the actual bill amount but was charged with low system average. Hence on 28-1-2020, after obtaining the reading, the previous 4 average bills were automatically revised by system and the demand of Rs 1,96,436.00 under Regular CC was generated. In between ACD demand of Rs 11,108.00 was also raised by system on 4-7-2019, which was also not remitted even though counter payments were made by the consumer on 26-8-2019 and 5-12-2019. Therefore the bill dtd. 28/1/2020 was issued to the consumer for a total amount of Rs. 2,07,544/- which caused grievance of the consumer. No request has been obtained from the consumer at any time for request bill or interim bill generation. The respondent also reported that the consumer submitted the complaint against the excess bill and remitted necessary fees such as testing fees etc. Subsequently the meter was sent to TMR, Meter Testing Laboratory, Angamaly for Testing.

As per the Test Report vide File No. TMR/AGY/52/19-20/954 dt 28-02-2020 the meter conforms to all the Test conditions and complied with the requirements of the standard meter.

KWh Consumption as per the System Reading Register from 23-3-2019 to 28-1-2020

Reading on 28-01-2020	- 110745
Reading on 23-3-2019	- 87840
Net Consumption	- 22905 units

which matches with the consumption as per the TMR Test Report. Hence the meter is not faulty. The consumer is liable to remit the bill amount.

Amount to be remitted by the consumer for the period from 23-3-2019 to 28-1-2020 is illustrated below.

Total Units	- 22905	
Fixed Charge	- Rs 140 x 7 kW x 10 months	=9700.00
	(correct figure is 9800)	
Energy Charge	- 22905 units x Rs 9.30	= 2,13,016.50
Duty		= 21301.65
Meter Rent	- Rs 15 x 10 months	=150.00
Other Charges		=635.85
Total		=Rs 2,44,804.00
Amount Already remitted by party	- Rs 13833.00 + Rs 19200.00 + Rs 15335.00	= Rs 48368.00
Balance amount to be paid by the consumer as regular CC		=1,96,436.00
ACD Amount to be remitted		= 11,108.00
Total		= 2,07544.00

The consumer is bound to pay the differential amount thus arrived for the period during which they were undercharged. Regulation 136 of the

Supply Code in clear terms gives power to the licensee to recover arrears of charged or any other amount due from the consumer along with interest at the rates applicable for the belated payments from the date of which such payments became due. The complainant has consumed electricity supplied by the respondent is not in dispute. The quantity of supply as well as the period of supply is also not in dispute.

As per the Regulation 134(1) *“If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill”*. The above regulation enables the licensee to recover the undercharged portion of energy charges from the consumer.

Analysis and findings:

An online hearing of the case was conducted on 24-08-2020, at 11 AM as per prior information to both the appellant and respondent and with willingness of them. Smt Bindu Suresh, the appellant attended in the hearing and Smt. Moluja Lucy Xavier, Assistant Executive Engineer, Electrical Sub Division, College for the respondent’s side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

A case filed by the tenant Smt. Sahida Abdul Rasheed against appellant is pending in the Hon. Court of Principal Munsiff, Ernakulam in case No. OS/0301219/2019 and a RCP petition No. 186 of 2019 filed by the appellant before the Hon. Rent Control Court, Ernakulam is also pending for disposal. However, the subject matter of the Suit and the RCP not relate to this appeal petition submitted by the appellant.

In the hearing, both the appellant and respondent have detailed their arguments as stated in their versions above.

As per the terms of agreement between the appellant and tenant, the tenant shall remit the monthly current charges and hand over the receipt to the building owner. The appellant’s version is that the ‘Door Closed’ reason stated by the respondent is not true because there is no gate to the building and the meter was easily accessible and also at the same time the reading for other tenants on the top floor was taken. The appellant also questioned the version of the respondent that the meter digits were not visible. The appellant argued that as soon as the tenant vacated the premises, the meter digits became visible and the reading was noted and this clearly shows that the employee of KSEBL purposely took no reading while the tenant occupying the premises.

As per the respondent, reading was not available in 05/2019, 07/2019, 09/2019 and 11/2019. Regulation 110 (12) of Supply Code, 2014 specifies that the provisional billing under 'Door Locked' condition shall not continue for more than two provisional bills for a consumer during one financial year. The respondent has not furnished a satisfactory reason for this negligence. The respondent's version is that the reading was not visible and hence system generated bills issued to the consumer. But in the disconnection dates on 23-04-2019 and 20-06-2019 readings were seen furnished as 85537 and 90167. Also in 28-01-2020, the meter reading is 110745. The hotel by name 'Sithara Food Court' was functioning from 23-03-2019 to 28-01-2020 and the meter was free from any defectiveness.

The tenant Smt. Sahida Abdul Rasheed had remitted the ACD amount which was deducted at the time of vacating the premises by the tenant. According to the appellant, she had not informed the occupancy of the tenant in writing but orally informed the Electricity Office. The appellant had been receiving 'SMS' of the bills and payment details till the tenant occupied the building, but later not received.

The CGRF has made the following observations in its order dated 10-06-2020.

“ Accuracy of the meter is seen tested and found good. Therefore no genuine reason is found on the part of the licensee in evading the issue of regular bills based upon the actual reading. So it is assessed that tenant were enjoying very small average amount as current charges with the help of the employees of licensee. On evaluating the above series of happenings, the Forum comes to the assessment that there had occurred a number of failures on the part of the respondent which caused benefit to the occupants of the hotel by providing them with low average bills during their period of occupancy and that is in violation of Reg. 110 & 111. The entire mechanism of the billing wing failed to recognize this discrepancy”. The CGRF also found that serious lapses have occurred from the part of meter reader as well as the billing staff of the licensee.

In this case, there is no question of challenging the actual consumption and the amount to be remitted. But the appellant alleged some foul play on the part of the meter reader which helped the tenant to avoid remittance of actual amount based on the readings in the meter.

Decision: -

From the analysis done and the conclusions arrived at, which are detailed above, I take the following decisions.

The appellant is the registered consumer who signed an agreement with the KSEBL for the remittance of the current charges without fail. The appellant has neither given a copy of the agreement between appellant and tenant to the Electricity Office nor furnished a written letter informing the tenancy and terms of the payment of current charges by the tenant. Actually the issue is in between the appellant and tenant which caused due to the negligence of the meter reader. Here there is no dispute in the accuracy of the consumption recorded in the energy meter and hence the bill amount has to be remitted by the appellant, who is the registered consumer of KSEBL. Hence the request of the appellant to exempt her from paying the bill is not admitted. The only possible remedy for the appellant is to approach the appropriate legal forum for taking action against the tenant for recouping the current charges due from her. The respondent shall give instalment facility to the appellant, if she desires so.

It is proper for the licensee to fix responsibility for the severe lapses and negligence on the part of the meter reader and billing person and dealt with them by taking disciplinary action.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/024/2020 dated _____.

Delivered to:

1. Smt. Bindu Suresh., Parappillil House, K.P. Vallon Road, Kadavanthra, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, College, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.

