

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/042/2020
 (Present: A.S. Dasappan)
 Dated: 28th June 2021

Appellant : Sri. M. Mohammed Haji
 Scarlet, Nallalam P.O.,
 Kozhikode Dist. – 673 027

Respondent : Assistant Executive Engineer,
 Electrical Sub Division, KSEB Ltd.,
 Nadakkavu, Kozhikode

ORDER

Background of the case:

The appellant is a consumer of Electrical Section, Central with consumer No.16/1631 under the category of High Tension (HT). This electric connection was given to a high-rise building, owned by the appellant, by name “Hotel White lines” in the year 1987. The contract demand is 70 kVA under HT IV commercial tariff. In addition to the HT connection, there are Low Tension (LT) connections in the building. Though the appellant applied for HT connection in 1984, the connection was effected in 1987. As the HT connection was delayed, the appellant applied for two numbers LT connections for immediate temporary usage and which were effected by the respondent. But these temporary connections were not dismantled soon after providing the HT connection. The appellant’s option for contract demand 70 kVA includes the demand of the temporary connections. As such, the appellant has been paying demand charges for 75% of the contract demand along with the fixed charge of temporary connections. The appellant had requested many times to KSEB Ltd. to reduce his contract demand earlier and finally before the Consumer Grievance Redressal Forum (CGRF) as directed by Hon. Kerala State Electricity Regulatory Commission. The petition was registered by the CGRF, Northern Region,

Kozhikode vide OP No. 51/2020-21 and the Forum in its order dated 19-11-2020 disallowed the request for the reduction of Contract Demand. Also, directed the respondent to take action as per law on the appellant's request. Not satisfied with the order of CGRF, the appellant filed this appeal petition before this Authority on 17-12-2020.

Arguments of the appellant:

Hotel "Whitelines" is a five-storey shop cum office cum lodge building for which the appellant applied for a HT connection on 09-11-1984. The service connection was effected only on 05-11-1987 with a contract demand of 70 kVA. Two LT temporary connections were availed by the appellant in 1986 for the immediate use of electricity for the Bank and Insurance office functioning in the building due to the delay in providing HT connection applied on 09-11-1984. The temporary LT connections were not dismantled even after effecting the HT connection and no change was made in the original option for 70 kVA contract demand. After availing HT connection, the load of the two offices were not transferred to the HT connection and not dismantled the temporary connections by the respondent. Later in 1997 and 2005, five more LT connections were effected by the respondent to others with consumer numbers CB 9770, CB 9778, CB 10353, CB 10354 and CB 13274. Among the LT connections, two connections were dismantled in 8/2003 and 11/2019 as requested by the consumers. It is understood from Electrical Inspectorate that the contract demand can be reduced after regularizing the LT connections in the building. The details of the LT connections are not available with the appellant and it is the responsibility of the respondent to regularize the connections. The approval of Electrical Inspectorate is required only when a consumer wants to reduce or enhance the contract demand. Appellant wants to reduce the contract demand as the respondent provided other LT connections, the connected load for which were already included in the contract demand requested 70 kVA. The respondent directed the appellant to produce the revised approval of electrical scheme for reducing contract demand as desired by Electrical Inspectorate. The appellant approached the respondent several times with a request for the reduction of contract demand, but which had not been done by them.

Finally, the appellant approached Kerala State Electricity Regulatory Commission and as per the direction of the Commission, the respondent directed to apply under Regulation 100 of Kerala Electricity Supply Code 2014 for reducing contract demand. Accordingly, applied, but again the appellant was directed to submit approval of scheme from Electrical Inspectorate. The appellant has not used 70 kVA or its 75% at any time in the history of the billing since 70 kVA was intended to give power to the LT connections also.

The appellant has been remitting demand charge for 53 kVA on each month from 01-03-1988 onwards for a recorded demand less than 30 kVA. A 150 kVA transformer, CTPT unit, Metering System etc. were installed and remitted Rs.55,850/- by the appellant. HT cable was also laid. Following the spread of “COVID 19” restrictions, Hotel Whitelines was closed and switched off the HT breaker and the fact was informed to the respondent. But in the said period also demand charge was realized for 53 kVA. From July 2020 onwards Rs.6,744/- towards consumption charge was also demanded. In the bill dated 12-10-2020, Rs.42,843/- is seen included towards penalty for the meter fault. This was also brought to the notice of the Deputy Chief Engineer. The metering system has no defect at present. The defect may be due to improper connections. The respondent did not take any action on the complaint dated 12-10-2020 pertains to the meter defect. The respondent has not implemented the order of the Ombudsman in Appeal Petition No. P/096/2017. The appellant had requested for reduction of Contract Demand many times in between the years 1998 and 2020.

The request of the appellant is,

- (1) To direct the respondent to grant automatic adequate consequential and proportional reduction in the appellant's contract demand then and there in consonance with the actual state of affairs at the movement as and when all the different consumers under the appellant's contract demand become direct consumers under different agreements.

- (2) To direct the respondent to submit scheme for all LT connections to the Chief Electrical Inspector, Thiruvananthapuram and regularize the same as ordered by the Electrical Inspector, Kozhikode.
- (3) To direct the respondent to change the point of delivery of power to the point as agreed upon in the HT agreement and also to change the meter etc. of faulty as directed by the Hon'ble High Court.

Arguments of the respondent:

In addition to the HT connection, there are five more LT electrical connections provided in the building. The consumer numbers of these connections are CB 3438 (Registered consumer is Muhammed Haji under LT 6 C tariff with a connected load of 6650 watts), CB 3439 (Registered consumer is Muhammed Haji under LT 7 A tariff with a connected load of 8275 watts), CB 9778 (Registered consumer is Madhu P R under LT 7 A tariff with a connected load of 9778 watts), CB 10353 (Registered consumer is Riyas M under LT 7 A tariff with a connected load of 7300 watts) and CB 13274 (Registered consumer is Dileep. M.P, Tata teleservices under LT 6 F tariff with a connected load of 25642 watts). These connections were effected in the years 1986, 1986, 1997, 1999 and 2005 respectively.

Two service connections bearing consumer number 9770 (Registered consumer was Sudarsan M under LT 1 A tariff with a connected load of 3900 watts) and 10354 (Registered consumer is Simsy T under LT 7 A tariff with a connected load of 940 watts) effected in 1997 and 1999 respectively were dismantled on the request of consumers in 2003 and 2019.

All these connections were used for commercial purposes except that of CB 3438, which is used for banking purpose. KSEB Ltd. had effected these electricity connections either considering the application of the appellant or based on the consent given by the appellant for providing electric connections.

Now the appellant had requested to reduce the contract demand of the HT connection bearing Consumer No. 16 / 1631 on 11.08.2020 to 40 KVA. The appellant had submitted his application through online via email. In the

application the appellant had mentioned the existing independent LT connections as his reason for reducing his contract demand.

This indicates that the appellant had altered the approved scheme of electrical wiring approved by the Electrical Inspector of the premises where HT connection No. 16/ 1631 had been given by KSEB Ltd. As per Regulation 53 of the Supply Code 2014 (being an HT connection), these alterations in the wiring in the premises necessitates submission of a revised scheme of approval obtained from the Electrical Inspector for processing the application for reducing the contract demand. Hence, the Assistant Engineer, Electrical Section, Central on 12.08.2020 had requested the appellant to submit approval of Electrical Inspector for the revised electrical wiring scheme of the premises. Also, KSEB Ltd. have to ensure the safety in the premises especially when multiple connections are there in one building.

Further to this it is learned that the Electrical Inspector vide No B2/ 1753/ 00/EIC dated 11.10.1991 had directed the appellant to avail only single point supply to his building. As per this, the appellant was supposed to remove all individual LT connections in the building which he had not done.

The appellant had filed OP NO 51 /2020-21 before CGRF and the Forum after examining the details had disposed the case rejecting the complaint.

If the appellant desires to take a new LT service connection by dismantling the existing HT connection, the same could be processed on receipt of application with revised scheme and application for dismantling the existing HT service connection. Being a high rise building the revised scheme also should need the approval of the Electrical Inspector as per regulation 49(4) of supply code 2014.

The appellant can produce the wiring details and other related documents of his building to Electrical Inspector for getting the approval and KSEB Ltd is not empowered to submit the documents on behalf of a consumer to Electrical Inspector for obtaining scheme approval for the wiring of his building. Moreover, KSEB Ltd. does not possess the details of alterations made by the appellant in the premises.

The appellant, if desired can modify the point of delivery of power in consultation with KSEB Ltd and Electrical Inspector. As per regulation 49 (5) of supply code 2014, ‘for a high-rise building the responsibility of building network for internal distribution lies with the consumer himself’.

Hence, it is requested to this authority to direct the appellant to submit revised scheme approval from Electrical Inspector and other documents as above, so that KSEB Ltd. can process the applications further and to take up the other requests as specified in the regulations of Supply Code 2014.

Analysis and findings:

An online hearing was conducted at 11 AM on 11-02-2021 with prior intimation to both the appellant and the respondent. Sri. Mohammed Haji, the appellant and Sri. E. Manoj, Assistant Executive Engineer, Electrical Subdivision, Nadakkavu from the respondent’s side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

As per both appellant and the respondent, no case is pending on the subject matter in any courts or legal forums at present. The appellant is the owner of the building where HT connection and LT connections were provided by the respondent. The building is included in the category of “high rise building”. The appellant availed the HT connection years back in 1987 after fulfilling all formalities and remitting required estimate amount as decided by KSEB. Moreover, certain works were carried out for receiving power from KSEB network. The application for HT connection was processed and finalized by KSEB in 1984, but received connection only in 1987. For meeting the immediate requirement of power, the respondent provided two numbers LT temporary connections on request by the appellant for a bank and insurance office functioning in the building. These LT connections had to be dismantled by the respondent soon after providing HT connection. The total contract demand required and requested by the appellant for HT connection was 70 kVA and which was sanctioned by KSEB. The appellant had no objection in dismantling the

temporary LT connections. The contract demand for 70 kVA was fixed by the appellant including the requirement of power for the temporary connections. The appellant has been remitting demand charge for 75% of 70 kVA, i.e. 53 kVA, from 01-03-1987 onwards. At the same time, the appellant has been remitting the fixed charge for the temporary connections. The maximum demand of HT connection never exceeded 50% of the billing demand in the history of the connection.

The appellant had requested many times to the respondent for the reduction of contract demand from 70 kVA, but KSEB Ltd. rejected the request for want of revised scheme approval of “electrical wiring” in the building from Electrical Inspectorate. Later three numbers LT connections were provided by the respondent in the building as requested by other occupants in the building. The respondent started realization of fixed charge for the new connections also.

The details of LT connections now in the building are: -

Consumer No.	Name of Consumer	Tariff	Connected Load	Year of connection
CB 3438	Appellant	LT VIC	6650 watts	1986
CB 3439	Appellant	LT VIIA	8275 watts	1986
CB 9778	Madhu P.R.	LT VIIA	9778 watts	1997
CB 10353	Riyas. M	LT VIIA	9700 watts	1999
CB 13274	Dileep M.P.	LT VIF	26642 watts	2005
Total			61045 watts	

Besides the above, two numbers LT connections provided in 1997 and 1999 were dismantled in 2003 and 2019.

The respondent argued that the contract demand can be reduced if the appellant submits revised scheme approval of the wiring in the building. Here the KSEB Ltd. imposed the entire responsibility on the appellant forgetting the lapse in non-dismantling of temporary connections soon after providing HT connection and again providing more LT connections to other occupants of the building. This is not a proper action from the side of Licensee.

The LT connections except CB 13274 were effected before the enactment of the Electricity Act 2003. As per respondent, the above said LT connections were given either considering the application of the appellant or on the consent

given by the appellant for providing LT connections. The said argument cannot be accepted since it is the responsibility of the respondent to observe the provision in rules and regulations while effecting LT connections in a high-rise building having a HT connection. The reasons stated by the respondent for disallowing reduction in contract demand is that there is independent LT connections in the building in addition to the HT connection and the appellant altered the scheme of wiring approved by Electrical Inspectorate, while availing HT connection. Hence, it is pertinent to note that the appellant had obtained scheme approval for the first time for HT connection and no action as per rules was taken by the respondent further. All the LT connections were provided by the respondent in the same high-rise building having HT connection without initiating any action to set right the electricity distribution in the building as per rules, demanding scheme approval while the appellant makes request for the reduction of contract demand.

Another argument of the respondent that as directed by the Electrical Inspectorate on 11-10-1991 to avail single point supply to the building, the appellant was supposed to remove all individual LT connection in the building, but not done. It is to be noted that in 1991, only two temporary LT connections in the name of the appellant exist and if the Licensee had taken action to dismantle the LT connections, all the issues and grievances at present could have been avoided. All the present LT connections are seen effected after 1991 by the Licensee. Yet another argument of the respondent is that KSEB Ltd. does not possess the details of alterations made by the appellant in the premises. As per regulation 49 (5) of Kerala Electricity Supply Code 2014 for a high-rise building, the responsibility of building power network for internal distribution lies within the consumer itself.

The regulations in Kerala Electricity Supply Code 2014 which are relevant in the subject are: -

Regulation 15 - Wiring in the premises of the consumer:-

- (3) The wiring in all high-rise buildings and its testing shall be in accordance with the provisions of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 as amended from time to

time, and such other regulations relating to safety and standards of electrical supply.

- (4) Approval from the Electrical Inspector shall be obtained for the electrical installations in the case of;
- (i) HT or EHT service;
 - (ii) multistoried building;
 - (iii) installation involving stand by generator;
 - (iv) neon sign board;
 - (v) X-ray unit;
 - (vi) lift and escalator; and for
 - (vii) temporary connection where more than 100 persons are likely to assemble.

As per Regulation 49 (1) (c) of Kerala Electricity Supply Code 2014 “the expenditure for modification, upgradation and uprating of the distribution system of the licensee executed, if any, exclusively for giving connection shall be realized from the applicants in the case of high-rise buildings, irrespective of the load demand”.

As per Regulation 49 (4) of Kerala Electricity Supply Code 2014 “the development authority or the promoter or the builder or the developer or any other person who constructs a colony or a residential complex or a commercial complex or an industrial complex or a high rise building shall prepare and obtain approval from the Electrical Inspector, a detailed scheme of electrification of the entire colony or complex or high rise building, with all necessary equipment namely transformer, ring main unit (RMU) etc., and shall submit the same to the licensee along with application for service connection”. Here, the appellant had submitted the required documents while availing HT connection and accordingly the respondent provided connection.

As per Regulation 56 of Kerala Electricity Supply Code 2014 – “Single point supply and sharing of electricity charges”: -

- (1) The licensee may give single point supply to the following premises with multiple beneficiaries subject to the conditions specified in the sub regulations hereunder:-
- (i) multistoried buildings;
 - (ii) colony developed by any development authority or private builder or promoter or developer;

- (iii) domestic, commercial or industrial complex;
 - (iv) residential complex constructed by any employer for his employees or by a panchayat or a cooperative society or a registered association of beneficiaries.
- (2) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall submit an application to the licensee for availing single point supply with a detailed project report (DPR) on the scheme for giving supply to all beneficiaries and such other necessary particulars.
- (3) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall bear the expenditure for the augmentation or upgradation or uprating of the distribution system, exclusively required for the supply of electricity to the entire premises included in the detailed project report (DPR) and shall also construct at his cost the internal distribution network within the project area as per the standards and specifications stipulated in this Code.
- Provided that the expenditure to be borne by the development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall be governed by the relevant provisions in regulation 36.
- (4) Supply may be provided by the development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries to the individual beneficiaries and for common service by installing sub-meters.
- (5) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall remit the charges for the entire electricity availed at such single point of supply as per the bill preferred by the licensee within such time as indicated in the bill.
- (6) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall collect, on a no profit no loss basis, the cost of energy consumed by individual beneficiaries.
- (7) The tariff charged from the individual beneficiaries shall under no circumstances exceed the tariff specified by the Commission for the respective category of consumers.
- (8) Providing of connection to individual beneficiaries in such premises with multiple consumers and sharing of expenses of consumption of electricity as per the above provisions shall not be construed as unauthorized extension of supply or resale of energy.
- (9) The maintenance of internal distribution network and providing services to individual beneficiaries shall be the responsibility of the development

authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries.

- (10) The tariff applicable to the single point supply shall be as determined by the Commission:

Provided that the provisions of this regulation shall not in any way affect the right of a person residing in the housing unit sold or leased by such development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries, to demand supply of electricity directly from the distribution licensee of the area.

100. Reduction of connected load or contract demand.-

- (1) Any application for reduction of connected load or contract demand shall be accepted only after six months from the date of original energization for LT connections and only after one year from the date of original energization for HT or EHT connections.
- (2) Request for reduction of connected load or contract demand shall be entertained only once in six months thereafter.
- (3) The consumer shall apply for reduction of load or contract demand to the licensee specifying the reasons thereof, in the form specified in Annexure - 11 to the Code and the licensee shall process the application form in accordance with relevant provisions of the Code.
- (4) For site inspection as well as for issuance of demand note for the estimated cost of work, if any, and payment thereon, both the licensee and applicant shall follow, mutatis mutandis the procedure and timelines as laid down in regulations 77 to 83 of the Code.
- (5) The licensee shall consider the grounds stated in the application, verify the same during inspection and issue order on the application within a period of fifteen days from the date of completion of inspection and intimate the applicant:
Provided that the licensee shall issue a speaking order if the request of the consumer is declined.
- (6) If the licensee sanctions the reduction in connected load or contract demand, the meter and service line may be changed if required and the expenditure thereof recovered from the applicant.
- (7) The licensee shall issue a demand note to the consumer in writing, under acknowledgment, in accordance with the timeline specified in regulation 81 mutatis mutandis and thereafter both the licensee and applicant shall follow mutatis mutandis the procedure and timelines as laid down in regulation 81 to 83 of the Code.

- (8) If the consumer pays the required charges and expenditure for modification of distribution system, service line, meter and other apparatus, the licensee shall execute the work and sanction the reduction in the load within the time limit specified in regulation 85.
- (9) If the licensee sanctions the reduction of connected load or contract demand, the same shall be effective from the date of inspection and a written intimation thereof shall be sent to the consumer.
- (10) If the application is not decided and order is not issued by the licensee within the above-mentioned period of fifteen days from the date of completion of inspection, permission for reduction of connected load or contract demand, as the case may be, shall be deemed to have been granted with effect from the sixteenth day.
- (11) Any difference in security deposit arising out of load reduction shall be adjusted in the subsequent two bills of the consumer.

“Contract Load” or “Contract Demand” means the maximum demand in kW or kVA agreed to be supplied by the distribution licensee and indicated in the agreement executed between the Licensee and the Consumer, or the contracted load or contract demand duly revised thereafter.

Once the “contract demand” is fixed, the billing of demand charges will be done for 75% of the “contract demand” or “maximum demand” recorded in the billing cycle whichever is higher. “Maximum demand” means the highest average load measured in ‘kVA’ or ‘kW’ at the point of supply of a consumer during a consecutive period of thirty minutes or such other consecutive period as specified by the Commission, during a billing cycle.

In the subject case, the maximum demand for the previous period never exceeded 50% of the contract demand. The argument of the appellant is that the “Contract Demand” was fixed by taking the connected load of the LT connections also, but which was not connected to the HT supply.

“Contract Demand” is fixed for assessing the load requirement of the network and for the purpose of billing. If the “maximum demand” for a billing cycle exceeds the “contract demand”, the billing for demand charges will be done for the highest and revision of “contract demand” will be done as per regulations and rules. In short, revision of contract demand and regularization of

connections in the high-rise building are two different subjects. In the subject case, the appellant is not responsible for the LT connections provided by the respondent. The appellant has to get the benefit of reduction of contract demand and thereby reduction of demand charge.

Irrespective of the voltage level of the connection, approval of Electrical Inspectorate is required to provide a connection in a high-rise building. The appellant had already obtained the scheme approval from the Electrical Inspector before effecting the HT connection. But now a revised approval from the Electrical Inspector is required to regularize the connections in the building. The respondent had effected LT connections in the building without any approval for modification of wiring in the premises while providing LT connections and the appellant was not asked to produce revised approval of Electrical Inspector. Whenever the appellant approached the Licensee for reducing the contract demand, the respondent demanded revised approval of Electrical Inspector.

On going through the recorded maximum demand furnished by the respondent for each month from 01-08-2020 to 02-02-2021 and by the appellant from 01/2015 to 03/2020, the recorded maximum demand never exceeded 26.196 kVA, which was in May 2016. But the appellant was billed for 53 kVA, 75% of 70 kVA. The contract demand requested by the appellant at the time of application for HT connection was 70 kVA. Due to the delay in getting HT connection, the appellant was given two LT connections having a total connected load of 15 kilowatts. That means a portion of load proposed to be connected to the HT connection was shifted to LT connections. As such, the appellant is eligible for deduction of Contract Demand.

It is revealed from the documents that the Deputy Chief Engineer, Electrical Circle, Kozhikode sent a letter to the appellant for removing the circuit breaker provided before the metering system. The metering system shall be made healthy as per rules, so as to measure the actual consumption in the premises.

In the hearing conducted by this Authority, the appellant requested for refund of excess demand charge with retrospective effect.

Decision:

From the analysis done and the conclusion arrived at, which are detailed above, I take the following decision:-

The high-rise building owned by the appellant is provided with High Tension (HT) and Low Tension (LT) connections in the name of the appellant and in the name of other consumers. The agreement authority of the HT connection is directed to conduct discussions with the consumers of the building including the appellant and initiate action to regularize the connections as per the rules and regulations explained above. This shall be done and completed within ninety days from the date of the order. Both the agreement authority of the HT connection and the appellant shall jointly take steps to get the approval of electrical wiring in the building from Electrical Inspectorate. Immediately after regularizing the load in the building on the strength of the discussion and the approval from the Electrical Inspectorate and rectifying the defects of the metering system, the appellant shall be given the benefit of lower contract demand as requested by the appellant earlier. Since the recorded maximum demand never exceeded 27kVA from the available data from the year 01/2015 to 03/2020 and the appellant had requested many times for the reduction of contract demand, it is decided to re-fix the contract demand with retrospective effect from 1-04-2014 for 40 kVA. The billing demand will be 30 kVA or maximum demand recorded in each month, whichever is higher. The respondent shall prepare an adjustment invoice from 01-04-2014 to till the regularization of service connections in the building and rectifying the defects of the metering system and adjust the amount in the future bills. The adjustment shall be done only after the regularization of connections in the building and rectifying the defects of the metering system. The appellant can re-fix the Contract Demand and can apply to the Licensee as per the procedure explained in the Kerala Electricity Supply Code 2014 after the regularization of service connections in the building.

Having concluded and decided as above, it is ordered accordingly. The appeal petition filed by the appellant is found having merits and is allowed to this extent. The order of CGRF, Northern Region in OP No.51/2020-21 dated 19-11-2020 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/042/2020/ dated _____.

Delivered to:

- (1) Sri. M. Mohammed Haji, Scarlet, Nallalam P.O., Kozhikode Dist. – 673 027
- (2) Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Nadakkavu, Kozhikode

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode