

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/021/2024
(Present A. Chandrakumaran Nair)
Dated: June-06-2024**

Appellant : Sri. V.M. Vijayan, Vackaparambu Madam, Vallachira P.O.,
Thrissur Dist., Pin- 680562.

Respondent : The Assistant Executive Engineer, Electrical Sub Division,
KSE Board Limited, Karuvannur, Thrissur Dist.

ORDER

Background of the case

The appellant sri. V.M. Vijayan is a small scale farmer who is having 30 cents of land. Krishi Bhavan has extended free electricity to the appellant. The connection was effected on 1970. The land area has been reduced to 25 cents after the partition, then the Krishi Bhavan withdraw the provision of free electricity. The licensee was informed about this and accordingly the same has been communicated to the appellant. Appellant was willing to bear the current charges and as such the connection was retained. The appellant was to pay the current charges with effect from 04/2022, and he was regularly making the payment. There was outstanding from Krishi Bhavan for his connection and surcharge also accumulated. When the surcharge accumulated was not paid, the licensee disconnected power. Then the appellant was forced to make the payment of Rs. 2598/- and then the connection was resumed. There was no power for 13 days and this affected his crops. Aggrieved appellant approached CGRF and CGRF issued order on 19/03/2024. As his grievance was not fully redressed this appeal petition is filed to this authority.

Arguments of the Appellant

I am a small farmer who is using KSEB power supply to run a pump for Irrigation purpose. My cultivation, among other plants, include coconut, Nutmeg Pepper, Areca nut, Banana, and Vegetables all of which are very sensitive to irrigation, in the absence of which plants will drop their fruits and will die eventually. as per My electric connection was free like all other agricultural connections Kerala Government policy in vogue for a long time.

My electricity office is cherpu which falls under Irinjalakuda division of KSEB. My consumer no is 1156397013722 in the name of V M Vijayan.

In the month of June 2022, I received a phone call from KSEB cherpu. The caller told me that my electricity connection is no more free due to a decision taken by some authority that all farmers whose land holding is less than 30 cents need to pay their electricity charges as per their "meter reading " from July 2022 onwards. I am neither aware how the figure of 30 cent is arrived at nor the agency who decided this figure or any about any study conducted before arriving this figure. Even though this was an important instruction to me which has financial implications I accepted the same as my land holding has become 25 cents due to partition.,KSEB did not issue me any official letter.

From the month of July 2022 onwards I paid "total amount (bill no the sum of "a" ",b", "c,"d," and "e" of respective bi-monthly bills(total 9 no.) till November 2023 well within the due date in line with the above . I did not pay the amount appearing below the above mentioned "total bill-no" as it has nothing to do with the power consumed by me. You will observe that these are "surcharge" and "arrears". I started irrigating my land in December 2023 as severe summer has started, On 15.12 2023, some body from KSEB, Cherpu came to my house and disconnected electric supply to my pump motor .I was not at home and came to know about disconnection from my neighbour's. Also no prior intimation was given to me for disconnection. My enquiries with KSEB cherpu revealed the following :-

KSEB has done the computerization of their billing system in such a way that all energy charges and other fixed charges ie "a" to "e" shown in KSEB bills will be credited against the above "Surcharge " resulting in all the payments made by me from Jul 2022 to November 2023 have been accounted against " Surcharge " .My further enquiries revealed that The so called "Surcharge " is nothing but interest on the amount shown as "Arrears" which KSEB is supposed to get from Krishi Bhavan. My electric supply will be reconnected only if i pay Rs.2598/-to KSEB. As my plants has started withering and dropping fruits due to non irrigation and as no authority to approach felt completely helpless, I remitted the amount to KSEB on 27.12.2023 and my electric supply was restored 27.12.2023. Copy of receipt enclosed.

I have paid my energy charges within due date and in no case a small farmer like me who is engaged in cultivation for a living should not be meted out with such treatment.Bill on me by KSEB should not show "surcharge " and "Arrears " as these are not my babies and KSEB should settle with the concerned authority directly. My only crime is that i used free electricity for agriculture when given to me like all other farmers and paid for the same when the facility was withdrawn. That does not mean that i should be meted out the treatment like disconnection etc. KSEB has no business to punish

me in case they have any dues from else where They should have the wherewithal to collect it. Harassing the customers is no way the solution. Wrong way of computerizing done in the billing to be rectified. so that amount paid by customer against each 'head' should reflect accordingly in the statement. Suitable compensation is to be paid to me for the loss and mental agony suffered by me due to disconnection without notice.. I leave the amount to your discretion. Refund of Rs. 2598 paid by me 27.12 2023 with interest, immediately. Bill for January 2024 enclosed with disconnection date.as 16.2 2024. An injection order to prohibit KSEB Cherpu not to disconnect power supply till this grievance request is disposed off.

Arguments of the Respondent

The petitioner Shri Vijayan VM is a consumer under Electrical Section, Cherpu with Consumer No. 1156397013722. This service connection is given in Agriculture (LT VA) tariff and date of connection is 07.09.1970. This connection had been included in the list of consumers whose bimonthly current charges were being remitted by Vallachira Krishi Bhavan as per the free electricity scheme of Agriculture department from 1995. As per the Govt. Letter No.41582/PA3/94/AD dated 17.1.1995, of Agriculture (Planning A) Department, a farmer is eligible for power exemption if he possess not less than 30 cents of which 75% is under Agriculture crops. This condition is in force since 1995 onwards and the respective Krishi Bhavans had periodically invited applications from the farmers for renewal of exemption so as to remove ineligible farmers from the list.

The petitioner has claimed in his petition, that his land holding was reduced to 25 cents due to partition and hence by virtue of the above condition, the petitioner is not eligible for agriculture exemption from the date on which the extent of his land area is reduced below the limit. However he had not intimated the matter to the Krishi Bhavan and continued to enjoy the benefit of exemption. Pursuant to introduction of new DBT scheme, the Krishi Bhavans were in the process of renewing of exemption, to agriculture connections based on the prescribed eligibility conditions, which was completed by March 2022. When the new DBT scheme was made affective from April 2022, the petitioner's service connection was found ineligible for free electricity by the respective Krishi Bhavan due to non availability of required area of agriculture land in his possession and the same was communicated to this office.

The aforesaid information was passed on to the consumer and he was requested to remit the bimonthly current charges from April 2022 onwards if he want to retain his connection. The arrears pending as on March 2022 was supposed to be remitted by the Krishi Bhavan. The petitioner started remitting the regular current charges from August 2022 onwards. Since the Krishi Bhavan has not cleared the arrears till date, surcharge is being

generated with each bimonthly spot bill. The current charges demanded from the petitioner for the period 4/2022 to 03/2024 is Rs.2509/- against which he has remitted Rs.2329 till 03/2024. The surcharge accrued during this period on the pending arrears is Rs.3151/-.

As there is no direction from KSEB to isolate or separate the pending arrears from the current charges due after 4/2022, the amount remitted by the petitioner has been accounted in the arrears by the system. As such the regular current charges though remitted by the petitioner, were shown as arrears in the system and the service connection appeared in the Disconnection List. Since the surcharge is mounting, the petitioner was requested to clear a portion of surcharge generated from 4/2022 and he remitted an amount of Rs.2598/ on 27.12.23. Based on the availability of funds the Krishi Bhavan is expected to remit only the arrears up to 4/2022 and the surcharge generated till remittance will stand pending in the consumer's account. Surcharge is being levied on late remittance of current charges and there is no direction to waive the surcharge in the case agriculture consumers. The argument of the petitioner that he has nothing to do with the arrears and surcharge is wrong as it is the consumer who himself had joined the scheme of the Agriculture Department for remitting his current charges and has to opt out from the date on which he became ineligible to continue in the scheme due to reduction in land holding which he has not done.

The consumer had approached the Hon. CGRF, Central Region with his grievance regarding remitting of surcharge vide OP No.89/2023-24 and the Forum in its order dated 19.03.2024 had directed that the amount paid by the petitioner should be adjusted in subsequent bills of the petitioner once payment is received from Krishi Bhavan.

Accordingly, the amount pending in the account of the consumer has been transferred to dispute status and the same will be adjusted when the Krishi Bhavan remit the arrears and the amount already paid by the petitioner shall be credited in future bills upon receipt of arrears from Krishi Bhavan. Hence the grievance of the petitioner is settled and there is no justification for the appeal and the compensation claimed by the petitioner. Hence it is requested that the appeal may kindly be rejected.

Counter arguments filed by the appellant

Understand that subsequent to issuing the letter mentioned by AEE(K) Agricultural department has made farmers doing vegetable cultivation in an area not less than 10 cents are also eligible for free electricity. I was complying with this all along. a) Sl no 1,2,3,4 above is history only and not relevant to the issue for which I approached ombudsman. I have only 2 issues for your kind consideration which I had mentioned in form B and

annexure to form B. b) In the month of June 2022 Krishi Bhavan Vallachira asked me to fill up a form and submit the same to them along with the land tax receipt, which I complied.

In the month of June 2022 I received a telephone call informing me that based on Krishi Bhavan Vallachira's instruction I will not be eligible for free electricity and I will have to pay all electricity charges as per the bill of July 2022, onwards. He also added that all amount pending till June 2022 will be paid by Krishi Bhavan. I asked for a letter to the above effect which he said a firm "no". Since then I had paid all electricity bills till date without any failure. AEE's contention that "I was requested to remit the bi monthly current charges from April 2022 not correct as KSEB Cherpu Division has received the intimation disqualifying me from free electricity on 8th July 2022 only and hence KSEB Cherpu could not have in- formed me to remit current charges from April 2022 onwards.

Understand that as per the Kerala Govt. top level arrangement Krishi Bhavan is making payment for all the free electricity supplied to the farmers Also understand that payment is delayed by Krishi Bhavan. The so called "surcharge" is nothing but compound interest claimed by KSEB on Krishi Bhavan and I or AEE has no role to play. The surcharge and its rate of interest, terms of payment etc. is the matter between Govt. Departments and hence I have no locus standing on the issue. The statement of AEE that he requested me to clear a portion of surcharge is not correct. He never made such request. The remitting Rs. 2598/- on 27th December 2023 was made I had no option as explained.

On 15/12/2023 KSEB disconnected my pump set power supply without any notice on en- quiry with KSEB Cherpu I was told that all amount paid by me against bi monthly bills of KSEB has been credited against the surcharge which as I said earlier, instead of the correct account "head" of bi monthly bills. In my considered opinion AEE who is a senior person heading KSEB Karuvannur who knows about KSEB billing system should have taken required steps to ensure that the amount remitted by me goes to correct head of KSEB accounts and I do not become defaulter. He had nearly one and half years time between my start making the payment and disconnection of power supply in December 2023. But he did not act timely. Immediately after disconnection I approached KSEB, Cherpu with request to resume power supply as they knew that I am not a defaluter. Neither KSEB Cherpu nor KSEB Karuvannur resumed power supply and insisted on payment of Rs.2598/- which was totally illegal AEE (K) could approached higher management in case he cannot solve the problem in correct accounting of the payment made by me. KSEB could have easily given me re-connection immediately and organise their accounts few days later as full payment is with them. As my plants which are irrigation sensitive started withering and dropping fruits due to lack of irrigation I made the payment of Rs.2598/- on 27/12/2023 and I got the re-connection.

CGRF (K)'s order is not in line with my request to them. Hence I approach you. I agree to all points of CGRF (K) except 2 issues I mentioned in form B and annexure to form B, already with you. I request you to consider my request sympathetically as I have suffered a lot mentally and monetarily and grant me my request mentioned in form B and annexure form B.

Analysis and findings

The hearing of this appeal petition was conducted on 29/05/2024 at 11:00 a.m. in the office of State Electricity Ombudsman, D.H. Road & Foreshore Road Junction, Near Gandhi Square, Ernakulam. The appellant Sri. V.M. Vijayan and Sri Shabu A.V., Asst. Engineer, Electrical Section, Cherpu on behalf of AEE, Karuvannur attended the hearing.

The appellant was having an agriculture connection which is connected during 1970. He was having 30 cents of land cultivating coconut, nutmeg and pepper. As per the Government of Kerala Order, the Krishi Bhavan extended free electricity to the appellant as he was having the land more than 30 cents. The criteria for getting free power for agriculturists are the following.

1. A farmer who possess not less than 30 cents of land of which 75% area is under agricultural crops.
2. A farmer who is cultivating vegetables in an area not less than 10 cents.
3. A farmer who is cultivating betel vine in area not less than 5 cents.

The land area of the appellant has reduced to 25 cents due to partition of the property. When the Krishi Bhavan was renewing the exemptions on examining the application, it is found that the appellant was not eligible for free electricity as his land area is less than the minimum requirement. The Krishi Bhavan has communicated the status to the licensee and in turn licensee had informed the appellant. Then the appellant assured that the power charges will be paid by him and hence the licensee has not disconnected the power. The power charges up to March 2022 is supposed to be paid by the Krishi Bhavan. The applicant was regular in making the payment since August 2022.

There was arrears of payment which was supposed to be paid by Krishi Bhavan. The surcharge also raised for the unpaid arrears and the same is shown in his account as the consumer is the appellant. The account of power charges prior to 04/22 was not separated from the account of appellant. Due this though the regular current charges were paid by the appellant, the arrears were shown in the system and service connection was appeared in the disconnection list. The licensee has disconnected the power on 15/12/2023 without any prior intimation. Then the appellant was forced to pay Rs. 2,598/- to the licensee and then power was reconnected on 27/12/2023. The power was not available for the crops for 13 days.

The licensee is empowered to collect interest or surcharge for the belated payment as per regulation 131 of the Kerala Electricity Supply Code 2014

131 (1) *“The consumer shall pay to the licensee the full amount of the bill on or before the due date indicated therein, for which the licensee shall issue a receipt.”*

131(2) *“If the consumer fails to remit the bill amount on or before the due date, the licensee is entitled to recover interest on the amount of the bill at the rates specified in the Schedule of Miscellaneous Charges as per schedule 1 of the Code”*

131(3) *“The consumer shall be permitted to remit the amount of the bill with interest as specified in the sub regulation (2) above within an extended period of fifteen days from the due date specified in the bill.”*

131(4) *“If the consumer fails to remit the amount even within such extended period, the licensee may disconnect the supply in accordance with the procedure specified in Chapter V111 of the Code.”*

When there is arrears and surcharge for the delayed payment, the appropriation of amount received will be as per regulation 133 of Supply Code.

133 *“All payments made by the consumer shall be adjusted in the following order of priority: - interest on electricity duty arrears; electricity duty arrears; interest on electricity charge arrears; electricity charge arrears; dues of current month”.*

Though the deeds of the officials of the licensee is as per regulation, is it morally correct?

The free power for the small scale farmers were extended by the Government as per the Go. 41582/PA3/94/AD DATED 17/01/1995 to promote the agricultural production in the state. The nodal agency to determine the eligibility is the Krishi Bhavan of the concerned area. Here the appellant was in the eligible list till 31/03/2022. Then 04/2022 onwards the appellant/consumer had agreed to make the payment and was doing regularly. The arrear amount prior to 04/2022 was supposed to be payable by the Krishi Bhavan.

The account would have been segregated with effect from 04/2022 and the arrear would have been accounted to Krishi Bhavan. The respondent have mentioned that there is huge amount in yet to receive from Krishi Bhavan in almost all sections in Kerala where this concession was given. It is also stated that the Krishi Bhavan is settling the arrears as per the availability of fund. The arrear supposed to be paid on account of appellant also will be remitted. As per CGRF order when the Krishi Bhavan remit the payment Rs. 2,598/- paid by the consumer is to refunded/adjusted in the future bills.

The officials of the section office would have taken more care on handling such cases. Here the power was disconnected not due to default of the consumer. The section officials would have escalated this to higher level and

would have exempted from disconnection by segregating the account. This is a lapse from the section officials and they are to be warned not to repeat such type of issues. Here the appellants demand is to get a compensation for the loss of crops due to non availability of water for 13 days. This would have handled by the licensee more cautiously. However there is no provision to sanction compensation as per regulation.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The amount paid by the appellant Rs. 2598/- is to be refunded/adjusted on the future bills on getting the payment from Krishi Bhavan.
2. The account prior to 04/2022 is to be segregated from the account of the appellant and hence surcharge would not be shown in the bill.
3. The licensee has to take steps to recover the charges from Krishi Bhavan.
4. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/021/2024/_____ dated: 06/06/2024.

Delivered to:

1. Sri. V.M. Vijayan, Vackaparambu Madam, Vallachira P.O., Thrissur Dist., Pin- 680562.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Karuvannur, Thrissur Dist.

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, Consumer Grievance Redressal Forum, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.