

**THE STATE ELECTRICITY OMBUDSMAN**  
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REVIEW PETITION Nos. P/288/2012, P312/2012, P/319/2012  
P/332/2012, P/320/2012 & P/329/2012  
(Present: Sri. V.V. Sathyarajan)  
Dated: 11<sup>th</sup> March 2016

**(I) P/288/2012**

Review Appellant : Smt. Bindu Riya Alex  
Vega Ventures [Pvt.] Ltd.  
Kuravankonam,  
Thiruvananthapuram 695 003

Review Respondent : The Assistant Executive Engineer  
Electrical Sub Division [KSEB]  
Kesavadasapuram, Pattom,  
Thiruvananthapuram 695 004

**(II) P/312/2012, P/319/2012 & P/332/2012**

Review Appellant : Smt. Jasmine Rajesh,  
T.C. No. 16/136, Kumaramangalam  
EaswaravilasomRoad,  
Vazhuthakadu,  
Thiruvananthapuram 695 014

Review Respondent : The Assistant Executive Engineer  
Electrical Sub Division [KSEB]  
Beach, Chakka,  
Thiruvananthapuram 695 024

**(III) P-320/2012 & P/329/2012**

Review Appellant : Sri K.C. Chandrahasan,  
Managing Director,  
Kerala Travels Interserve Ltd.,  
Yathrika, Vellayambalam,  
Thiruvananthapuram 695 003

Review Respondent : The Assistant Executive Engineer  
Electrical Sub Division [KSEB]  
Vellayambalam,  
Thiruvananthapuram 695 004

## **ORDER**

The review appellants are the promoters and builders of the high rise building complexes, in Thiruvananthapuram city limits under the jurisdiction of different Electrical Sections of KSEB. All the appellants have approached the review respondents (Kerala State Electricity Board), requesting power supply to their buildings. Accordingly, the review respondent extended 11 kV supply to the said premises to meet their requirement of power which is more than 50 kVA after collecting the estimated cost required for the work.

The electrical works of 11 kV cable laying up to the premises of review appellant from the nearby existing distribution system, erection of indoor metering panel in the high rise building were all carried out by the review appellant themselves, after incurring its material and labour costs and paying the supervision charges to review respondent. It is alleged that the review respondent had included the material cost and some extraneous costs which need not be included for calculating 10% supervision charges.

Further, the review appellants also opposes the collection of cost of RMU as it is part of the distribution licensees system and other sum such as road cutting charges, amount for PTCC approval and miscellaneous costs included by the review respondent in the estimate with interest. According to them, the collection of such sum and realizing supervision charge as 10% of the capital costs were never authorized by any Act or Rules and Regulations created by the KSERC.

Being aggrieved by the actions of review respondent, the review appellants had submitted complaints before the CGRF, Kottarakkara, praying for refund of unauthorized excess amount collected. The CGRF dismissed the above petitions and not satisfied by the decision of CGRF, the review appellants approached this Authority with appeal petitions. Since the appeal petitions filed as above were seen containing identical issues and are found having some merits, a common judgment was issued by the Authority and allowed the appeal to the extent as ordered. Still aggrieved, the review appellants have approached this Authority with a plea to review the decision taken on the above appeal petitions.

During the hearings conducted on 05-02-2014 and 26-06-2015 the review respondent raised objections regarding the appearance of Sri Anandakuttan Nair as nominee of the review appellant. According to them Sri Anandakuttan Nair who is not a practicing advocate by profession but filing and contesting several cases before the fora as a legal professional. Section 33 of the Advocate Act, 1961 stipulates that advocates alone are entitled to practice before the Court or any Authority. As per Section 32 any Court or Authority may permit any person not enrolled as an advocate under this Act to appear before it in any particular case. But Sri Anandakuttan Nair is enjoying the right to be nominated as a representative to appear and make

representation as profession which is against the interdict contained in the Advocate Act, 1961.

As per Regulation 16(7) of Consumer Protection Act, 1986, "*while a Consumer Forum may permit an authorized agent to appear before it, but authorized agent shall not be one who has used this as profession: provided that this Sub Regulation shall not apply in case of advocates*". At the same time the nominee Sri Anandakuttan Nair also raised objections regarding the appearance of Assistant Executive Engineers of KSEB Limited as respondent without authorization from KSE Board.

In the above circumstances this Authority sought for clarification from the Hon'ble Commission and the Commission issued direction vide letter dated 18-01-2016 that it is only just and proper to allow the consumers to engage representatives to present their case before CGRF or Ombudsman. By virtue of provision of Advocates Act, any advocate can represent his client before any Forum. In order to safeguard the interests of consumers who cannot afford to engage an advocate to present his case, non advocates can also be permitted to represent the consumers. But it can only be with the permission of CGRF / Ombudsman. Such non advocates shall not be persons who take up such representation as a profession unless they are permitted by any law other than the Advocates Act.

Accordingly a hearing of the case was conducted on 16/02/2016 in my chamber at Edappally. Sri. Anandakuttan Nair, representative of all the review appellants presented their case. Smt. Beena, Assistant Executive Engineer, Electrical Sub Division, Kesavadasapuram, Sri. Ansalam J. Assistant Executive Engineer, Electrical Sub Division, Vellayambalam and Sri Ajithkumar K. Assistant Executive Engineer, Beach, Thiruvananthapuram appeared for the review respondents and argued their case.

One of the main submissions of the review appellants is against the combined orders issued on six numbers of appeals on the grounds that it contained identical issues. The review appellants argued that it never contained identical issues for issuing combined orders. The identical judgment and identical order on appeals of non identical issues is improper.

The review appellants' version is that the Ombudsman has arrived at a wrong conclusion that the appellants are LT consumers. Wrong reading of regulations and quoting inappropriate Regulation out of context and drawing parallels with similarity on entirely different matters at differently placed situations has lead to wrong conclusion that the appellants are LT consumers and further reached wrong conclusions on other issues involved in the appeal on the basis of that, and hence the decisions are arrived at, which are wrong and not at all applicable settling in the issues contained in this appeal.

The arbitrary estimate under which unauthorized and excess amounts collected and not conducting an evaluation of works and no refund/pay the excess collected/caused to spend as mandated by the licensee under regulations and retaining of such amounts benefiting the licensee created unjust enrichment. The ground for the review is that refund of excess amounts collected and amounts caused to the consumer to spend for development of distribution infrastructure of KSEB by extending distribution main and other. The electricity supply could be provided from the nearest location. The argument raised by the appellants is that all the decisions under the head 'decisions' are wrong except which are abiding the regulations and accepted by the appellant.

On examining the petitions of the review appellants, the statement of facts filed by the review respondents, the arguments in 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. The reliefs sought for by the review appellants are based on the same grounds and issues. The appeals were seen drafted accordingly except the names and figures differ. The issue which arises for consideration before this Authority, in the present bunch of cases, pertains to the following points.

1. Whether the appellant belongs to HT consumer or LT consumer status
2. Relevance of the argument on the point of commencement of supply
3. Allegation of excess supervision charges collected by KSEB
4. Collection of 10% supervision charges on other items.
5. Whether the collection of the cost of RMU from the consumers is legitimate?
6. Issue of collection of additional sum for tapping 11 kV supply at a later date.

All these identical issues were examined in detail. The above points are again raised in the review petitions stating that the conclusions and decisions taken by the Authority were wrong. Apart from the decision arrived at in the common issues, the Authority has taken note of different and specific points raised by individual appellant and issued separate order in those matters.

Since the issue involved in all these review petitions are common and against the order dated 26-06-2013, the review petitions are considered together and disposed by a common order. This Authority has considered all the arguments of the review appellants while disposing the appeal petitions. Also there is no discovery of new and important matter or evidence produced by the review petitioners warranting a review on the issues raised before this

Authority and on which decisions were already taken vide order dated 26/06/2013.

The review appellants have not raised any point or aspect which is not come to the notice of this Authority before arriving at the decisions sought to be reviewed. Apart from the argument advanced in the appeal petition, nothing more is placed in the review petition or in the arguments raised by Sri Anandakuttan Nair, representative of the appellants before this Authority, which warrants the review of the order dated 26-06-2013. A decision once rendered by a competent Authority/Court on a matter in issue between the parties after a full enquiry should not be liable to be agitated over again before the same Authority/Court.

***“Fundamental legal doctrine that, once a lawsuit is decided, the litigant parties are barred from raising the same issue again in the courts (unless material new evidence has become available). They are also barred from raising another issue arising from the same claim or transaction (or a series of claims or transactions) that could have been but was not raised in the decided suit. It is based on the principle that court cases cannot be allowed to go on for ever and must come to an end.”***

On a close perusal of the arguments raised by the review appellants it can be seen that they simply argue that all the decisions arrived at the order dated 26-06-2013 are wrong except the reliefs allowed to them. No mistake or apparent errors on the face of the records were pointed out by the review appellants which warrant the intervention of this Authority to review the order dated 26-06-2013. Hence the review petitions is devoid of merits and dismissed. Having decided as above, it is ordered accordingly.

**ELECTRICITY OMBUDSMAN**

Forwarded to:

**P/288/2012**

1. Smt. Bindu Riya Alex, Vega Ventures [Pvt.] Ltd., Kuravankonam, Thiruvananthapuram 695 003
2. The Assistant Executive Engineer, Electrical Sub Division [KSEB], Kesavadasapuram, Pattom, Thiruvananthapuram 695 004

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2. The Assistant Executive Engineer, Electrical Sub Division [KSEB] Beach, Chakka, Thiruvananthapuram 695 024

**P-320/2012 & P/329/2012**

1. Sri K.C. Chandrahasan, Managing Director, Kerala Travels Interserve Ltd., Yathrika, Vellayambalam, Thiruvananthapuram 695 003
2. The Assistant Executive Engineer, Electrical Sub Division [KSEB], Vellayambalam, Thiruvananthapuram 695 004

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.