

**THE STATE ELECTRICITY OMBUDSMAN**

D.H. Road & Foreshore Road Junction, Near Gandhi Square,  
Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

[www.keralaeo.org](http://www.keralaeo.org) Email: ombudsman.electricity@gmail.com

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**APPEAL PETITION No. P/050/2022****(Present: A. Chandrakumaran Nair)****Dated: 26<sup>th</sup> September, 2022**

Appellant : Smt. Shabna Vikas,  
M/s. Vikas Granites,  
'Abhilash' 4/420, A.G. Road,  
Kozhikode-673032

Respondent : Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Kondotti, Malappuram Dist.

**ORDER****Background of the case:**

The appellant is the proprietor of a stone crushing unit situated at Cherukara Village, Malappuram, which is named as "Vikas Granites". They manufacture 6 mm metal, baby-metal, dust etc. for 15 years and M-sand & P-sand for last 5 years. The appellant is the consumer of the Licensee under the Electrical Section, Karad with consumer No. 1167686013752 under LT IVA tariff and sanctioned load of 37 kW. The appellant planned for an expansion of the unit and hence, applied for HT service connection with all documents with contract demand of 200 kVA on 02-03-2020. Appellant asked two months' time for completing their HT power connection works. Appellant have remitted application fee and advance on 07-09-2020. The Licensee responded only on 05-06-2021 after 9 months. Agreement was executed only on 22-11-2021. HT connection is effected only on 14-06-2022 by the Licensee. This is violation of the regulation as per the Kerala Electricity Supply Code 2014. The appellant was constantly charged with huge amount under the head "other charges".

The appellant filed petition to Consumer Grievance Redressal Forum (Northern Region) and after hearing the case, CGRF(NR) issued order dated 30-05-2022 directing the respondent to effect the HT connection within one week after the appellant clearing the outstanding dues. The HT service connection was connected on 14-06-2022.

Aggrieved by the decision of CGRF(N), the appellant filed the appeal petition to this Authority.

**Arguments of the appellant:**

The appellant has been allocated with a 100 kVA transformer and LT 4A Tariff service connection with total connected load of 37 kW for Industrial purpose with Consumer no. 1167686013752 by the KSEBL, Karad Section Kondotty Malappuram. In connection with the expansion of the unit, the existing allotted contract demand & connected load became deficient, and therefore an application form for HT connection was submitted with all prescribed documents with a requirement of connected load [Total load =212 HP + 10 kW+90KVAR]. The approval from the department of Electrical Inspectorate, Malappuram for the installation of 400 KVA transformer-HT, 180 kVA transformer and connected equipments at the premises was received on 10/07/2020. The application fee and advance were remitted in the Electrical Section, Karad on 07/09/2020.

Thereafter, the inspection was not scheduled within the prescribed time by the licensee and the Licensee shall sanction the load determined and issue a demand note within 30 days from the receipt of the application form; which was not complied by the licensee. Later after prolonged requests, an order to remit an amount of Rs.1,59,589/- for particular of works to be undertaken was received by the applicant on 05/06/2021 and to the utmost surprise of the applicant the amount was only accepted on 17/06/2021 in the Karad Section Office after repeated attempts and request by the appellant. No due certificate was only issued on 11/10/2021 after a delay of 4 months by the KSEBL, Electrical Section, Karad.

Later, a further delay of 40 days was made by the licensee to state the amount of security deposit i.e., Rs.6,01,800/- which was expeditiously deposited by the

appellant and the agreement was executed on 22<sup>nd</sup> day of November 2021. The inspection was carried out by the Deputy CE, Electrical Division, Manjeri, Malappuram on 25<sup>th</sup> November 2021. From the above mentioned circumstances, it is very much evident that the distribution licensee has miserably failed to follow the procedure and timelines as laid down in regulations 77 to 83 of the Supply Code 2014 and energize the connection in accordance with the timeline prescribed under regulation 93 (4) (ii) of the Code and is liable to pay penalty under Sec.43(3) of the Electricity Act 2003 & Sec.S6(l) Kerala Electricity Supply Code 2014.

Meanwhile, an inspection was carried out by the APTS on 26/10/2021 and charged the consumer for unauthorized use of additional load u/s 126 Electricity Act 2003 in an improper manner. A provisional assessment bill of Rs.7,10,502/- was issued on 17/11/2021 and was directed to pay by the consumer within 7 days. An objection was filed against the provisional assessment order on 25/11/2021 within 7 days stating the above mentioned reasons. Later on, 06/12/2021 the final assessment order was issued to pay an amount of Rs.2,57,040/- to avoid disconnection. Appeal No.02/2022 dated 06.01.2022 is now pending before the Appellate authority u/s 127 Electricity Act against the final assessment order.

Appellant was finally constrained to file complaint OP 08/2022 before the CGRF Kozhikode on 06/04/2022. The hearing was conducted on 28/04/22, and the final order was received on 30/05/2022. Finally, HT connection was energized on 14 June 2022 by the licensee.

The CGRF has not adduced any documentary evidence from the licensee to substantiate their claim that the undue delay occurred was not intentional but due to lack of feasibility in the concerned feeder.

There is no inference in the order as to the reason for the delay in energizing the HT connection, after the final inspection carried by the Deputy CE on 25<sup>th</sup> November 2021.

The CGRF ought to have found that no force majeure conditions existed in the instant case for the licensee to get exemption from timelines and standard of performance as stipulated in Regulation 63 of the Supply Code.

Nature of relief sought

- 1) Direct the licensee to pay compensation under Sec.43(3) of the Electricity Act 2003 & Sec (86)[i] of Kerala Electricity Supply Code 2014 for not complying with the timeline in energizing the HT connection.

**Arguments of the respondent:**

The appellant is a consumer of Electrical section, Karad bearing Consumer No 1167686013752 for a Granite Stone Crushing Unit named Vikas Granites at Kannanvettikavu. The tariff of the connection is LT-4A. It was a monthly billed consumer with a connected load of 37 kW. The appellant on 02.03.2020 submitted an application in plain paper for an additional load with contract demand of 200 kVA at Karad Section Office asking for 2 months' time for completing their HT power connection process. Later, on 07.09.2020 the appellant applied for additional load in prescribed format along with approval from Electrical Inspectorate Malappuram, and remitted the required fee of Rs 10,000 as advance estimate and Rs 10 Application fee with the required GST.

Inspection at the premises was conducted and demand of Rs 1,59,589/- was issued to the appellant on 28.05.2021 for line extension work vide order number DB2/AS No 2/HT-SC/Mji Circle/2021-22/994 dated 28.05.2021 of the Deputy Chief Engineer, Manjeri and the party remitted the said amount (after deducting advance collected) on 17.06.2021. The work was completed without any delay.

In between a lot of correspondences were made for determining the feasibility of providing the requested load on the 11kV Aikkarapadi feeder from 11Q KV substation Chelari. Letter was sent by the Deputy Chief Engineer, Manjeri to Transmission Division Tirur to examine and report the feasibility of connecting the proposed load on the said feeder. At the time an additional power allocation request for 450 kVA from M/s Malabar Granite, at Karad Electrical Section was also pending from the same feeder. Reply was received that the loading of the feeder is not feasible under the present condition and the load can be provided only if the existing load on the 11 kV Aikkarapadi feeder is rearranged and reduced considerably. Later rearrangement of load was made to incorporate the load

requirement of the appellant and this was the reason for the delay in processing the request. The load on the Aikkarapadi 11kV feeder was later rearranged to accommodate the load requirement of the appellant, which in turn caused some delay in considering appellant's application.

A No due Certificate as on 11.02.2021, was given by the Assistant Engineer, Electrical Section, Karad, as they had no dues as on the date. Demand of Rs 6,01,800/- towards Security Deposit of FIT connection, was issued to the appellant and they remitted the said amount vide DD dated 19.11.2021. A lot of correspondences and load rearrangement on the 11 kV feeders were necessitated to accommodate the load requirement of the appellant, which in turn caused some delay in considering the application.

Meanwhile Kozhikode APTS wing of KSEBL inspected the premises on 26.10.2021 and found an unauthorized additional load of 63 kVA. Mahazer was prepared and a provisional bill of Rs.7,10,502/- was issued to the appellant on 17.11.2021. On objection raised by the appellant, hearing was conducted by the then Assistant Executive Engineer and considering the grievance of the appellant and as the matter was genuine the bill was revised to Rs.2,57,040/-. The penal bill accounted only twice the fixed charges for a period of one year, considering the fact that it is not legal to use unauthorized load even though they have applied for additional power allocation.

On 21.12.2021 and 30.12.2021 the appellant remitted Rs.1,28,520/- towards 50% of the penal bill and Rs.2,570/- towards appeal fee resp. for presenting her appeal before the appellate authority, and the same is pending disposal before the Forum.

Meanwhile, while the petitions were being heard at CGRF, some payments including regular current charges were left unpaid by the appellant and hence, the arrears pertaining to the appellant's LT connection No 1167686013752, as on 07.05.2022 became Rs 3,64,490.00. Among which the bill of APTS amounting to Rs.1,28,520.00, was the only pending one, awaiting a decision of the Appellate authority. Hence all the dues except Rs.1,28,520.00 was to be settled by the

appellant before dismantling their LT connection and providing new HT connection. The appellant cleared the said dues completely by 06.06.2022 and HT service was affected on 14.06.2022.

KSEBL had taken earnest effort for providing power to the appellate firm since the date of receipt of their initial application. Correspondences were made with the transmission wing and respective sections regarding rearranging the load of the heavily loaded 11kV feeders so as to provide the additional load requested by the appellant. The line extension works against the amount of Rs.1,59,589/- remitted by the appellant was also completed without any delay.

#### **Comments of the appellant on the response of respondent**

The appellant denies all the contentions raised by the respondent, that a lot of correspondences were made between the Respondent and transmission Division so as to examine the feasibility of connecting the proposed load on the feeder. It is pertinent to note that M/s. Malabar Granites has not yet provided the additional power allocation till date. Moreover, the respondent is duty bound to intimate the consumer in writing under proper acknowledgement as whether the applied load is feasible or not soon after the inspection of the premises on receipt of application form otherwise under Sec.81 of the Supply Code, the load applied shall be deemed to have been sanctioned and the licensee shall not deny grant of connection on this ground. Therefore, it is submitted that all the correspondences regarding the feasibility of the feeder are false fictitious besides being untenable and impermissible as per law.

On 02/03/2020, it was clearly intimated in the reply to the letter no. 164/19-20 dated 15/02/20, from KSEBL, Karad Section Office seeking Contract Demand and TOD Agreement, that the appellant is in the process of conversion of existing LT connection to new HT service connection with a Contract Demand of 200 kVA, and an Application form for HT connection was submitted with all prescribed documents with a requirement of total connected load of 166 kW. This communication was accepted by the licensee and the disconnection u/r Sec 138(H)of Supply Code 2014 was avoided.

According to Regulation 99(7) of the Supply Code 2014, the licensee shall issue order on the application for the enhancement of load within thirty days from the date of its receipt and intimate the applicant whether or not the enhancement of load is sanctioned otherwise sanction for enhancement of load or contract demand, as the case may be, shall be deemed to have been granted with effect from the thirty first day of the date of submission of the application by the appellant herein.

No written intimation was provided by the licensee as to whether the additional load can be supplied or enhancement of load is feasible or not nor any direction has been received from the licensee to restrict my demand to the permissible limit, for any necessary augmentation or upgradation works of the distribution system to be carried out for allowing appellant's contract demand. Hence the inspection of the APTS Wing of KSEB in the premises on 26.10.2021 was an afterthought with an ulterior motive to get wrongful gain by wrongful means.

The appellant was constantly charged with huge amount under 'Other charges' for the last few years. Appellant's several attempts to know the specific details of the above charges went in vain and was constrained to file OP No.93/2021 dated 22.12.2021 before the CGRF and as a result the reply was received from the concerned section that the other charges were Low Power Factor Penalty. If the concerned officials had intimated the problem specifically to the consumer, the appellant would have been able to rectify the issue and would not have had to bear the huge penalty so far. The CGRF had directed to avoid disconnection/dismantling of electric connection until the disposal of the petition. The hearing on the matter was only conducted on 28.04.2022 and the matter was only disposed on 30.05.2022.

The Deputy CE later started stating the above interim order of the CGRF has a hindrance to energize the HT connection as there involves the procedure of dismantling the existing LT equipments, and thus pressurized the appellant to withdraw both OP 93/2021 and appeal 02/2022 in order to energize the HT connection.

On 05.04.2022, KSEB officials came to disconnect appellant's power supply for the reason of not making the payment under other charges. The above mentioned interim order of the CGRF not to disconnect/dismantle the electric connection until the disposal of the grievance relating to "other charges" was conveyed to the SS & AE but was not taken into account.

Here the double standards of the officials are very much evident. The Deputy CE was stating the above interim order of the CGRF has a hindrance to energize the HT connection as there involves the procedure of dismantling the existing LT equipments, on the other side according to Assistant Engineer, Karad Section, Malappuram, the same order is only for the bill period for the month of December 2021.

The arrears mentioned in para 5 of the written statement pertaining to the appellant's LT connection was only due to the stay order by the CGRF, Kozhikode which was intended to protect the interest of the appellant till a decision is taken in the above mentioned OP NO. 93/2021. The appellant was even ready to pay the arrears if it was insisted by the Deputy CE, so as to energize HT connection but instead the stay order was used as a weapon by the Deputy CE to blackmail the appellant to withdraw the complaint.

Because of the recalcitrant and casual attitude of the respondents the industrial unit of the appellant has sustained huge loss. Regulation 27 of the Supply Code cast an obligation on the licensee to supply electricity on request says that for the distribution licensee shall develop and maintain an efficient coordinated and of economical distribution system in its area of supply and shall supply electricity to any person on his request in accordance with the provisions of the Act and Supply Code. Since the appellant had satisfied the conditions prescribed under the Regulation 27(2), the HT connection was not energized within the prescribed timeline on flimsy grounds, which is highly illegal and arbitrary.

**Analysis and findings:**

The hearing of the case was conducted on 02-09-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. Sri.



Vaishak. K., Advocate was attended the hearing on behalf of the appellant and Sri. Vinu. V. Unnithan, Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kondotty attended the hearing from the respondent's side. 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.

The appellant is the owner of a small industry with tariff LT IVA and planned to expand the industry and the connected load is proposed to increase. The contract demand proposed is 200 kVA. Submitted an application on 02-03-2020. The application in the correct format was submitted along with approval of Electrical Inspectorate and required fee remitted on 07-09-2020. They have intimated the Section Office on 02-03-2020 regarding the HT service connection and the work for connection of HT line was completed and applied with Inspectorate approval on 07-09-2020. The date of actual application can be treated as 07-09-2020. The inspection of the premises was conducted on 28-05-2021 and demand notice send to the appellant on 05-06-2021 after a lapse of 9 months. The Section 77 (1) & (2) of Kerala Electricity Supply Code states "Inspection of the premises of the applicant by the licensee" as:-

77 (1) The licensee shall, at the time of receipt of application form with the application fee, stipulate a date for inspection of the premises of the applicant in consultation with the applicant, under written acknowledgment.

77 (2) The date of inspection shall be scheduled within five working days from the date of receipt of application form.

The premises is to be inspected within 5 days, which has been violated and the same is done after a lapse of 9 months. The amount demanded by Licensee on 05-06-2021 is accepted at the Section Office only on 17-06-2021.

The Section 81 of Kerala Electricity Supply Code 2014 is very clearly stipulate the time line for issue of demand note, in case of HT service connection is within 30 days of receipt of application form. If this is not done within the stipulated time, it is treated that the load applied for shall be deemed to have been sanctioned and

Licensee shall not deny grant of connection on this ground. The Section 85 (1) & (2) specify the overall time line for releasing the new electric connection.

If the supply can be provided without any extension or augmentation of the existing distribution system, the connection is to be given within one month and if the line extension is required, the HT service connection is to be given within three months for the first one kilometer or part thereof and one month for every additional kilometer or part thereof. Here, it seems to be line extension is not required and hence, the period applicable is only one month.

The Section 86 of Kerala Electricity Supply Code 2014 “Failure to comply with the time line” states as: -

86 (1) If any licensee fails to comply with the time frame stipulated under regulation 85, he shall be liable to pay penalty as may be determined by the Commission in accordance with subsection (3) of section 43 of the Act.

86 (2) The liability of the licensee to pay penalty under this regulation shall be without prejudice to the liability to pay compensation to the affected person as per the regulation notified under subsection (2) of section 57 of the Act.

Section 99 (4) states on “Enhancement of connected load or contract demand” as “The application for enhancement of load shall not be considered if the consumer is in arrears of payment of the dues payable to the licensee”.

The application of enhancement of load shall be considered only on clearing the dues, if any. Hence, the delay in clearing the dues from the monthly bills, which is shown as “other charges” is the delay from the appellant. The appellant states that they enquired about the “other charges” in the bill, which was not properly clarified by the respondent.

The Section 123 (1) is very clear about the detailed information to be included in the bill. The power factor adjustment charges, if any, is to be clearly mentioned in the bill and same is not complied by the respondent and the proper clarification is also not given in time.

The Section 43(3) of Indian Electricity Act states “If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.”

Which is very clear about the penalty liable to pay by the Licensee.

Section 57 of Indian Electricity Act states on Consumer Protection: Standards of performance of licensee as

57(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

57 (2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

In the case in hand, the respondent mentioned that a lot of correspondences were made determining the feasibility of providing the requested loan on 11 kV line. The application is submitted on 07-09-2020 and the HT service connection was given on 14-06-2022 i.e., after the lapse of 21 months which is not at all justifiable. The officials of the Licensee are not at all bothered about the regulation, and violating the regulation without any reason or showing some flimsy reasons. One of the reasons mentioned was that the CGRF ordered not to disconnect the power which delayed in giving the HT service connection.

As per the Section 81 of Kerala Electricity Supply Code 2014, if the service connection has not been given within 30 days of receipt of application form, it is treated that the load applied shall be deemed to have been sanctioned. As per this Section, how the penalty on additional load connected is applied? However, this particular issue is pending with the Appellate Authority.

The officials who violated the regulations and delayed this much for giving a connection is to be find out by the Licensee and necessary action is to be taken. The appellant is eligible for the compensation as per the Regulations published by Kerala Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations 2015.

**Decision: -**

From the analysis of the arguments of appellant and respondent and the hearing, the decision is taken as follows:

- 1) The Licensee is required to examine and assess the quantum of delay as per the provision happened from the side of the Licensee or from the Officers of the Licensee and ascertain the compensation applicable to the appellant and shall be settled within a period of two months from the date of this order.
- 2) Licensee may enquire and to fix the responsibility of such delays and also device a mechanism to ensure that the officials of the Licensee shall complied by the Regulations.

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

**ELECTRICITY OMBUDSMAN**

P/050/2022/\_\_\_\_\_ dated \_\_\_\_\_.

**Delivered to:**

1. Smt. Shabna Vikas, M/s. Vikas Granites, 'Abhilash' 4/420, A.G. Road, Kozhikode-673032
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Kondotti, Malappuram 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, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode