

STATE ELECTRICITY OMBUDSMAN

THAANATH BUILDING CLUB JUNCTION POOKKATTUPADI ROAD
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REPRESENTATION No: 18/2008

Appellant: Fr Werner Chakkalakkal, CMI, Coordinator
Centre for Faith and Democracy, Pratheeksha complex
Thalore, Thrissur

Respondent : Kerala State Electricity Board

Represented by
The Assistant Executive Engineer
Electrical Sub Division KSEB
OLLUR, THRISSUR

ORDER

Fr Werner Chakkalakkal submitted a Representation on 30.7.2008 seeking for the relief mentioned below :

1. Quash the order dated 24.6.2008 of CGRF Ernakulam and the electricity bill issued by the respondent amounting to Rs 4,14,430/-
2. Declare that the Appellant is eligible for Agricultural tariff for the electric connection 7810 and that the application of LT VII A Commercial tariff is illegal

The Appellant is the Coordinator of Social Institute of Biotechnology(SIB) situated in a 3 storied shopping complex in 14 cents of land adjacent to NH 47 Thalore Thrissur and the unit is engaged in scientifically carrying out plant reproduction and multiplication of plantains on large scale in tissue culture laboratory. Electric connection was given to the Institute on 11.1.1999 with around 8.77 KW load consisting of around 25 Light Points,6 Plug points, 1 Power Plug,1 Heater,1 refrigerator, one 2.2 KW motor etc. The connection was given under LT VI B tariff which was subsequently changed to LT VII A Commercial. The Appellant requested for LT V Agricultural Tariff producing a certificate dated 10.1.1997 issued by the local Agricultural Officer which was not conceded by the Respondents.

The Appellant moved CDRF Thrissur and got order in favour on 9.12.99 which was subsequently set aside by the State Commission on 1.8.2007. Mean while the Appellant moved the Hon: High Court and got an order on 16.6.1999 directing KSEB to demand only LTV Agricultural tariff from them until CDRF gives their verdict. Consequent to the order of State Consumer Disputes Redressal Commission on 1.8.2007 the respondent

revised the demand from 6/99 onwards to LT VIIA Commercial. The CGRF Ernakulam, acting upon the direction of Hon: High Court on WP8808/08, directed the respondent on 24.06.2008 to continue status quo up to 1.11.2002 and apply LT IV Industrial tariff after 1.11.2002 .The consumer not satisfied by the said order has filed this Representation .

I. The contentions/arguments/points raised by the Appellant in the representation/argument note and during the hearing are summarized below

1. The classification of the SIB unit in commercial category is not justifiable since it is conducted for agricultural purposes. The respondent has over looked the rights and exemptions granted to the complainant for the tissue culture unit by the various Government agencies.
2. The Appellant had submitted application for connection under agricultural tariff for conducting tissue culture unit. The requirement of large area of land is insignificant and tissue culture can be done in Laboratories.
3. The retrospective additional bills issued by the respondent under commercial tariff are to be cancelled and revoked.

II. The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below

1. The Appellant had taken the service connection 7810 under LT VI B Tariff after remitting security deposit, service connection charges and OYEC charges during 1/99. They had not produced the certificate from Agricultural Officer, said to be dated 10.1.1997, at that time.
2. The entire load taken by the Petitioner was for producing and selling banana plantain, anthurium etc in Laboratories. There was no farming/agricultural activity in the premises.
3. The tariff has been changed to LT IV Industrial wef 1.11.2002 and revised demand issued as directed by CGRF.
4. The service connection was disconnected on 19.5.2008 due to non payment of dues.

III. Discussion and Findings

The single issue to be decided in this case is the tariff applicable to Tissue Culture units.

On a perusal of the Tariff Notifications it is seen that Tissue culture units are consistently classified under LT IV Industrial from the notification dated 1.11.2002 onwards. In the tariff Notification dated 7.8.2001 nothing was mentioned about the Tissue Culture Units originally .But it is seen that by the BO 204/2002/ (PlgCom4304/01) dated 8.2.2002 the above tariff order was amended and the term 'tissue culture' was added to the LT IV Industrial category. Hence it can be said that Tissue Culture units are *consistently classified* under LT IV Industrial from the Notification dated 7.8.2001 onwards. Hence it is settled that the Appellants Tissue

Culture unit has to be classified under LT IV Industrial Tariff from 10.8.2001 onwards, the date on which the said order comes into effect.

Now the question of Tariff from 11.1.1999 to 9.8.2001 is to be decided. As mentioned earlier the Tariff Notifications prior to 8/2001 are virtually silent in the up coming category of Tissue Culture units. But the action of the respondents in classifying it under LT VII A Commercial can not be justified because the activities in the plant has the character of production process or manufacturing process than pure commercial function. Large scale production and considerable value addition is present. Of course the output components are sold. But there is no large scale production of goods which are not meant for selling. These views might have lead the Government/KSEB/KSERC in classifying the Tissue Culture units under LT IV Industrial category from August 2001 onwards.

The claim of the Appellant for classifying them under LT V Agricultural is also seen to be not logical in view of the fact the activities in the plant do not come under the concept of Agriculture as the term is normally understood. It is clear that highly subsidized farming/cultivation on land is virtually absent here.

Hence in the interest of justice and considering the various aspects involved the most appropriate option would be to apply the Industrial Tariff from the date of connection itself.

IV. Orders:

The undersigned upon perusing the above petition and the counter affidavit filed by Respondent Board and the connected records relating to the case and upon hearing the arguments of both sides passes the following orders:

1. *The LT IV Industrial Tariff shall be applicable to the Consumer Number 7810 of the Appellant from the date of connection onwards till the date of final disconnection.*
2. *The Respondent shall issue a revised demand notice for the amounts outstanding from the Appellant appending there on a detailed calculation statement to convince the Appellant about the amounts demanded.*
3. *Interest shall be charged as per the Rules and Regulations.*
4. *The respondent shall be free to take action to recover the dues after providing reasonable time for the Appellant to remit the amount.*
5. *No order on costs.*

Dated this the 19th day of November 2008,

P.Parameswaran
Electricity Ombudsman

No P 18/08 / 97 / dated 19.11.2008

Forwarded to:

1. Fr Werner Chakkalakkal, CMI, Coordinator
Centre for Faith and Democracy, Pratheeksha complex
Thalore, Thrissur
2. The Assistant Executive Engineer
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OLLUR, THRISSUR

1.

Copy to :

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