

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/090/2022**(Present: A. Chandrakumaran Nair)****Dated: 24th January, 2023**

Appellant : Smt. Ithykutty
W/o. Abdullakutty, Kanikara House,
Near Kaithavalap School,
Tirur, Malappuram Dist. 676101

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

ORDER**Background of the case:**

The appellant Smt. Ithykutty is a consumer of the Licensee under the Electrical Section, Tirur. The appellant availed four connections consumer numbers 1165684029066, 1165682029067, 1165686029068 & 1165683029069 for a 'C' shape building, which is having 17 rooms with GI sheet roofing. The appellant has submitted application to Tirur Electrical Section for the change of tariff from LT 7A to LT 1A. On site inspection by the officials of the Licensee, it is noted that the said building is used as a lodge and not for domestic purpose. The rooms were rented out to the labours from other State for monthly rent. The Licensee has not changed the tariff as this building was not using for the domestic purpose.

The appellant filed petition to the Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode and CGRF (NR) issued order dated 29-09-2022, stating that the tariff of said connections are to be continued in LT VIIA tariff. Aggrieved by the decision of the Forum, the appellant filed appeal petition before this Authority.

Arguments of the appellant:

The appellant had filed a petition for converting the tariff LT VIA to LT1A on 16-04-2021 before the Executive Engineer, KSEB, Tirur. It is a residential building not a commercial building. Thereafter, the appellant filed another petition on 18-08-2021. Thereafter, again another petition was filed by the appellant on 18-02-2022. Appellant's application was not considered properly. The Asst. Engineer denied the conversion. There is no reason stated in the letter issued by Asst. Engineer dated 23-02-2022. The appellant constructed a residential building after obtaining the building permit from Tirur Municipality as residential building. All the procedural formalities were complied and toilet for handicapped and seven other toilet facilities are provided, ramp also provided to the use of latrine for handicapped persons. In the building permit also, it is shown as residential. On 05-03-2022, again the appellant sent a letter for reminding but no action is taken. No communication also given to the appellant. Present electricity charge is also in the same tariff.

The order dated 30-10-2022 passed by the authority is arbitrary without considering the documents produced. There is no reason stated to deny the application. The order is received on 21-11-2022.

Hence, the appellant requested to convert the tariff LT VIA to LT 1A.

Arguments of the respondent:

The appellant is the registered owner of the consumer numbers 1165684029066, 1165682029067, 1165686029068 & 1165683029069, with effect from 09/01/2020. These service connections were effected under 7A tariff from the date of connection. The appellant submitted the tariff change application (7A to IA), before the Assistant Engineer, Electrical Section, Tirur East, subsequently inspection was carried out at the premises on 18-02-2022. The said building bearing the consumer numbers where the appellant requested change of tariff to IA, domestic purpose is a "C" shaped structure with 17 numbers of rooms each having 6x8 feet surface area.

Seeing the structure having 17 rooms with GI sheet roofing, not having any domestic use facilities, but upon using as lodging purpose as such 7A tariff is

applicable for such lodging purpose, as it was still under 7A tariff hence, the application to change the same to domestic tariff could not be considered. So, the matter was informed the appellant on 23-02-2022 from the O/o Assistant Engineer, Electrical Section, Tirur East.

After that the consumer complained before the Executive Engineer contenting that his tariff change request has not been considered at Section Office. Subsequently this respondent, the Assistant Executive Engineer, Electrical Sub Division, Tirur East was asked to submit a report. Accordingly, upon instruction from this respondent's office, the Assistant Engineer, Electrical Section, Tirur East, again inspected this site on 02-04-2022 and submitted report with fresh site mahassar to this respondent's office on 18.04.2022.

Subsequently, the appellant was called for a hearing. On behalf of the appellant, her husband Sri. Abdullakutty attended the hearing on 26-07-2022. The details regarding the appellant's site which is disclosed as follows, which is also convinced by the respondent with further verification. "The report which is obtained from the Tirur Municipality has certified that the appellant's building No. 15/1904, A, B, C, D is under the category of lodging. The said building is "C" shaped one having 17 rooms bearing individual doors outside with 6 numbers of toilets and 3 bathrooms. Migrant Labourers from outer State are seen occupied in rooms.

1. Consumer No.29066 - 4 rooms - connected load 534W
2. Consumer No.29067 - 5 rooms, 3 bathrooms, 6 toilets-connected load 740W
3. Consumer No.29068 - 4 rooms - connected load 525W
4. Consumer No.29069 - 4 rooms, 1 motor connected load 1625W

During the hearing, the appellant's husband informed that each room were occupied two persons with a room rent of Rs.1,000/- per person.

Based on the hearing details, evidences adduced (especially the Municipality's letter regarding the status of building), detailed letter had been served to the appellant. As per the tariff order concerned LT 7A tariff is assigned to "lodging purpose", *{(iv) private lodges, private hostels, private guest houses, private rest houses, private traveler's bungalows}*, since the appellant's premises was seen used as lodging purpose, as such declared by the respective

municipality, the assigned tariff to said building is relevant. Hence, the request of changing the tariff to domestic purpose i.e., LT IA could not be considered.

However, if the consumer will ready to take separate connections to each room with domestic usage manner, after obtaining such permission from Tirur Municipality, the request for providing connections in 1 A tariff to each such rooms can also be considered subject to other safety service connection norms.

Instead of obtaining such separate domestic connection as instructed from Section office, the petitioner filed petition before the CGRF(N) Kozhikode vide OP No.61/22-23. The respondent submitted detailed Statement of Facts before the CGRF. After hearing both parties, CGRF pronounced the final order on 29-09-2022, in which the licensee has been permitted to continue 7A tariff in the petitioner's premises.

The petitioner had filed petition before the Assistant Engineer for changing tariff of his service connections from LT VII A to LT IA, not as he mentioned in plicant as LT VIA to LT IA. It is against the decision of Assistant Engineer, the appellant approached the Executive Engineer with the application dated 05.03.2022.

Before approaching the Executive Engineer, appellant had filed tariff change application before the Section Office, Assistant Engineer, subsequently his site was inspected on 18-02-2022 with mahassar and replied the appellant on 23-02-2022 by narrating the fact. Then only the appellant approached the Executive Engineer on 05-03-2022.

After that, upon instruction received from the O/o Executive Engineer, this respondent asked the Assistant Engineer to reconsider the matter, accordingly inspected the site on 02-04-2022 by the Assistant Engineer and informed the details with site mahassar. Based on the letter received from the respective municipality regarding the status of said building dated 14-04-2022 and other relevant facts, a detailed report was submitted before the Executive Engineer on 26-04-2022. Upon instruction of the Executive Engineer, Electrical Division, Tirur, the appellant was heard in person on 26-07-2022, in which the appellant's husband attended the hearing. Accordingly, served detailed proceedings on self-speaking manner on the appellant. This was served on

registered post to the appellant's address. Hence, natural justice by providing chances to justify and convincing the fact has been ensured to the appellant.

The service connections to the appellant's site were effected under 7A tariff from the date of connection itself. That is w.e.f 09-01-2020 and the consumer is remitting the current charges in 7A tariff till date. Being received the tariff change request during the year 2022, the premises was inspected and verified the record. The Municipality's report also justifies the "lodging" purpose of the appellant's premises; hence, the matter was informed to the appellant, later the CGRF also ordered to continue the present tariff 7A.

The averment of the appellant regarding the procedural completion for availing tariff change is not true. Building permit for constructing a building is considered only for providing a service connection under construction purpose, in construction purpose tariff (specially assigned for building construction). After construction, completion report with respective local authorities' certificates concerned etc. are using in deciding the tariff. Here the service connection effected after construction to the appellant was in VII A tariff with effect from 09.01.2020 based on the documents submitted by the applicant. On enquiry with respective municipality, it has later been confirmed that the said building comes under lodging purpose and later certified accordingly.

Appellant had been asked to take separate connections to each room with sufficient safety wiring, requiring domestic facilities by obtaining such permission/certificate from Municipality. Instead of submitting such completion report/certificate for obtaining separate domestic connections to each room, appellant is trying to get change the available lodging connections to IA with less tariff rate, even though continuing lodging purpose to his building.

Analysis and findings:

The hearing of the case was conducted on 10-01-2023 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The appellant Smt. Itthykutty. P.A. was attended the hearing and on the respondent side, Sri. Shajan. T.K., Assistant Executive Engineer, Electrical Sub Division,

Tirur and Sri. Anil Kumar. P.K., Nodal Officer (Litigation), KSEBL, Electrical Circle, Tirur of Licensee were 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.

The appellant is owning a temporary building in 'C' shape with GI sheet roofing and having 17 rooms and common toilet facility. Each room has been rented out to the migrant labours with monthly rent. Two or three persons are accommodated in each room. There are four connections availed by the appellant for this building under LT VIIA tariff. The appellant applied to the Electrical Section Office for changing the tariff from LT VIIA to LT IA. The load details of the four connections are as below: -

Consumer No.29066 - 4 rooms - connected load 534W

Consumer No.29067 - 5 rooms, 3 bathrooms, 6 toilets-connected load 740W

Consumer No.29068 - 4 rooms - connected load 525W

Consumer No.29069 - 4 rooms, 1 motor connected load 1625W

The Assistant Engineer and Sub Engineer visited the site and prepared site mahassar twice which states that the building is used as a lodge for the labourers. Then the respondent called the appellant for a hearing on 26-07-2022 and in the hearing also the appellant confirmed that the building is used for the lodging purpose, two persons are accommodated in a room and charging Rs.1,000/- per month per person. No kitchen and other facilities are there and the persons are staying as bachelors and no cooking is done in this building.

The building permit issued by the Tirur Municipality states that the building permit is given for the purpose of residential and special residence. As per the Municipal building regulations, the Group A2 – Special Residential building shall include all lodging or rooming houses, dormitories, tourist homes, hostels, hotels exceeding 150 Sq.M floor area with or without conference halls, community halls, dining halls or assembly rooms, creches, day care centers, children's nursery, reading rooms, libraries and educational buildings not exceeding 150 Sq.M floor areas.

The letter dated 14-04-2022 issued by Tirur Municipality and produced by the respondent also states that building Nos. 15/1904 A, B, C, D are included in the lodging category. As such this could not be considered as a domestic building.

As per the tariff order issued by KSERC from time to time, the tariff LT IA is applicable to supply of electrical energy for domestic purpose only. The tariff applicable for hotels, restaurants, private lodges, private hostels, private guest houses, private rest houses, private travelers' bungalows etc. is LT VIIA. The present tariff applied for this building is in the correct tariff.

Decision: -

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

- 1) Agree with the order vide OP No.61/2022-23 dated 29.09.2022 of Consumer Grievance Redressal Forum (NR).

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

ELECTRICITY OMBUDSMAN

P/090/2022/_____ dated _____.

Delivered to:

1. Smt. Ithykutty, W/o. Abdullakutty, Kanikara House, Near Kaithavalap School, Tirur, Malappuram Dist. 676101
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Tirur East, 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