

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/037/2023
(Present A. Chandrakumaran Nair)
Dated: September-29-2023**

Appellant : Sri. Muhammed Nazeer,
TC-2/337/1-2, Chalakkuzhi Road,
Pattom, Thiruvananthapuram (Dist.)

Respondent : The Assistant Executive Engineer
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Attingal, Thiruvananthapuram.

ORDER

Background of the case

The appellant Sri. Muhammed Nazer is the consumer of the licensee under the electrical section, Attingal with consumer number 1145319025063. This is a three-phase connection under the tariff LT VII A. The connection was availed for a partnership firm named Nakshathra Tiles. The registered connected load is 42 kw and it was connected on 16/06/2015. The shop is located in Alamcode Junction. The appellant has not consumed any energy from 07/08/2020 to 01/08/2023. The licensee is only demanded the fixed charges for this consumer as per the rate approved by the Kerala State Electricity Regulatory Commission. The appellant has not paid any charges from 01/01/2021 to 16/11/2022. The total outstanding amount comes to Rs. 1,84,734/-. Though the instalment facility was given, the appellant was not keen in remitting the payment. The shop was closed due to the Covid 19 pandemic due to the lockdown declared by the government. The appellant is not in a position to remit the huge amount as the shop was closed during the time. They approached CGRF and CGRF ordered that the appellant is liable to pay the charges. Aggrieved by the decision of CGRF, the appellant filed this appeal petition to the authority.

Arguments of the Appellant

1. A partnership firm named Nakshtrah Tiles, NH. Road, Alamcode, Attingal, Thiruvananthapuram, trading of Granite and Tiles functioning there with using the above Consumer number. They had paid electricity bill amount up to date.

But during the year 2020 March 23d, Government declared lock down due to Covid-19 pandemics. So, this firm also closed and not re-opened till date. So, they have not used any single unit of electricity from April 2020 onwards.

2. After that I received a demand notice for the pending bills for Rs. 2,39,734/- during the closed periods. Now I am not in a position to remit such a huge arrear amounts. So, I requested them to recalculate electricity bill amounts according to the meter reading during the periods April 2020 onwards vide letter dated 25-10-2022 since the building is closed and does not have any electricity consumption during that period.

And as per my request to reduce electricity charges from the bill amounts, they had allowed installment facilities for the payment of dues. As per the Installment plan, arrear amount of current charges remit in 5 installments. The first installment of Rs. 55,000/- due on 16-11-2022 and I had remitted the same because I need the connection and reconnected. The next installment due on 16-12-2022 and the balance arrear amount is Rs. 1,84,734/-.

3. Now I am not in a position to remit such a huge arrear amounts. So, I requested Consumer Grievance Redressal Forum to recalculate electricity bill amounts according to the meter reading. But they do not consider the meter reading, instead they allowed 15 installments to repay the arrear amount.
4. Now I request you to please verify the meter readings and waive electricity charges mentioned in the monthly bills from April 2020 onwards since it is inoperative during that periods. We have not used any single unit of electricity consumption during that periods. And at that time during the covid-19 pandemics, we are not in a position to visit KSEB office to give intimation for disconnection. Normally KSEB connection will be disconnected if one bill amount is pending. But in this case, the KSEB officers not disconnected even they have not received the bill amount of 2 or 3 bills.

So I request you to please verify the electricity bills and waive electricity bill amount completely according to the meter reading. And also, please refund Rs. 55, 000/- as the installment amount paid.

Arguments of the Respondent

1. All the averments in this petition are denied except those that are specifically admitted hereunder.

This complaint is regarding, the excessive energy charges against consumer number 1145319025063, registered in the name of Shri MUHAMMED NAZEER, T C 2/337,1,2 Chalakuzhi Road, Pattom, Thiruvananthapuram, under the Moonstar Transformer in the jurisdiction of ES Attingal.

2. This is a Three phase consumer under LT VIIA tariff. The registered connected load of this consumer is 41058 watts (Say 42 Kw). The date of connection of this consumer as per profile in orumanet is 16-06-2015.

This consumer has not paid any current charges from 01/01/2021 to 16/11/2022. The Shop is located near Alamcode Junction.

3. This consumer does not have any electrical Energy consumption from 07/08/2020 to 01/08/2023. The Energy Meter reading obtained on 01/08/2020 is 1006.8. The Energy meter reading taken on 01/08/2023 is 1006.8. The Energy meter is in the working status.

The KSEBL is only demanded the fixed charges against this consumer. The connected load of this consumer is 42 KW. Hence the fixed charged levied against this consumer is 42 KW X Rs 160/- ie Rs 6720/- only as fixed charges. The meter rent is Rs 30/- and GST for meter rent (Rs 5.40/-).

4. Hence the total amount comes to Rs 6755/- as per LT VIIA Tariff. This consumer has not paid the Current charges from 01/01/2021 to 16/11/2022, and the amount comes to Rs 184734/- (One lakhs eighty-four thousand seven hundred and thirty-four only).

On the disputed amount of Rs 184734/-, Rs 138996 is the amount under installment which consumer maid pending after the remittance of first installment. The Balance Rs 45738 is the surcharge generated against the pending installment amount.

This the consumer have not been paid current charges from 01/04/2020. The connection is disconnected on 25/01/2022. and issued a dismantle notice on 27/09/2022.

5. On response to this dismantling notice, the Consumer visited this office on 14/11/2022 and submitted an application for issuing installment for the due amount of Rs 239734/- (Two lakhs thirty-nine thousand seven hundred and thirty-four only).

Table showing the installment pattern issued to this consumer on 16/11/2022.

Sl. No.	Amount	Amount due date	DC date	Amount paid
1	55000/-	16/11/2022	16/11/2022	Rs. 55000
2	46814/-	16/12/2022	16/12/2023	Not paid
3	46814/-	16/01/2023	16/01/2023	Not paid
4	46813/-	16/02/2023	16/02/2023	Not paid
5	46813/-	16/03/2023	16/03/2023	Not paid

This consumer has paid only the first installment of Rs 55000/- and defaulted the other.

6. KSEB ltd has also allowed 5 monthly installments to this Commercial consumer on his assurance.

At present the consumer is in connected status and regularly remitting the electricity bill which includes the fixed charge, meter rent and other charges rather than energy charges applicable only. The consumer did not make any pending payments to the electricity bills issued from 05/12/2022 to till date.

7. In light of the above facts, it is humbly requested that the petition may be dismissed, because the consumer liable to remit the current charge arrears of Rs 184734/- to KSEB ltd.

All the facts recorded above are true to the best of my knowledge, belief and information.

Couter arguments of the Appellant

1. After the spread of Covid-19 pandemic, appellant was forced to stop the business due to the orders of the State Government. So, the demand for electricity charges during the above period is illegal.

The Appellant has not consumed any electricity for commercial purpose during the period of the pandemic, since there was restrictions from the State Government to run business firms.

2. The State Government has issued many direction to the respondents to waive the electricity charges for the period of lock out and Covid-19 restrictions and also directed the respondents not to take any coercive steps to demand arrears of bills during the period of lockdown and other restrictions.

It is the admitted fact that the appellant is not conducting any business there in from March 2020 and so not liable to pay the demanded amount to the respondents.

3. The act of the respondents in claiming fixed charges and other levies during the period of lockdown and other restriction of the Covid-19 Pandemic amounts to violation of the direction issued by the State Government to the Electricity Board.
4. Now I request you to please verify the meter readings and waive electricity charges mentioned in the monthly bills from April 2020 onwards since it is inoperative during that period. We have not used any single unit of electricity consumption during that period. And at that time during the covid-19 pandemics, we are not in a position to visit KSEB office to give intimation for disconnection.
5. Normally KSEB connection will be disconnected if one bill amount is pending. But in this case, the KSEB officers not disconnected even they have not received the bill amount of 29 months from April 2020 to October 2022. And also, we have not received any disconnection notice from KSEB up to October 2022. We had received the dismantle notice only on October 2022.
6. So, the bill issued to the petitioner for payment of Rs.2,39,734/- illegal and to be set aside.

Hence it is humbly prayed that the Hon'ble Ombudsman may pleased to declare that the demand for payment of Bill for Rs.2,39,734/- by the respondents and to set aside the above bill and order dated 26-6-2023 of the Consume Grievance Redressal Forum of the KSEB Ltd. And also, please refund Rs. 55,000/ - as the installment amount paid.

Analysis and findings

The hearing of the case was conducted on 14/09/2023 at 11:30 a.m. in the office of the State Electricity Ombudsman, D.H Road & Foreshore Road Junction near Gandhi square, Ernakulam South. The hearing was attended by the appellant's nominee Sri. Lijo Joseph and the respondent Smt. Divyachandran D.R., AEE, Electrical Sub Division, Attingal.

The appellant obtained power supply from the licensee for running a shop which is a partnership firm named as Nakshatra Tiles at Alamcode Junction. The connection was effected on 16/06/2015. The shop was closed due to Covid 19 pandemic from April 2020 as per the Govt. directions. According to the reading in the meter appellant has not consumed power from 07/08/2020 to 01/08/2023. The connected load is 42 kw and the connection is on LT VII A tariff and hence the fixed charges are to be paid by the consumer. The monthly charges would be 6755/- per month. The

appellant has not paid any charges from 01/01/2021 to 16/11/2022 and the amount works out to Rs. 2,34,734 which includes the surcharge also. The connection was disconnected on 25/01/2022 and the dismantling notice was served on 27/09/2022. The licensee has extended instalment facility for cleaning the

dues, but the consumer has paid only Rs. 55000/- as first instalment and not bothered to pay the balance amount. The balance outstanding is Rs. 1,84,734/- appellant demanded that the fixed charge is to be waived off as the Govt. was declared lockdown due to Covid 19 pandemic.

The section 45 of Electricity Act 2003 states about the power to recover charges.

45(1) *“Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity, him in pursuance of Section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his license.”*

45(2) *“The charges for electricity supplied by a distribution licensee shall be –*
(a) Fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;
(b) Published in such manner so as to give adequate publicity for such charges and prices.”

45 (3) *“The charges for electricity supplied by a distribution licensee may include-*
(a) a fixed charges in addition to the charge for the actual electricity supplied;
(b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.”

Then the Section 56 of the Electricity Act 2003 describes about the connection of supply in default of payment.

56 (1) *“ Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days’ notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid but no longer :
Provided that the supply of electricity shall not be cut off if such person deposits, under protest,*

- (a) *An amount equal to the sum claimed from him, or*
- (b) *The electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.”*

As per the tariff order of Kerala State Electricity Regulatory Commission the commercial tariff LT VII A has two components (1) fixed charge per kw of the connected load and (2) energy charges per unit of consumption as recorded by the energy meter. The fixed charge is applicable even when the consumption recorded is zero also.

The section 131 of Supply Code 2014, describes about the payment of bills and other proceedings.

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.”*

The Section 138 of the Supply Code 2014 states about the Grounds of disconnection.

138(1) *“The licensee shall not disconnect the supply of electricity to any consumer except”*

(a) *“if the consumer defaults in payment of the dues payable to the licensee as per the bill or demand notice or any order issued by a competent authority, within the period stipulated therein;”*

The Electricity Act 2003 and Kerala Electricity Supply Code 2014 were very clearly spelt about the default of payment by the consumer and further course of action. Accordingly, the appellant is liable to pay the fixed charges for the period of which consumption was not there for the period after disconnection. Here in this case, the question arises how long the Supply could be in disconnected mode without dismantling.?

The section 141 of Supply Code 2014 deals with the charges payable during the period of disconnection.

141 *“Charges payable during the period of disconnection. – The consumer is liable to pay the charges if any as approved by the Commission, during the period of disconnection also:*

Provided that no charge shall be due to the licensee for the period which is in excess of one hundred and eighty days from the date of disconnection if the connection remains continuously disconnected for one hundred and eighty days except on the request of the consumer.”

This Section states about that no charge shall be charged beyond 180 days from the date of disconnection if the connection remains disconnected continuously for more than 180 days. During the hearing it was mentioned that the power was disconnected on 16/11/2022. This shows that the licensee would have been charged fixed charges around 10 months and this is to be restricted to 6 months only. Also informed that the licensee has issued a notice to the appellant for one time settlement of arrears from 01/01/2021 to 01/07/2021 amounting to Rs. 57,000/- and by this the surcharge up to Rs.11,000/- is getting reduced. This facility is to be availed by the appellant.

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 one-time settlement facility offered by the licensee is to be availed by the appellant and this amount is to be paid within one week from the date of receipt of this order.
2. The licensee has to revise the demand raised on to the appellant restricting the fixed charges for 180 days only from the date of disconnection, within 15 days of receipt of this order.
3. The appellant is liable to pay the charges as per the revised bill issued by the licensee.
4. The licensee shall grant 12 monthly instalments for paying the amount as per the revised bill.
5. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/037/2023/_____ dated: 29/09/2023

Delivered to:

1. Sri. Muhammed Nazeer, TC-2/337/1-2, Chalakkuzhi Road, Pattom, Thiruvananthapuram (Dist.)
2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Attingal, Thiruvananthapuram.

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.