

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/038/2024  
(Present A. Chandrakumaran Nair)  
Dated: 04-09-2024**

Appellant : The Principal, Heera College of  
Engineering & Technology  
Panavoor P.O, Nedumangad  
Thiruvananthapuram Dist.,

Respondent : The Special Officer (Revenue)  
Vydhythi Bhavanam, Pattom  
Thiruvananthapuram Dist.,

The Deputy Chief Engineer  
Electrical Circle  
KSE Board Ltd., Kattakkada  
Thiruvananthapuram

**ORDER**

**Background of the case**

The appellant is the Principal of Heera College of Engineering and Technology situated at Panavoor, Nedumangad, Thiruvananthapuram. This college in an HT Consumer of the Licensee under Electrical Section Chullimanoor with tariff HT II (B) general. The appellant had defaulted the payment and the total arrear works out to Rs. 13,77,479/- for a period from 12/06/2023 to 11/06/2024. The notice was issued to the consumer as per section 56 (1) of the Electricity Act which leads to disconnection of power. The college and Hostel was taken over by the District administration for running the Covid quarantine centre for a period of 6 months from 18/03/2020. The power charges for this period was not paid by the appellant. This arrear was accumulated and the payments made there after was adjusted as per regulation 133 of the Kerala Electricity Supply Code 2014. The appellant has taken up the matter to the State Government for sanctioning the suitable compensation including the power charges. The appellant had filed the petition to the CGRF and CGRF issued the order 04/06/2024 stating that the appellant is liable to pay the amount. Aggrieved by the decision of CGRF, this appeal petition is filed to this Authority.

## **Arguments of the Appellant**

An amount of Rs.13, 36,862 (Rupees thirteen lakh thirty six thousand eight hundred and sixty two) is pending for remittance towards electricity charges in r/o this college as on Feb 2024. The SOR KSEB Thiruvananthapuram has permitted to remit the dues on monthly installment basis. However due to severe financial difficulties experienced by this college owing to low rate of admissions, steep reductions in tuition fee etc.. we could not pay all the installments within the scheduled time period, along with our regular monthly bill. It is brought to your kind notice that the pending arrear amount was accumulated during the Covid 19 pandemic period, when the college remained non-operational and there was no revenue for a long period. Further, it may please be noted that this college building and hostels were taken over by the District Administration for functioning as Covid Care Centre with effect from 18.03.2020 for a period of 6-8 months.

The college has already initiated steps claiming suitable compensation from the Govt of Kerala, towards utilization of college premises/ hostels in terms of hostel rent, electricity charges, building rent, generator usage charges etc. Our application for compensation is under consideration and is in progress. Based on these facts we made a request to SOR KSEB Trivandrum for allowing some more time to clear the pending dues, but SOR has denied our request.

Further, we have approached Hon.CGRF,KSEB Kottarakkara to intervene and issue necessary instructions to SOR KSEB Pattom, Trivandrum to keep this pending arrear amount which is accumulated during the Covid 19 pandemic period as 'Disputed Amount', and that will be cleared by us on receipt of the consumption amount from the Govt of Kerala. The Hon. CGRF views that as per regulation 133,138 (A) 139 of Kerala Electricity Supply code 2014 the electricity arrears in dues by the consumer has to be remitted otherwise the supply will be disconnected.

Under the circumstances mentioned above we are approaching Hon. State Electricity Ombudsman to intervene and issue necessary orders to SOR KSEB withstanding our grievances and interest of this educational institution. Disconnection of power supply to this engineering college would adversely affect the day to day academic activities of the institution which in turn severely affect the future of the students. Hence we once again humbly request your honor to keep this pending arrear amount as 'Disputed Amount' or allow us a period of 06 months' time more to clear the dues. A favorable verdict from the Hon.state electricity ombudsman is anticipated.

## **Arguments of the Respondent**

M/s. Heera College of Engineering and Technology (LCN 30/6060) of Electrical Section, Chullimanoor is an HT II (B) General consumer under the jurisdiction of Deputy Chief Engineer, Electrical Circle, Kattakkada. The total arrear of the consumer as on 03.07.2024 is Rs. 13,77,479/- for the period from 12.06.2023 to 11.06.2024, which excludes the interest portion. The invoices were seen issued to the consumer on a monthly basis. Arrear details are attached as Exhibit R1-1. Arrear Notice was issued to the consumer invoking Section 56(1) of the Electricity Act 2003 read with Clause 138 and 139 of the Kerala Electricity Supply Code 2014. The consumer is bound to pay the arrear amount in time. The arrear notice issued to the consumer is in order and it cannot be challenged.

As per the next contention of the petitioner consumer, the arrear was accumulated during the Covid 19 pandemic period. As per Regulation 133 of the Kerala Electricity Supply Code 2014, irregular payments made by the consumer shall not be adjusted against that particular invoice. Remittances or installments made by the consumer is seen adjusted against the pending arrears in prior period during the Covid pandemic, which was not marked as disputed arrear in the system ENRGISE and hence a huge amount accumulated as current month arrear. As per Regulation 133 of Supply Code 2014, all payments made by the petitioner are adjusted in the following order of Priority:

- i. Interest on electricity duty arrears;
- ii. Electricity duty arrears;
- iii. Interest on electricity charge arrears;
- iv. Electricity charge arrears;
- v. Dues of current month.

Another issue raised by the consumer is that their premises were taken over by District Administration for functioning as Covid Care Centers. The petitioner had not produced any order from Government Authorities to substantiate their claim that the arrears will be settled as and when it receives fund from Government. Hence the pending arrear is under undisputed status.

Installment facility has been availed by the consumer from 2021 onwards. But they are not prompt in making their payments. Once the installment facility is sanctioned, the remittance should be made on or before the due date, otherwise the installment facility would stands cancelled. Not only that, the petitioner is irregular in remitting their regular current charges in between the installments. Four installments were sanctioned to the consumer vide order no. INS/323/2020/SOR/ HTB/30/6060/INS/2020 on 11.01.2021, for an amount of Another six Rs.11,65,068/- with due dates

from 22.01.2021 to 23.04.2021. installments were again sanctioned on 30.11.2022 vide order no. INS/2056/2022 for an arrear amount of Rs. 13,89,904/- with due dates from 12.12.2022 to 12.05.2023. Since the consumer is irregular in making their installments once again 6 installments were sanctioned vide order no. INS/2336/2023 dated 03.08.2023 for an arrear amount of Rs.10,70,730/- with the dates from 28.08.2023 to 26.01.2024, were also pending.

Also it is pointed out that KSEBL is a Public Sector Undertaking and it functions as per rules and regulations as established by statutes KSEBL cannot comment on the internal financial constraints faced by the institution. Considering the contention of the petitioner challenging Regulation of Kerala Electricity Supply Code 2014 and the Conditions of Electricity Act 2003, the Representation No. P 038/2024 filed by the Principal, M/s. Heera College of Engineering and Technology (LCN No.30/6060) is not sustainable and cannot be challenged before the Hon'ble Ombudsman. The Hon'ble CGRF, Kottarakkara observed in the consumer's petition that as per Regulation 133, 138(A),139 of Kerala Electricity Supply Code 2014, the electricity arrears in dues by the consumer has to be remitted, otherwise the supply shall be disconnected.

Considering the above facts, the contention of the petitioner challenging regulation of Kerala Electricity Supply Code 2014 and Conditions of Electricity Act 2003 the petition No. 38/2024 filed by the Principal, M/s. Heera College of Engineering and Technology, Nedumangad may be dismissed with cost.

### **Analysis and findings**

The hearing of the case was conducted on 22/08/2024 at 10.00 am in the office of the KSE Board IB, Paruthippara, Thiruvananthapuram Dist., The hearing was attended by the appellant Dr. Sujin P.R, Principal Heera College of Engineering & Technology, Panavoor, Thiruvanthapuram, Shaji Jose, Administrative Manager, Heera College of Engineering & Technology and the respondent Asokan.S, Sr.Suptd SO ( R ), Binu.D, Nodel Officer (Litigation), Electrical Circle, Kattakkad, Thiruvananthapuram Dist.. The Deputy Chief Engineer, Electrical Circle, Kattakada was one of the respondent of this petition. Though the intimation regarding the hearing was communicated well in time, neither Dy.Chief Engineer attended the hearing nor deputed anybody on behalf of him. The careless attitude of the officers of the licensee regarding the Litigations are to be viewed seriously. The licensee has to take appropriate actions against concerned officer.

The appelant is the head of the educational institution named Heera College of Engineering and Technology. During the Covid-19 pandemic the college hostels were taken own by the District administration to run as the Covid 19 isolation centre. The gents hostel was taken over by the Panavoor Village officer on 18/03/2020 and that of the ladies hostel on 27/05/2020. When the college was functioning as a quarantine time/isolation centre, no

persons of the management was permitted inside. The main gate onwards it was under the control of District Disaster Management group. The power consumption during this time was totally for the use of Covid-19 requirement. This Covid 19 isolation facility was functional up to August 2020.

The management of this Institution whole heartily extended the Hostel and all facilities for the Covid 19 isolation purpose. The total campus was under the control of District Administration and power supply is also consumed for this purpose only.

The appellant has taken up with the Government for releasing the amount towards the expenses. The Government has not sanctioned any amount in this regard. As per the Licensee is concerned, the consumer has to pay the charges of the power consumed in their premises. The section 45 of the Electricity Act 2003, is empowering the licensee to recover the charges from the consumer.

45. Power to recover charges:-

1. *“Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his license.”*
2. *“The charges for electricity supplied by a distribution shall be:-*
  - (a) *specified in accordance with the methods and the principles as may be specified by the concerned State Commission.*
  - (b) *Published in such manner so as give adequate publicity for such charges and prices.”*
3. *“The charges for electricity supplied by a distribution licensee may include:-*
  - (a) *A Fixed charge 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.”*

The regulation 31 of the Kerala State Electricity Supply Code 2014 also states about the recovery of power charges.

31. Recovery of charges for supply of electricity

- (1) *“Subject to the provisions of this Code, the charges to be levied on the consumer by the distribution licensee for the supply of electricity in pursuance of the provisions of the Act, shall be in accordance with the tariff fixed by the commission from time to time and the conditions of the licence.”*
- (2) *“The charges of electricity supplied by the licensee shall be:-*

- (a) Fixed in accordance with the methods and principles as may be specified by the Commission, and*  
*(b) Published in such manner so as to give adequate publicity for such charges and prices.”*

Though the premises is occupied by others, as per the agreement executed with the Licensee, the appellant is liable to pay the power charges. Further the occupier has not agreed to make the payment or bear the expenses during their occupancy.

The appellant was making the regular payments there after. The licensee has adjusted the payment as per the regulation 133 of the supply Code 2014. Then the amount of arrear shown as per the demand notice of the licensee include the surcharge also. Considering the Social responsibility shown by the institution, the licensee should not charge the interest on the outstanding payment as the purpose of consumption was for a public requirement on a pandemic situation. The appellant have mentioned that the delay in making the payment was as they were expecting the payment from the Government. This is not materialized. The appellant agreed to make the arrear payment without interest on instalment basis. Valuing the service they extended during the pandemic, this is to be considered positively. The amount of arrear during the Covid 19 period is to be considered as the disputed amount and no interest is to be charged for the same. The regular payments made are to be adjusted to the concerned bills.

## **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 licensee has to calculate the total arrear during the Covid-19 period and classify as disputed amount.
2. No interest / Surcharge is to be charged for this disputed amount.
3. The regular payments made are to be adjusted to the concerned monthly bills.
4. The appellant has to make the payments of this disputed amount in 12 monthly installments starting the first instalment not later than 15<sup>th</sup> September 2024. In addition the regular monthly bills are to be paid within the due dates as per the demand.
5. No other costs ordered

**ELECTRICITY OMBUDSMAN**

No. P/038/2024/ \_\_\_\_\_ dated: \_\_\_\_\_

Delivered to:

1. The Principal, Heera College of Engineering & Technology  
Panavoor. P.O, Nedumangad, Thiruvananthapuram Dist.,
2. The Special Officer (Revenue), Vydhythi Bhavanam, Pattom  
Thiruvanthapuram Dist.,
3. The Deputy Chief Engineer, Electrical Circle, KSE Board Ltd.,  
Kattakkada, Thiruvanthapuram Dist.,

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, Kollam Dist.,