

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/086/2024
(Present A. Chandrakumaran Nair)
Dated : 06-03-2025

Appellant : Sri. C.P Prabhakumar
Managing Director,
Coastal Breeding Farm Pvt. Ltd.
Kumarannor, Chittur
Vannamada P.O
Palakkad – 678555

Respondent : The Assistant Executive Engineer
Electrical Sub Division,
KSE Board Ltd.,
Chittur, Palakkad(DT)

ORDER

Background of the case

The appellant Shri.C.P Prabhakumar is the owner of the Coastal Breeding Farm (Pvt.) Ltd. at Vannamada, Palakkad with Consumer no. 1165020021296. The said connection was taken as a temporary connection in LT VII A tariff for the construction purpose with connected load 6.89KW in the name of Mr. Ramakrishnan which was connected on 29/04/2013. Later the connection was transferred to the appellant, as 3 phase LT, with connected load 44.459 KW with contract demand of 20 KVA. The tariff applied was changed from LT 7A to LT 4A as per the request of the consumer on 10/01/2014. The appellant was running a duck hatchery and produce day old duckling and selling outside. The certificate issued by the District Industries Centre states that the industry is a Hatchery. The Licence issued by Eruthempathy Panchayath as well as in Kerala State Pollution Control Board also states that the unit is Hatching the Duck egg and produces day old ducklings. The Licensee had applied the tariff LT IV A, and latter changed into

LT V B based on the request of the consumer and conducting inspection on 06/08/2023. The allegation of the appellant is that the Licensee would have applied the tariff LT V B since 10/01/2014, itself, Or would have changed by the Licensee on suo motto as per regulation 97 of the Supply Code, 2014. The appellant had filed the petition to the CGRF and CGRF issued order on completing the procedures on 11.11.2024. Aggrieved by the order the appellant had filed this petition as appeal to the order of CGRF.

Arguments of the Appellant

Due to the wrong application of Tariff Rate LT-4A instead of LT V-(B), we were paying a higher rate per unit of electricity consumed for our hatchery operation since the inception from 10/01/2014. Pointing out the latest notification of the KSEB Ltd, they changed the tariff from LT- 4A to LT V-(B) with effect from 06/08/2024. After getting the relevant details from KSEB office we submitted a request for a tariff change ab-initio which we were eligible as per the government directives issued at that time in this aspect. We submitted our claim to get the refund of excess charges due to the wrong application of tariff rate with the Assistant Engineer, Electrical Section Office Kozhijampara on 11/03/2024. Since no decision was forthcoming from Assistant Engineer of KSEB, Kozhinjampara even after repeated reminders, we submitted our grievances to CGRF (Northern Region) Calicut for resolving this matter. During the hearing of CGRF (Northern Region) we submitted following documents to substantiate our claim that it is a hatchery and we are eligible for tariff under LTV-(B) from the inception.

Despite submitting ample evidence as mentioned above to prove that we are conducting a hatchery operation and we are eligible for LT V B tariff from the beginning of our activities since Jan 2014, CGRF refused to admit our claim against the directives and norms issued by the KSEB Board and Government of Kerala from time to time as well.

Arguments of the Respondent

Sri. C.P. Prabhakumar, the petitioner in the above matter is the owner of COSTAL BREEDING FARM (PVT. LTD), Moolakkada, Vannamada [PO], with consumer No. 1165020021296. The said connection was taken as a temporary one in LT VII A tariff, meant for construction purpose with a connected load of 6892 Watts in the name of Mr. N Ramakrishnan, Kumarannur, Vannamada P O, Chittur, Palakkad and it was effected on 29.04.2013. Later the connection was changed to the name of the petitioner. Presently this is a 3-phase connection in LT IV A tariff with a connected load of 44459 Watts with a contract demand of 20 KVA.

It is submitted that the petitioner here produced a copy of Application for Power requirement above 10 KVA dated 01.03.2013. In the said application, the applicant i.e. the petitioner himself requested the power allocation for the purpose of "Industrial" enterprise. This reveals that the petitioner wanted to have the connection for "Industrial" purpose. It means that the petitioner already has the knowledge about tariff that was assigned to him from the date of connection itself. The documents that are produced by the petitioner himself establish the tariff that he wanted to be assigned with and that is industrial tariff only. Hence the petitioner is estopped from taking a different stand later that KSEBL deliberately assigned him with a wrong tariff as against his requirement. Hence it is prayed, the petition is to be dismissed.

The petitioner has submitted an Acknowledgement dated 01.03.2013 (Form no.135487) which was issued by the Manager, Department of Industries, Palakkad, Government of Kerala. As per the said Acknowledgement the petitioner had submitted before the Industries Department Palakkad, a Memorandum expressing his intend to set up a hatching of Duck eggs manufacturing enterprise. In the said acknowledgement, the petitioner is stated to be an entrepreneur. The copy of the Acknowledgement is submitted by the petitioner himself. All these show that the petitioner wanted to run an Industry, otherwise he would not have approached the Industrial Department. It also shows that the petitioner has knowingly applied for industrial tariff. Hence the petition based on false arguments is prayed to be dismissed. As per the request of the consumer the tariff of this connection was changed from LT VII A to LT IV A on 10.01.2014 based on the application and cash deposit was remitted along with the tariff change by the petitioner. The application was invariably signed by the consumer himself and also by a licensed wireman. The applicant was fully aware about the tariff for which the application is made. The petitioner himself produced the documents related to LT IV A tariff. Subsequently the consumer executed supplementary agreement on 01.02.2017 to reduce the contract demand from 50 KVA to 20 KVA. During this time the petitioner has not raised any compliant against the respondent. It is submitted that the application was made by the petitioner himself and he was fully aware about the tariff in which he is going on. Hence it is prayed, this petition is to be dismissed.

It is submitted here that, The Supply Code was published in the year 2014, till then the tariff order dated 28.11.2012 was applicable. The tariff is fixed as per the agreement executed between KSEB and the consumer. LT V Agriculture Tariff applicable to agriculture connections including dewatering and lift irrigation, poultry farm, silk worm breeding units, etc comes under this order. The tariff mentioned in the schedule shall apply to consumers to whom the KSEBL has undertaken or undertakes to supply etc, notwithstanding anything to the contrary contained in any agreement entered into with any consumer

earlier by Board/Govt or any of the Tariff Regulations or Rules and or orders previously issued.

Moreover, as per the Circular No.TC1/S/389/89 dated 10.07.1991, the required number of birds for this priority is minimum 250. Hence the tariff issued to the consumer as per his application is accurate and as per rules. As per the records, the name of the firm of the petitioner is "Costal Breeding Farm". It is submitted that the petitioner claiming application before KSEBL and Industries department, a hatchery was started by him. Hatchery is "A place or set of circumstances suitable for favourable to growth and development". Both hatchery and breeding farm are different. The petitioner firm is hatching the eggs, growing the ducklings, killing them, cleaning the meat and freezing and packing the frozen meat and selling. So, this firm shall come under the category of Breeding Farm. The Ease of doing business order dated 5.11.2020 only waives the conditions of the production of certificate by A H D to hatcheries, is admissible only for hatcheries and hence doesn't come under LT VB tariff.

In Regulation 98(3) of Kerala Electricity Supply Code, 2014 stipulates that whenever an application for tariff change is received from a consumer, within seven days the licensee has to conduct inspection and to record the reading at that time. After such an inspection, if the licensee finds reclassification is genuine, licensee has to change the tariff with effect from the date of inspection. It is submitted that in this case the application for tariff change was received and after the site inspection tariff change effected on 10.01.2014

It is to submit that on 24.07.2023 the consumer submitted an application before the Assistant Engineer, Electrical Section Kozhinjampara requesting the tariff change from LT IV A to LT V B along with the Board Order 'Ease of Doing Business, NO. (FTD) No.666/2020 (D(D71T)/D6-AE3/Ease of Doing Business/2018-19) Dtd. tvn 05.11.2020. After site inspection the tariff of this consumer was changed to LT VB w.e.f. 06.08.2023. As per the cited Board Order the stipulation as the mandate of a certificate from a veterinary surgeon / Asst Director of Animal Husbandry department for the tariff change was waived. Hence the tariff was changed to LT VB tariff from 06.08.2023 without demanding such certificate. The tariff change was given on 06.08.2023 without insisting on other documents because the difference between Breeding Farm and Hatchery could not be recognized at a glance. Hence it is prayed to approve the rearrangement in tariff made by the respondent on 02.12.2024 under LT IV A with back effect from 06.08.2023, in compliance with the order of the Hon'ble CGRF Kozhikkode.

From the part of the KSEB, there has always been a positive approach towards all requests from the consumer. The petitioner's application for revising the

contract demand and application for changing the tariff were timely addressed by the Licensee. The petitioner has failed to submit the ownership change documents till 01.02.2017. On 30.09.2013 the petitioner has submitted an Indemnity Bond signed by the original owner. But it has to be signed by two witnesses against which only one witness, ie, Jomin K J, has signed. As the same is signed by only one witness it is not valid and cannot be accepted. No delay or discrimination occurred on these matters. This authority has always given a helping hand to the petitioner. Hence it is submitted that the Petition may be dismissed by considering all the applied services.

It is submitted that, even though the certificate from the Animal Husbandry Department was waived through the Ease Of Doing Business order dated 05.11.2020, but the application for the tariff change was submitted by the petitioner only on 24.07.2023. Till then, the petitioner may have thought he was not eligible for this tariff. On getting tariff change w.e.f. 06.08.2023, the petitioner raised unnecessary claims from December 2013. The intention of this petitioner is to make unnecessary claims or earn unnecessary benefits. Hence it is prayed, the petition may be dismissed.

It is to submit before this Honourable Forum, this respondent hereby submit the necessary documents such as the copy of connection application form of Con.No.1165020021296 submitted by Sri. N Ramakrishnan for construction purpose. The documents here are submitted and shown as Exhibit 1. The same connection was effected on 29.04.2013 in the name of Sri. Ramakrishnan. The petitioner, by submitting the copy of the Supplementary Agreement to Service Connection Agreement (DB30/PIS/6SD/CTR/07/KPA/13-14) dated on 30.09.2013, claims that he is the consumer from the beginning itself. This is a wrong statement, and hence it is denied. In fact, this petitioner had applied for power requirement to run his firm by constructing 110 meters of LT Three-phase line and installing a 100 KVA transformer. As afore said the connection was given for construction purpose on 29.04.2013 in the name of Sri. N Ramakrishnan. Producing the supplementary agreement along with power requirement application, the petitioner tries to mislead that he was the consumer during that time too. Hence taking consideration of all these, it is prayed to dismiss the petition. The application for power requirement was submitted on 01.03.2013 and the petitioner had remitted cash for processing the application on 01.03.2013. After the estimate, administrative sanction was issued by Assistant Executive Engineer Electrical Major Section Chittur. Here the petitioner produced the relevant Report of Assistant Engineer, Electrical Section Kozhinjampara, for which Administrative Sanction was ordered. The Estimate report of LEOYEC of Moolakkada II clearly specifies the fact that the application was to start a hatchery of Industrial unit with 25 KW load. It is to submit by this respondent that the documents produced by the petitioner speaks the truth that the

connection is always for Industrial connection. Hence the petition based on misleading facts is to be dismissed.

The petitioner here has produced the copies of the licence certificates issued from Eruthenpathy Gramapanchayath No. C6/123/2013-14 with the validity dated till 31.03.2014 and No .C4-6-2014-15 with the validity dated till 31.03.2015. Copies of further licences from Eruthempathy Grama Panchayath were not submitted by the petitioner. The Secretary of Eruthempathy Gramapanchayath in his letter No. 400802/TXDC01/GPO/2024/2217/(1) dtd 14/8/2024 has informed that since then till 2024-25 the said farm was not given any licence. Hence it is clearly evident that this firm has no valid license after 31.03.2015. The same is shown as Exhibit 2. The petitioner has submitted the consent from the Kerala State Pollution Control Board No. PCB/PLKD/IC/CO/F/2566/2013 with date of issue 07.11.2013 and validity up to 31.08.2016. The item 2.3 of the general conditions of that consent says that for renewal of the integrated consent, application in prescribed form shall be submitted between 3 and 4 months in advance of the date of expiry of consent. Since no further consent from Kerala State Pollution Control Board is submitted, it is clearly evident that this firm is running without consent. Hence by all this it is prayed that this firm without valid proper legal documents are to be denied from getting unnecessary benefits. The petitioner was availing concession from the Industrial Department and also from the KSEBL at the same time. As per the Ease of Doing Business order BO(FTD) No.1902/2018(D(D&IT)/D-6-AE3/Ease of doing business/2018-19) dtd 02.11.2018 TVPM, the item no.1.3(iii) says in the case of Agricultural connections, the claim shall be sustained by certificate from the respective Agricultural Officer or Veterinary Surgeon/Senior Veterinary Surgeon/Asst Director of Animal husbandry Department. Here this institution is running without any valid approval from Veterinary Department. The letter received from the Veterinary Surgeon No.63/24 dated 04.09.2024, it is clearly noted, not any EB certificates which are required for a poultry farm were issued to the firm. The same is shown as Exhibit 3. Hence it is clear that this is not an agricultural/poultry farm. Hence once again it is submitted that the contention raised in the complaint is baseless, unfounded and fictitious. Therefore, it is prayed that the complaint may kindly be dismissed.

Counter argument of the appellant

In the proceedings of the Assistant Executive Engineer, Electrical Major Section, Chittur dated 01/03/2013, the estimate report submitted by the Assistant Engineer attached with the proceedings mentioned that it was for hatchery unit (industrial) and installation of a new transformer to give 40 HP under Agricultural category. He was absolutely correct at that point of time.

By this report the Assistant Engineer of KSEB established two facts

1. The proposed transformer is getting installed was for a Hatchery Operation.
2. Connection of 40 HP from the new transformer was under Agricultural activity.

But on 03/06/2013 by the circular KSEB/TARC/Tariff Revision/2023-24 "Revision of tariff for all categories of consumers with effect from 01.05.2013 order issued by the Kerala State Electricity Regulatory Commission (KSERC) direction for implementing the order-reg" paragraph 6 "The billing procedure to be followed for implementing the orders read above with effect from 01.05.2013 is appended as **APPENDIX to this circular for information and strict compliance**".

Appendix on billing procedure for the interim period from 01-05-2013 to 29-06-2013 under (B) "Major changes re-categorisation approved by the State Commission paragraph 4 Agriculture using electricity for lighting and temperature and humidity control are brought under a **new tariff LT V (B) with effect from 01-05-2013**. By the supra circular and its appendix of the Kerala State Electricity Regulatory Commission (KSERC)- we are eligible to be under the new tariff new tariff LT V (B). But the concerned officers of the KSEB, Kozhijampara Section office failed to do so. In order to do a smooth implementation of the new tariff under LT V (B) and to make aware of the uninformed consumers who had not read the gazette notification, circulars etc. "Kerala State Electricity Regulatory Commission Notification No 215/DD/T&D (Rev) 2014/KSERC dated 31/01/2014 Under Paragraph 97 "Suo Motu reclassification of consumer category by the licensee"

Sub paragraph 1 of Paragraph 97. **"If it is found that a consumer has been wrongly classified in a particular category** or purpose of supply as mentioned in the agreement has changed or consumption of power has exceeded the limit of that category as per the tariff order of the commission or the category has changed consequent to a revision of tariff order, **the Licensee may Suo Motu reclassify the consumer under appropriate category** Sub-paragraph 4 of Paragraph 97 states that "Arrears or excess charges shall be determined based on the actual period of wrong classification and the account of the consumer shall be suitably adjusted".

As per the above-mentioned notification it proved beyond doubt that

- 1.The KSEB officials should have classified/ reclassified our connection under Tariff LT V (B)
2. Due to the oversight of the officers in the KSEB Kozhinjampara section office, we were forced to pay charges under LT IV (A) instead of LT V (B)

Subsequently for removing any ambiguity regarding re-classification of consumers. KSEB Ltd - Abstract "KSERC order dated 14-08-2014 on revision of tariff for all consumers of the State implementation of revised tariff for all categories w.e.f 16-08-2014- sanction accorded - order issued Corporate Office (Commercial & Tariff) B.O (CMD No 2584 /2014 (KSEB/TRAC/ Tariff Rev - 2014-15) dated, Tvpm on 04-10-2014 under paragraph 5 LT V Agriculture (Tariff applicable to agricultural consumers) states that LT V (B), Agriculture Tariff applicable to Agricultural purpose such as poultry farm, silkworm breeding units, livestock farm, combination of livestock farms with dairy, Aquaculture, floriculture, fish farms including ornamental fish farms, prawn farms, other aqua arms, rabbit farms, piggery farms, agricultural and floricultural nurseries, hatcheries, Cheena Vala consumers with net fish farming and egger nurseries". Here again the above mentioned order reiterates our genuine eligibility to get classified under the new Tariff LT V (B).

In view of the above stated facts, we have clearly demonstrated that the concerned officials of the KSEB Kozhinjampara Section office have inadvertently applied the incorrect tariff rates without considering any of the above stated facts. We therefore request you to assist with the following:

1. Reinstate the correct Tariff Rate LT V (B) with immediate effect
2. Reimburse the excess charges collected during the period the incorrect Tariff was levied as per statements provided earlier, along with a nominal interest of 6% per annum from the date of charge to-date.

We have submitted a request to refund Rs. 17,54,134.25 by KSEB ltd, Kozhinjampara office along with interest of 6% pa of Rs.4,83,778.42 totaling Rs 22,37,912.67 on March 11, 2024. This has happened due to the application of wrong tariff under LT IV A instead of LT V B since the inception of our project "Hatchery "on January 10, 2014 by the concerned officer. As it is evident from the circular no KSEB/TRAC/Tariff Revision /2013-14 dated 06/06/2013, we are eligible for the tariff under LTV B. Page 4 Para for States "Agricultural consumers using electricity mainly for lighting and temperature and humidity control are brought under a new tariff LT V (B) w.e.f 01.05.2013" Operation of a hatchery involves all the three activities mentioned. Subsequent to the above circular, notification by the Electricity Regulatory Commission no 215/DD/T&D(Rev)2014/KSERC dated 31/01/2014 of Electricity Supply Code 2014, (Exhibit 2 Chapter V Page no 45 Clause no 97) we were eligible to get notified by the KSEBL officials about the change of tariff and apply the same within 30 Days. We had not received any intimation regarding this and kept paying at the higher tariff due the negligence or ignorance of the concerned officials in charge at that time. Clause no 97 states "Suo motu reclassification of consumer category by the licensee"

Under clause 97 sub-clause (4), it states that "Arrear or excess charges shall be determined based on the actual period of wrong classification and the account of the consumer shall be suitably adjusted." Further to this, KSEBL order No B.O (CMD) No.2584/2014 (KSEB/TRAC) Tariff Rev-2014-15) dated, Tvpm 04/10/2014, (Exhibit 3, page no 7, chapter 5 para 3) clearly mentioned "hatcheries" in line 6. The above information clearly concludes our eligibility for availing Tariff under LT V B instead of LT IV A. Due to the incompetence of the concerned officers of KSEBL Kozhijampara office, we were forced to pay a total excess amount of Rs 17,54,134.25. We are not requesting for any compensation from the KSEBL, simply asking that they return the excess charges collected from us due to the mistake committed by their officials. Instead of addressing the issue pointed out in our complaint, KSEBL is diverting the attention to matters beyond their purview. We are not addressing any of the irrelevant points and uncorroborated allegations raised by the KSEBL official in his letter.

Argument note submitted by the respondent

Sri. C.P. Prabhakumar, the petitioner in the above matter is the owner of COSTAL BREEDING FARM (PVT. LTD), Moolakkada, Vannamada [PO], with consumer No. 1165020021296. The said connection was taken as a temporary one in LT VII A tariff, meant for construction purpose with a connected load of 6892 Watts in the name of Mr. N Ramakrishnan, Kumarannur, Vannamada P O, Chittur, Palakkad and it was effected on 29.04.2013. Later the connection was changed to the name of the petitioner. Presently this is a 3-phase connection in LT IV A tariff with a connected load of 44459 Watts with a contract demand of 20 KVA. In the said application, the applicant i.e. the petitioner himself requested the power allocation for the purpose of "Industrial" enterprise. This reveals that the petitioner wanted to have the connection for "Industrial" purpose. It means that the petitioner already has the knowledge about tariff that was assigned to him from the date of connection itself.

The petitioner has submitted an Acknowledgement dated 01.03.2013 (Form no.135487) which was issued by the Manager, Department of Industries, Palakkad, Government of Kerala. As per the said Acknowledgement, the petitioner had submitted before the Industries Department Palakkad, a Memorandum expressing his intend to set up a hatching of Duck eggs manufacturing enterprise. In the said acknowledgement, the petitioner is stated to be an entrepreneur. The copy of the Acknowledgement is submitted as Document II. All these show that the petitioner wanted to run an Industry, otherwise he would not have approached the Industrial Department. As per the request of the consumer the tariff of this connection was changed from LT VII A to LT IV A on 10.01.2014. The tariff change application was invariably

signed by the consumer himself and also by a licensed wireman and he was fully aware about the tariff for which the application is made. In the application for tariff change, the petitioner himself has written that the connection is being taken for industrial purpose. He has specifically written in the tariff change application that the connection for the need of a coastal breeding farm unit. The tariff change application with connected documents are submitted as Document III. At the time of processing tariff change application, the certificate from AHD was mandatory to get LT V B tariff, but the petitioner has not yet produced the same certificate.

From the part of the KSEB, there has always been a positive approach towards all requests from the consumer. The petitioner's application for revising the contract demand and application for changing the tariff were timely addressed by the Licensee. The petitioner has failed to submit the ownership change documents till 01.02.2017. On 30.09.2013 the petitioner has submitted an Indemnity Bond signed by the original owner. But it has to be signed by two witnesses against which only one witness, ie, Jomin K J, has signed. As the same is signed by only one witness it is not valid and cannot be accepted. No delay or discrimination occurred on these matters. This authority has always given a helping hand to the petitioner. Hence it is submitted that the Petition may be dismissed by considering all the applied services.

It is submitted that, even though the certificate from the Animal Husbandry Department was waived through the Ease Of Doing Business order dated 05.11.2020, but the application for the tariff change was submitted by the petitioner only on 24.07.2023. Till then, the petitioner may have thought he was not eligible for this tariff. On getting tariff change w.e.f. 06.08.2023, the petitioner raised unnecessary claims from December 2013. The intention of this petitioner is to make unnecessary claims or earn unnecessary benefits. Hence it is prayed, the petition may be dismissed. Hence once again it is submitted that the contention raised in the complaint is baseless, unfounded and fictitious. Therefore, it is prayed that the complaint may kindly be dismissed.

Analysis and Findings

The hearing of the case was conducted on 13/02/2025 at 11.00 a.m in the KSEB IB, Sulthanpett, Palakkad(dist). The hearing was attended by the appellant Sri. C.P.Prabhakumar and the respondent Sri.Rajula.M.P, Assistant Executive Engineer, Electrical Subdivision, KSE Board Ltd., Chittur, Palakkad(dist.).

The appellant Shri. C.P Prabhakumar has availed power for operating a hatchery unit for producing day old ducklings at Vannamada, Chittoor, Palakkad. The connection was initially availed by Shri. N. Ramakrishnan for

the construction purpose under tariff LT VII A. Then the connection has been transferred to the present consumer as per the request. The tariff has been changed from LT VII A to LT IV A on 10/01/2014. The consumer has produced the certificate from the District Industry Department which states that the unit is for Hatching of Duck eggs and producing day old ducklings. The certificate issued by the Kerala State Pollution Control Board specified that the unit is a hatchery – 1200 number of ducklings per batch. The estimate report of AE, Electrical Section, Kozhijampara also mentioned that the power supply is availing for running a Hatchery Unit.

As per the tariff order dated 30/04/2013, which was effective since 01/05/2013, the KSERC had introduced a new tariff LT V B which is applicable to agricultural purposes such as Poultry farms, Silkworm breeding units, Livestock farms, combination of Live stock farm with diary, Aquaculture, Floriculture, Tissue Culture, Seri Culture and Mushroom Culture, Fish farms including Ornamental fish farms, Prawn farms, other aqua farms, rabbit farms, piggery farms, agriculture and floriculture nurseries, hatcheries, cheenavala consumers without fish farming and egger nurseries.

Here in this case, the main contention is that the Licensee has wrongly classified the consumers to the industrial tariff of LT IV A when they are eligible for LT V B. The LT V B tariff was effective from 01/05/2013, and this was not applied while changing the tariff from LT VII A to LT IV A on 10/01/2014. The officials of the Licensee argue that they were not requested for this tariff but produced the certificate from the industry department which shows this as an industry and the consumer has not produced the certificate of Animal Husbandry Department showing that this is a Hatchery. Where this certificate of AHD is mandated is not been able to prove by the officials of the Licensee.

The documents which are to be produced with the application for the service connection is described in the **regulation 75(5)** of the Supply Code 2014.

75. Submission of application form for new service connection.-

No	Category of applicant	Documents
i	Industrial connection	Licence or permit issued by the local authority having jurisdiction over the area, industrial licence, letter of approval by the Special Economic Zone (SEZ), small scale industries (SSI) registration (if applicable);

ii	Agricultural connection of Punja or Kole land	letter of authorisation from Punja or Kole Special Officer or from any authority authorised by Government in Agricultural Department.
iii	Irrigation pump set for pumping water from state owned rivers, canals, ponds, wells etc	No objection certificate from competent Government authority for pumping water from state owned rivers, canals, ponds, wells etc
iv	Non-domestic kiosks, telecom tower and temporary structure	no objection certificate for kiosk or temporary structure from the Municipal Corporation or Municipality or Grama Panchayat or land development authority or land owning agency.

Here the certificate from AHD is not at all mentioned and also the Licensee had not informed the consumer to produce the certificate of AHD. The consumer also never demanded for the tariff LT V B. The tariff orders were published in Government Gazette for dissipating the information to all public. The consumer argues that he was not aware about the new regulation. Instead blaming the Licensee why they have not changed the category suo motto as per **regulation 97**.

97. Suo motu reclassification of consumer category by the licensee.-

(1) If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.

(2) The consumer shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any.

(3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately.

(4) Arrear or excess charges shall be determined based on the actual period of wrong classification and the account of the consumer shall be suitably adjusted.

(5) If the actual period of wrong classification cannot be ascertained reasonably, the period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter: Provided that in the case of reclassification consequent to change of the purpose of supply by the consumer without due authorisation, the licensee may examine each case and initiate proceedings under Section 126 of the Act if found necessary.

This regulation states that if it is found by the Licensee that a consumer is wrongly classify, then the Licensee can initiate action for reclassification when the Licensee could able to find whether the category is appropriate. One is by

inspection or by the information from consumer. When the consumer request to change the tariff, the procedure is described in the **regulation 98**.

98. Reclassification of consumer category on the request of the consumer.-

(1) If a consumer wishes to change his consumer category, he shall submit an application to the licensee in the format given in Annexure - 10 to the Code and the licensee shall process the application as per the relevant provisions of the Code.

(2) The licensee shall conduct site inspection within seven days from the receipt of application and record the meter reading at the time of inspection.

(3) If on inspection, the request of the consumer for reclassification is found genuine, change of category shall be made effective from the date of inspection and a written communication shall be sent to the consumer to this effect within fifteen days of inspection.

(4) Arrear or excess charges if any shall be determined based on the actual period of wrong classification and the account of the consumer shall be adjusted accordingly.

(5) If the actual period of wrong classification cannot be ascertained reasonably, the period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter.

(6) If the licensee does not find the request for reclassification genuine, it shall inform the applicant in writing, giving reason for the same, within seven days from date of inspection.

(7) For the period in which the application of the consumer for reclassification is pending with the licensee, the consumer shall not be liable for any action on the ground of unauthorised use of electricity.

In the case is hand the consumer has requested for tariff change only on 24/07/2023. The Consumers argument is that the Licensee has wrongly classified and even after the connection they have not exercised the **regulation 97**. If the consumer is not brought the notice of Licensee about tariff change then the only way to identify the need of tariff change is only during the inspection. The connection has been transferred to LT IV A only on 01/2014. The LT 3 phase connection and meters are to inspected once in every three years as per **regulation 113(6)**. The purpose of use of electricity could be ascertained during the periodical inspection. Here the inspection also would have done on or before 01/2017 and then the purpose of usage would have been ascertained. The appellant has raised a claim of excess paid from 12/2013 to 08/2023 amounting of Rs.19,07,3481 and interest Rs. 5,55,587.41. Here in this case it is very clear that both the appellant&

Licensee were equally responsible for the wrong tariff application. The Licensee has to examine the correct purpose of use and the correct tariff was not applied accordingly. The consumer has not brought to the notice of the Licensee regarding the wrong tariff even the tariff notification was published and available in the public domain. As such the appellant's claim on interest is not applicable. The tariff of LT V B would have applied at least by 01/2017 which would have been the proposed due date for first inspection. The appellant is eligible for tariff change with effect from 01/2017.

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 appellant is eligible for LT V B tariff with effect from 01/2017.
2. The Licensee shall assess the excess amount collected from 01/2017 to 08/2023 and has to be refunded or adjusted in the future bills.
3. The appellant is not eligible for the interest of the excess amount collected.
4. No other costs ordered.

ELECTRICITY OMBUDSMAN

No. P/086/2024/ dated: 06-03-2025

Delivered to

1. Sri. C.P Prabhakumar, Managing Director, Coastal Breeding Farm Pvt. Ltd. Kumarannor, Chittur, Vannamada P.O, Palakkad - 678555
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Chittur, Palakkad (dt)

Copy to

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram – 10.
2. The Secreatary, KSE Board Limited, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram – 4.

3. The Chairperson, Consumer Grievance Redressal Forum, Vidyuthi Bhavanam, KSE Board , Gandhi Road, Kozhikode- 673032