

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/02/2025
(Present A. Chandrakumaran Nair)
Dated: 17-03-2025**

Appellant : Shri. Ajayakumar V.R
Proprietor, M/s. Lakshmi Stone Industries
Kottenkudy, Ezhumattoor P.O, Mallapally
Pathanamthitta (DT)

Respondent : 1. The Special Officer (Revenue),
Kerala State Electricity Board Ltd.,
Vydyuthi Bhavanam,
Pattom.
2. The Deputy Chief Engineer,
Electrical Circle, Pathanamthitta(Dist.)

ORDER

Background of the case

The appellant Shri. Ajayakumar. V.R is the owner of the M/s. Lakshmi Stone Industries. The HT service connection was availed for the running this stone crushing unit. The unit was functioned during the covid period and there was no consumption from 11/2022 to 06/2024. The power availed on 15/06/2010 and agreement executed for this on 15/06/2010. The service connection was disconnected due to default in payment on 22/10/2022 due to default in payment since 12/2021. The dismantling notice was issued on 27/06/2023. The crusher unit was inoperative during the covid 19 pandemic period due to lock down. The Licensee had issued a demand of Rs. 20,33,031/-. The petitioner defaulted payment. The total arrears during disconnection was Rs.65,89,440/- even after disconnection the Licensee demanded Fixed charges @ Rs. 1,52,100/-. Aggrieved with the wrong demand, the appellant approached Hon'ble High Court of Kerala, and got an

interim order to pay Rs.15 lakh and reconnect the power. The payment was made a 16/06/2024, the Licensee has not reconnected the power in time and reconnected only on 23/07/2024. The petitioner argue that the illegal demand are to be withdrawn. The appellant filed petition to CGRF and CGRF issued order on 30/12/2024. This petition is filed as the appeal to the Order of CGRF.

Arguments of the Appellant

It is submitted that petitioner is the proprietor of a crusher unit in the name and style “Lakshmi Stone Industries” with LCN No: LCN 31/5397 situated in Vaipur Electrical Section in Ezhumattoor Village, Pathanamthitta district, with consumer No.1346240004744. It is submitted that petitioner was an NRI who returned home with an aim to set up industries also to help local people gain employment. It is submitted that the crushing unit was laid inoperative during the initial stage of the pandemic. For the said period - respondent demanded a bill of Rs.15,61,240/-. Since the crusher was inoperative petitioner could not pay and electricity was disconnected. Installment facility was accorded to the petitioner in the adalat held on 25.2.2020 and connection was restored. The entire amount due was paid off by the petitioner.

It is submitted that the severity of pandemic continued in the year 2020. It was force majeure in operation. Even under the extreme condition petitioner paid Rs. 1,88,177/- in January and 147319/- in March to the Special Officer (Revenue), Kerala State Electricity Board. The balance bill amount that was demanded by the Special Officer (Revenue), Kerala State Electricity Board was Rs. 24,05,997/-. It is submitted that petitioner faced inordinate delay to get the licence renewed hence petitioner faced serious financial crunch and was unable to pay some electricity charges. Even then petitioner promptly paid all the demand raised between July 2021 to July 2022. It is submitted that due to the overburden of demand that had accrued during the covid pandemic petitioner was not able to keep up with the demand which was also inclusive of the interest charges. It is submitted that finally the supply was disconnected on 22.10.2022 claiming arrears of Rs.65,89,440/-. It is submitted that petitioner received notice under section 56(1) of Indian Electricity Act, 2003 and Regulation 136 & 138 of Kerala Electricity Supply Code dated 26.05.2023 from the Special Officer (Revenue), Kerala State Electricity Board informing further action unless the arrears of Rs.55,74,075/- for the period 02.12.2021 to 04.05.2023 is paid within 15 days. Thereafter on 27.06.2023 the Executive Engineer in Charge, Electrical Circle, Pathanamthitta issued a communication demanding to pay Rs.66,62,367/- failing which was stated that the connection would be dismantled.

It is submitted that even after disconnection on 22.10.2022 and 180 days thereafter Special Officer (Revenue), Kerala State Electricity Board continued to demand Rs. 1,52,100/- for all the subsequent months. It is submitted that petitioner was not aware that he is not liable to pay the contracted electricity charges after 180 days of disconnection. Hence 14.02.2023 petitioner made a representation to Hon'ble Minister of Electricity through the Chief Whip. The Hon'ble Minister passed an order waiving the payment for electricity not consumed and according installment facility on petitioner paying 25% of demand after the waiver so accorded. But no further action was taken by the department pursuant to the Minister's order in spite of several representations to Kerala State Electricity Board. The petitioner was again served with a demand notice of Rs. 64,70,104/- dated 13.11.2023.

It is submitted that since the demand is illegal and petitioner required urgent reconnection he filed WP(C) No. 18904/2024. The Hon'ble High Court of Kerala was pleased to pass an order directing against dismantling. Thereafter another order dated 14.06.2024 was passed directing reconnection upon petitioner remitting Rs. 15 lakhs. Petitioner remitted Rs. 15 lakhs on 16.06.2024. However the reconnection was not given in stipulated time but on 23.07.2024. Thereafter by judgment WP(C) No. 18904/2024 dated 19.07.2024 Hon'ble High Court of Kerala directed the petitioner to approach the Special Officer (Revenue), Kerala State Electricity Board on 22.07.2024 directing the Special Officer (Revenue), Kerala State Electricity Board to pass revised orders within 3 days. Petitioner appeared before the Special Officer (Revenue), Kerala State Electricity Board on 22.07.2024 and advanced his contention. Instead of passing an order issuing a revised bill Special Officer (Revenue), Kerala State Electricity Board issued a proceedings which is neither an order nor revised bill purported to be in compliance with the direction of Hon'ble High Court of Kerala as the statement of hearing conducted in the chamber of Special Officer, Revenue on 22.07.2024. It is submitted that inspite of directions of Hon'ble High Court of Kerala and the order of Hon'ble Minister of Electricity illegal demand against the petitioner is still sustained and petitioner is being put to irreparable injury and hardships. Hence, complaint was filed the above said complaint before the Consumer Grievance Redressal Forum. However, the same was dismissed without even analyzing the contentions by the learned counsel for the complainant. Hence, this representation on the following among other:-

The Special Officer (Revenue), Kerala State Electricity Board went wrong in issuing demand notice under section 136 & 138 of Kerala Electricity Supply Code for a period from 02.12.2021 to 04.05.2023 without considering the fact that HT supply had been temporarily disconnected with effect from 22.10.2022. The finding of the forum that Regulation 141 of the Kerala Electricity Supply Code, 2014 is applicable to dismantled consumer who wants no reconnection is without any statutory basis. It also does not have standing as per Annexure 13 of Kerala Electricity Supply Code, 2014. The

finding of the Forum is arbitrary, illegal, without jurisdiction and violative of the principles natural justice and rule of law. It is illegal for the respondent to make demand of electrical charges which has not been used by the petitioner. The proviso for section 141 of the Kerala Electricity Supply Code, 2014 categorically puts that no charge shall be due to the licensee for the period which is in excess of 180 days from the date of disconnection if the connection remains continuously disconnected for 180 days except on the request of the consumer. Therefore, notices (P1, P2 and P4 in the complaint) are illegal and have been issued in excess of jurisdiction.

The respondent ought to have issued demand to the petitioner which he is actually liable to pay in terms of regulation 141 of the Kerala Electricity Supply Code, 2014 and permitted him to pay in installment after giving onetime settlement facility as per regulation 136(5) of the Kerala Electricity Supply Code, 2014. Regulation 60 of the Kerala Electricity Supply Code, 2014 specifically stipulates:

60. Failure of the applicant to avail supply due to reasons beyond his control. *-If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any of the competent authority, public resistance and change in law, the applicant shall not be liable to pay any compensation or charges to the licensee on account of such failure to avail supply of electricity.*

The demand raised during the period 22.10.2022 to 23.07.2024 is utterly illegal and is violative of Regulation 60 of the Kerala Electricity Supply Code, 2014 and any such demand is liable to be totally withdrawn.

Clauses incorporated in Annexure 13 Model Agreement whereby operation of regulation 60 and regulation 141 is nullified is liable to be struck down as they are unconscionable and illegal. They are sly clauses in standard form contracts and is liable to be struck down. The delay caused in seeking appropriate relief was due to the fact that petitioner had a justifiable belief that the department would take appropriate actions pursuant to communication by the Hon'ble Minister of Electricity. Though the petitioner is paying regular electricity bill licensee is adjusting the same against the illegal demands which are disputed by the complainant as explained above. Hence respondent KSEB are treating complainant as a defaulter and levying interest on amount payable on current demands. It is illegal and unreasonable. The heavy demand notice issued by the Kerala State Electricity Board is per se illegal, oppressive, violative of principles of natural justice and against the statutory rights of the petitioner as guaranteed by the Electricity Supply Code, 2014. The issuance of notices (Ext P1 and P2 and P4 notices in the complaint) defies all tests of reasonability. The decision making process of the executive and administrative authority points out to Wednesbury unreasonableness. The demand issued to the petitioner is not in the manner as contemplated under Regulation 123 of the

Electricity Supply Code 2014. Hence petitioner is not liable to pay any such demand or interest upon therein.

Arguments of the Respondent

The petitioner, Sri.Ajayakumar.V.R, the proprietor of M/s. Lakshmi Stone Industries (LCN: 31/5397) is a High Tension consumer under the Electrical section, Vaipur, falling under the jurisdiction of the Deputy Chief Engineer, Electrical Circle,Pathanamthitta. The petitioner consumer is a defaulter in payment of electricity charges and it is still pending for recovery. During the covid period,the operation of crusher unit is in full swing. The meter reading data shows that the consumption was recorded all three time zones. However after Covid period, ie from November 2022 to June2024, there was no consumption in the crusher unit, since the service was disconnected on 22/10/2022, due to default in payment of monthly current charges from 12/2021 onwards.The disconnection process carried out by the licensee is in conformity with section 56 of the Regulation 138 & 139 of the Kerala Electricity Supply code 2014.

The petitioner shows an amount of Rs.15,61,240/- without showing a specific period of monthly bills with a remarks of initial stage of Covid period. The installment facility granted to the petitioner on 26.02.2020 not seen complied as per the installment schedule. The last installment amount Rs.1,19,157/- due on 14.09.2020 was seen remitted on 11.10.2021 only. It is true that the Covid pandemic had affected all industries and commercial activities. The power sector especially discoms of the country were equally affected. However, reliefs to all electricity consumers under the state of Kerala were extended and the petitioner's Stone Crusher unit also enjoyed a relief of Rs.1,32,600/- by reducing 25% of fixed charges during the months 03/2020, 04/2020, 05/2020 and 07/2021. In addition, KSEBL generously sanctioned installment facility to those consumers requested for the same for clearing electricity arrears. As admitted the petitioner they also enjoyed the same facility of clearing dues in installments.

The petitioner claims that from the period February 2020 to January 2021, the Crusher unit was inoperative in the background of Covid pandemic and tries to establish force majeure condition in non-operation of their Crusher unit. But the meter reading data shows a different picture and during the Covid interim period the operation of the crusher unit is in full swing. The meter readings shows that during the period from March 2020 to October 2022 consumption was recorded in all three time zones. [Z1 time zone from 6.00 a.m. to 6.00 p.m., Z2 time zone from 6.00 p.m. to 10.00 p.m. and Z3 time zone from 10.00 p.m. to 6.00 a.m.]. However after Covid period, i.e., from November 2022 to June 2024, there was no consumption in the petitioner's Crusher unit since the service connection was disconnected on 22.10.2022 due to default in monthly current charges from 12/2021 onwards. The petitioner enjoyed power supply during the entire Covid period and reluctant to remit monthly current charges from 12/2021. Therefore the question of applicability of Regulation 60 of Supply code, 2014 has not

arisen. Whether the crusher unit functioned or not functioned as petitioner stated, power is always readily available at the petitioner's premises. KSEBL has produced 30% of electricity from the own sources and the balance quantum was procured from the Central Pool and other Generating companies for ensuring 24X7 supply to all category of consumers. In order to maintain supply to the petitioner's Stone Crusher unit, KSEBL provided infrastructure facilities such as transformers, dedicated feeder, all carriage system etc. The demand charges/fixed charges in the electricity bills are solely for the purpose of the maintenance of these infrastructure facilities is not consumed by the and therefore even a single unit of energy petitioner/consumers they are bound to remit Demand charges/fixed charges. This is clearly mentioned under clause 16 (b) of the High Tension Service connection agreement executed by the petitioner and the Deputy Chief Engineer, (Agreement Authority) Electrical Circle, Pathanamthitta. This HT Service Connection agreement was executed in consonance with Regulation 103 of Kerala Electricity Supply Code, 2014. Therefore, monthly bills are issued regularly and hence after disconnection of the service connection monthly minimum charges (i.e. Demand charges) demanded from the petitioner which is in order.

The statement of petitioner that they promptly paid bills raised between July 2021 to July 2022 is wrong and hence denied. After making a remittance of Rs.15 Lakhs on 19.06.2024 based on the interim order dated 14.06.2024 in W.P.(C) No. 18904/2024, the arrear current charges (principal amount) [including the demand for the month of August 2024] comes to Rs.69,42,836/- for the period from 03/2022 to 08/2024. The service connection was restored on 23.07.2024 based on the interim order dated 14.06.2024 of the aforesaid writ petition. The principal current charges due while disconnecting the service on 22.10.2022 was Rs.65,89,449/-.According to the Regulation 141 of the Supply Code, 2014, the petitioner 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. However the above said clause is applicable to dismantled consumer who wants no re-connection. Here in this case, the petitioner express his willingness to restore the electric connection. So if the petitioner intended to get re-connection to his stone crusher unit, he is bound to remit the current charge including demand charge for the period 22/10/2022 up to the date of re-connection. The notices issued by the First and Second Respondents under section 56(1) of Indian Electricity Act, 2003 and Regulation 136&138 of Kerala Electricity Supply Code 2014, submitted by the petitioner before Hon'ble Forum are mandatory notices issued to the defaulters of current charges before dismantling a service connection. Even after disconnecting a service, the consumers are bound to remit monthly minimum charges (Demand charges only) as per Regulation 141 of Supply Code, 2014 up to a period of six months (180 days) only from the date of disconnection. This clause is applicable to a dismantled consumer who wants no reconnection. However, in the instant case the petitioner availed

reconnection based on the interim order dated 14.06.2024 in W.P.(C) No.18904/2024. Hence as per clause 16 (b) of the HT interim agreement executed by the petitioner consumer and KSEBL they are bound to remit the fixed minimum charges for the entire disconnected period as envisaged under Regulation 103(3) of Supply Code, 2014. The demand notice of Rs.64,70,104/- dated 13.11.2023 is a normal bill issued during November 2023, since the service connection was not dismantled. Ignorance of a clause in signed contact agreement made by the petitioner will not exempt the petitioner from liability of fixed minimum charges. After disconnection of service on 22-10-2022, the petitioner is bound to remit demand charges from the date of disconnection up to the date of reconnection. As per Regulation 141 Kerala Electricity Supply Code, 2014 consumer is liable to pay the charges if any as approved by the commission (Regulatory Commission) during the period of disconnection also, provided that no charge shall be due to the licensee for the period of one hundred and eighty days (six months) except on request of the consumer. This Regulation is applicable to those consumers who are not intended to get reconnection. Here petitioner express his willingness to restoration of the electric connection. Therefore, clause 16 (b) of the Service connection Agreement (executed as per Regulation 103 of the Supply Code) is applicable. If the petitioner wants Regulation 141 of the Supply code, 2014 to be made applicable then he has to represent before the Agreement Authority to surrender his electricity connection by terminating the HT agreement executed after clearing current charge arrears including Demand charges for 6 months from the date of disconnection. If the petitioner intended to get reconnection to his Stone crusher unit then he is bound to remit current charge arrears including demand charges for the period from 22-10-2022 up to the date of re connection.

KSEBL cannot prolong to keep a disconnected service connection indefinitely, it causes revenue leakage, since dedicated load has allotted from the feeder to the petitioners stone crusher unit and the same can allocated to another demanding consumer only after dismantling of the petitioners electric connection. On completion of 6 months from the date of disconnection the Agreement Authority is bound to inform the defaulter to remit current charge dues within 15 days' notice period else Revenue Recovery measures were initiated after dismantling of service connection. If the consumer prohibited the authorities to enter the premises for calculate dismantling the service connection there is provision to dismantling charges which is otherwise termed as cost of materials. In this case, the petitioner's application for reconnection before the various authorities might be the cause of delay in dismantling the service connection on time. The reason for charging demand charges is clearly mentioned under Para 4. KSEBL have no authority to deviate(either to increase or decrease) in levying of charges as per tariff orders (tariff including energy charges and demand charge unequivocally clarified by the Supreme Court of India in C.A. Nos. 9252-9253 of 2022) approved by the State Regulatory Commission. As instructed in Ext. P3 the petitioner need to comply the orders of the Hon. Minister for Electricity by remitting 25% of the current charge dues first and sanction 8 installments. The petitioner not seen remitted 25% of the current charges

arrears and hence preparation of schedule of eight installment has not arises.

Based on the interim order dated 14.06.2024 in W.P.(C) No.18904/2024, the petitioner remitted Rs.15 Lakhs on 19.06.2024 and the 1st respondent duly informed the fact to the Deputy Chief Engineer, Pathanamthitta [Agreement Authority] vide e-mail dated 22.06.2024. Re-energisation of the consumer was effected on 23-07- 2024 after conducting an inspection as per Regulation 45 of CEA Measures relating to safety and electric supply Regulations, 2023 by the Electrical Inspector, Pathanamthitta as directed by the Assistant Engineer, Electrical Section, Vaipur. In accordance with the Regulation 133 of Supply Code, 2014 KSEBL can adjust any amount remitted by the consumer only on the basis of priority envisaged therein, i.e., 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.

As per the hearing conducted in the chamber of Special Officer (Revenue), 1st Respondent on 22.07.2024 as per the Judgment dated 19.07.2024 in W.P.(C) No. 18904/2024, it was clarified that KSEBL can not limit monthly demand charges to 6 months from the date of disconnection as per Regulation 141 as described in Para 4 above. The petitioner approached the Hon'ble CGRF(SR) vide OP No. 47/2024 and the case was dismissed on 30.12.2024 with the findings that the licensee had provide a relief of Rs.1,32600/- by reducing 25% of fixed charge during the month of 03/2020, 04/2020,05/2020 and 07/2021. Thus the petitioner enjoyed all the benefits given by the licensee and also availed power supply during the entire period without complete payment of electricity charges. The forum also observed that petitioner is making intentional delay for remitting the current charges. Therefore the Forum concludes that the demand made by the licensee is legitimate and the petitioner is obligated to settle the arrears.

The petitioner consumer levelled allegations against the 1st respondent without observing the clause 16 (b) of the HT AGREEMENT FOR SUPPLY OF ENERGY as envisaged in Regulation 103 (3) of the Supply Code, 2014. The Regulation 141 of Supply Code, 2014 is applicable to those consumers who are not intended to get reconnection. In the instant case the petitioner availed reconnection based on the interim order dated 14.06.2024 in W.P.(C) No.18904/2024. Hence as per clause 16(b) of the HT agreement executed by the petitioner consumer and KSEBL they are bound to remit the fixed minimum charges for the entire disconnected period as envisaged GROUNDS under Regulation 103(3) of Supply Code, 2014. The applicability of Regulation 141 is already covered in pre- paras and nothing more to

comment on it. As far as the One Time Settlement is concerned, the same is to be considered by the Hon'ble KSERC. For the past three years Commission generously announced OTS in the background of Covid pandemic. The OTS is allowed on the basis of the age of arrears, whereas the petitioner's current charge arrears due for the period from 02/2022 only. The age of petitioner's arrears falls within a period of 2 to 2 1/2 years only, hence not eligible for OTS facility. KSEBL cannot suo motto declare an OTS.

As instructed in the letter from Hon'ble Minister for Electricity to the referenced as 515/M(Elc)/VIP/RL/2023 dated 05.07.2023 Government Chief Whip directing waiver and installment facility, the petitioner need to comply the orders of the Hon'ble Minister for Electricity by remitting 25% of the current charge dues first and sanctioned 8 installments. The petitioner not seen remitted 25% of the current charges arrears and hence preparation of schedule of eight installments has not arisen. Moreover, the dismantling process has initiated by the Agreement Authority and no direction has received from the Agreement Authority on this matter. Why Regulation 60 of Supply Code, 2014 is not applicable in the instant case is clearly mentioned under Para (4) above. From the consumption pattern the consumer utilized energy for his Crusher unit now enquiring the during Covid pandemic lockdown period and applicability of Regulation 60 is totally absurd and liable to be rejected. The defaulter made no payment against current charge due and therefore the allegation of representations made before the respondents will not ended with a solution. KSEBL cannot issue an exorbitant bill to a consumer as it functions in accordance with the provisions of the Electricity Act, 2003 & the Kerala Electricity Supply Code, 2014. It can issue bills as per the Regulations notified by the KSERC. Exhibit P1 & P2 notices are not demand notice but an intimation to the consumer based on Regulation 139 (6) of Supply Code, 2014 after completion of 180 days from the date of disconnection issued with a purpose of dismantling the service connection. This Regulation is framed with a specific purpose to remove defaulters from the supply system and initiate Revenue Recovery against them and facilitate to reallocate the load dedicated to the defaulter to the other applicants of electricity connection.

Exhibit P1 & P2 are mandatory notices issued to the defaulters of current charges before dismantling a service connection. Even after disconnecting a service, the consumers are bound to remit monthly minimum charges (Demand charges only) as per Regulation 141 of Supply Code, 2014 up to a period of six months (180 days) only from the date of disconnection. This clause is applicable to a dismantled consumer who wants no reconnection. However, in the instant case the petitioner availed reconnection based on the interim order dated 14.06.2024 in W.P.(C) No.18904/2024. Hence as per clause 16 (b) of the HT interim agreement executed by the petitioner consumer and KSEBL they are bound to remit the fixed minimum charges for the entire disconnected period as envisaged under Regulation 103(3) of Supply Code, 2014. Exhibit P4 is a normal bill issued during November 2023, since the service connection was not dismantled. Ignorance of a clause in signed contact agreement made by the petitioner will not exempt

the petitioner from liability of fixed minimum charges. KSEBL cannot prolong to keep a disconnected service connection indefinitely, it causes revenue leakage, since dedicated load has allotted from the feeder to the petitioners stone crusher unit and the same can allocated to another demanding consumer only after dismantling of the On completion of 6 months from the date petitioners electric connection. of disconnection the Agreement Authority is bound to inform the defaulter to remit current charge dues within 15 days' notice period else Revenue Recovery measures were initiated after dismantling of service connection. The expression heavy demand itself is illogical, KSEBL issued demand notice which is in accordance with relevant statutes in Electricity Act, 2003 and as per Kerala Electricity Supply Code, 2014.

KSEBL is a Public Sector Undertaking and its functions as per rules and regulations as established by the statutes. Considering the contentions of the petitioner challenging Regulations of Kerala Electricity Supply Code 2014 and the condition of the Tariff Order, the petition filed by M/s. Lakshmi Stone Industries may be dismissed with cost. The petitioner may be directed to clear dues including demand charges for the entire period of disconnection and KSEBL may be allowed to proceed with Revenue Recovery measures if the consumer is not willing to clear dues within a specific period of time for realizing current charge arrears with demand charges limiting 6 months from the date of disconnection. The petitioner had also approached the Hon'ble High Court Of Kerala by filing WP(c) No. 2525/2025, which is pending. As a statutory remedy is available to the petitioner, the present Representation No. P02/2025 filed by Sri. AjayaKumar V.R, Propriter, M/s. Lakshmi Stone Industries may be dismissed in limine without entering into the merit of the case.

The appellant, by virtue of the agreement for the supply of HT energy no. DCE/PTA/03/10-11/244/Lakshmi Stone 15-06-10 executed by him on one part and the Deputy Chief Engineer, Electrical Circle, Pathanamthitta on the other part on 15th of June 2010 is bound to pay the minimum demand monthly. The minimum demand is charged to cover the expenses incurred for providing electricity upto the point of supply exclusively to the said consumer. During the Covid 19 pandemic the KSEBLtd on its part has kept up its side of the agreement by providing service upto the point of supply of the consumer. Paragraph no.s 16 a,b and 17 of the said agreement are the Force Maejure clause with paragraph 17 elucidates how the amount payable will be calculated in such events. In the case of express terms of Force Majeure clause in the contract, the consequences as set out therein has to follow. The service of the HT consumer with legacy no. LCN 31/5397 was disconnected for default of arrears from 12/2021 on 22/10/2022. It is to be noted that the appellant has not contested the delay in disconnection of service. This is because the appellant when informed of disconnection had sought time to avail installment from the office of the first respondent. And this respondent had resorted to delay the disconnection only to allow the appellant to avail installment facility from office of first respondent as he had expressed. The KSEBLtd always strives to maintain consumer friendly

attitude in its transactions with its consumers.

The load to the crusher unit is dedicated load and is not revenue generating as the dedicated load from a transformer cannot be shared with other consumers. The dismantling notice was issued on 27/06/2023 as opposed to April 2023 or 180 days of disconnection as the appellant had expressed that he intends to approach the higher officials of the KSEBLtd and Hon'ble Minister of Power Sri Krishankutty to avail relief such as installments for making payments. Moreover the Assistant Engineer's office at Vaipur had no access to the premises of the consumer for physically dismantling the connection. The dismantling could be effected only by dismantling the Over Head lines. Therefore it was apt at this juncture to allow time to the respondent to explore all avenues to make payment before dismantling the overhead lines.

Regulation 60 of Kerala Electricity Supply Code 2014 reads Failure of the applicant to avail supply due to reasons beyond his control.- If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any other competent authority, public resistance and change in law, the applicant shall not be liable to pay any compensation or charges to the licensee on account of such failure to avail supply of electricity. Therefore the averment by the petitioner that the demand is violative of regulation 60 of Kerala Electricity Supply Code 2014 is a fallacy. The said regulation pertains to applicants where "applicant" means an owner or occupier of any land or premises who files an application with a licensee for the supply of electricity as defined in regulation 2(6) whereas the petitioner is a "consumer" who is supplied with electricity for his own use by a licensee and whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee as defined under section 2(15) of the Electricity Act 2003.

The petitioner having read and signed the agreement, it is beyond strange that the petitioner now alleges that the clauses are in the sly and are to be struckdown as unconscionable and illegal. 'Deemed disconnection' and 'Deemed dismantle' are concepts violative of the prevailing Acts and rules as there are no such terms included or incorporated in the Electricity Act 2003 and Kerala Electricity Supply Code 2014 and KSEB Ltd being a public limited company cannot in any manner transcend its statutory powers and obligations in this accord. It is therefore most humbly submitted that the findings of the Hon'ble CGRF South Kottarakara are precise and proper. For the above mentioned facts it is humbly prayed that this Hon'ble Ombudsman may please dismiss this appeal in limine.

Analysis and findings

The hearing of the case was conducted on 18/02/2025 at 11:00 a.m. in the O/o the State Electricity Ombudsman, DH Road, Foreshore Road Junction, Ernakulam(Dist.). The hearing was attended by the appellant representative Adv. Roshin Mariam Jacob and the first respondent Sri. Biju J.C, Senior

Superintendent, Special Officer Revenue, Vydyuthi Bhavanam, Pattom, Thiruvananthapuram (DT).

The appellant Shri. Ajayakumar. V.R had availed an HT connection for operating a stone crusher unit namely M/s. Lakshmi Stone Industries with consumer no. 134624000474 (LCN No.31/5397). Though the appellant states that during the covid period, the plant was under shut down, the meter reading shows that the plant was working. There was no consumption recorded for a period from 11/2022 to 06/2024, since the service was disconnected on 22/10/2022 due to default in payment of monthly current charges from 12/2021 onwards. As per the decision of Government of Kerala, the relief was extended to the appellant to the tune of Rs. 1,32,600/- as the 25% deduction is fixed charges for the months 03/2020, 04/2020, 05/2020 and 07/2021. The Licensee also extended installment facility for clearing the dues.

The meter reading shows that the crusher unit was function in the all three zones from March 2020 to October 2022. As the current charges was not paid from 12/2021, then power was disconnected on 10/2022. Here the appellant argue for the applicability of **Regulation 60** of the Supply Code 2014.

60. Failure of the applicant to avail supply due to reasons beyond his control.- *If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any other competent authority, public resistance and change in law, the applicant shall not be liable to pay any compensation or charges to the licensee on account of such failure to avail supply of electricity.*

This states that if the “applicant” is failed to avail power supply due to various reason beyond his control. The applicant is not the consumer. The applicant applied for connection and was not able to avail the power due to various reasons beyond his control, this regulation is applicable. Regulation “60” is not connected with consumer who was regularly availed the power, disconnected due to default of payment.

The payment was outstanding since 12/2021. But the power was disconnected only on 10/2022. The reason for delay in disconnection is not properly explained by the Licensee. Though the payment was not made, the appellant availed power till the disconnection. It is the duty of the consumer to pay the electricity charges as per the Section 45 of the Act 2003. The Licensee is having the right to take action as per **Section 56** of the Act 2003.

Section 56. Disconnection of supply in default of payment.

(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.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

The **regulation 141** of the Kerala Electricity Supply Code 2014 states about 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.

It is clearly mentioned that the Licensee shall not charge the fixed charges beyond 180 days from the date of disconnection. Here the date of disconnection was 10/2022, and the connection remain continuously disconnected till 07/2024. The Licensee had charged the fixed charges for around 20 months which is the violation of regulation 141. The consumer has not requested to remain the connection in the disconnected mode. In turn the reconnection request was send to the minister of electricity only during 2023, but no decision has been taken by the Licensee. The petition has been filed to Hon'ble Court only during 05/2024 and accordingly court directed not to dismantle the power through an interim order. Even then the Licensee is supposed to charge the fixed charges only for a period of 6

month effective from 11/2022 which is only up to 04/2023.

The petition filed in the Hon'ble High Court of Kerala vide no. WP©/18904/2024 is seen to be disposed off on 19/07/2024 and not pending in High Court. The appellant approached the Hon'ble High Court of Kerala vide WP©no.2525/2025 for getting a direction from the court to direct the respondents not to disconnect the electric supply on account of arrears. This petition was disposed off vide judgement dated 23/01/2025 directing that the Ombudsman shall take decision within two months. The disconnection shall remain stayed subject to the condition that the petitioner remits a sum of Rs. 7,50,000/- to the Licensee within two weeks from the date of Order. The judgement made of clear that it will open to the Ombudsman to take a decision in the matter in accordance with the law. The petition 2525/2025 as mentioned by the Licensee is not pending and this also has been disposed directing the Ombudsman to take decision.

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 shall make a payment of Rs. 10 lakhs within one week of receipt of this Order.
2. The Licensee shall not disconnect the power if the appellant making the payment of Rs. 10 Lakhs
3. The Licensee shall charge the fixed charges only from 6 months from the date of disconnection(ie, only for a period from 11/2022 to 04/2023)
4. The Licensee shall revise the arrear bill as per the decision (3) above.
5. The appellant is liable to pay the arrear bill prepared by the Licensee as per the decision (4) above.
6. The Licensee shall grant 12 monthly installments to clear the balance payment on making the payment of Rs. 10 lakhs as the first payment.
7. The decision (3),(4),(5) & (6) are to be implemented within One month from the date of receipt of Order.
8. If the appellant makes default in initial payment or other installments, the Licensee have the liberty to take action as per Section 56 of the Electricity Act 2003.
9. No Other Costs ordered.

ELECTRICITY OMBUDSMAN

No. P/02/2025/_____ dated: 17/03/2025.

Delivered to:

1. Shri. Ajayakumar V.R, Proprietor, M/s. Lakshmi Stone Industries, Kottenkudy, Ezhumattoor P.O, Mallapally,Pathanamthitta (DT)
2. The Special Officer (Revenue), Kerala State Electricity Board Ltd.,Vydyuthi Bhavanam, Pattom, Thiruvananthapuram (DT)
3. The Deputy Chief Engineer,Electrical Circle, Pathanamthitta(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, 2nd Floor Vydyuthi Bhavanam, KSE Board, Kottarakkara - 691506.