

STATE ELECTRICITY OMBUDSMAN
THAANATH BUILDING CLUB JUNCTION POOKKATTUPADI ROAD
EDAPPALLY TOLL KOCHI 682024

Phone 04842575488 +919447216341 Email : ombudsman.electricity@gmail.com

REPRESENTATION No: 26/2008

Appellant : Sri K M Sulaiman S/O KunjuMohammed ,
Mooshirangath house , PONNANI 679577
Malappuram Dt

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Subdivision
PONNANI Malappuram Dt

ORDER

Sri Sulaiman s/o KunjuMohammed ,Mooshirangath house , Ponnani submitted a representation seeking the following relief :

1. Set aside the order dated 9.5.2007 issued by the Chief Electrical Inspector Trivandrum so far as it relates to electrical arrears of Consumer No 9218 Ponnani Electrical Section or in the alternative order a fresh enquiry regarding the disputed arrears
2. Set aside the demand cum disconnection notice dated 1.1.08 issued by the office of Ponnani Electrical Sub Division
3. To order the respondent not to disconnect the electrical supply to Consumer 9218 Ponnani pending the disposal of the appeal.

The Appellant Sri Sulaiman is running a Bakery, Cool Bar and Stationary shop by name M.S.Stores at Ponnani with electrical connection number 9218 .The date of connection was 05.11.1988.The total connected load at the time of connection was only 180 W and hence the monthly current charge was provisionally fixed as Rs 11/- per month corresponding to 10 units per month. Subsequently the Appellant started using additional equipments like Refrigerator ,Fans etc .When meter reading was taken in December 1991 the average consumption was found to be 135 units pm and monthly current charges was fixed correspondingly at Rs 276/- pm and provisional invoice card was issued wef January 1992 . Also an adjustment invoice for the excess consumption upto 12/91 amounting to Rs 3979/-was issued.

The Petitioner did not pay the adjustment invoice as well as the monthly charges there after. Arrears are reported to be from 08/91 onwards. When the respondents initiated

arrears action very late in 9/98 after a lapse of around 7 years, the Appellant approached the Hon: High Court of Kerala with OP26210/98 which was disposed by the High Court with a direction to consider and dispose off a petition said to have been filed by the Appellant on 28.8.1992. The Respondent inspected the premises on 1/99 and could not find any defect on the meter. However the meter was removed in 3/99 and a new meter installed. The old meter was sent to TMR Laboratory for testing. The TMR Lab reported that the errors were within limits. The Respondent again issued arrears notice to the consumer on 9.4.99

Meanwhile the Appellant approached Munsiff Court Ponnani with OP 96/99 and the Munsiff Court directed that the meter may be sent to Chief Electrical Inspector for testing under Section 26(6) of the Indian Electricity Act 1910. The Chief Electrical Inspector got the meter tested in their Laboratory and after taking evidence and completing the necessary formalities decided on 9.5.2007 as given below:

- Ø The errors in various load settings are found to be beyond the allowable limits and hence the meter is declared faulty.
- Ø The average for 8/91 to 1/92 shall be taken as 90 units (assessed as per Section 26(6) of IE Act 1910)
- Ø For the remaining periods 2/92 to 3/93 the registered reading shall be taken as correct reading (Saving clause of Section 26(6) of IE Act 1910)

As per the decision and direction of the Chief Electrical Inspector the Respondent revised the demand and issued a demand notice for Rs 61866/- to the Appellant on 01.01.2008.

The Appellant again approached the Hon : High Court with WP 2473/08 against the order of the CEI and the demand notice issued based upon it. The High Court directed the Appellant to approach the CGRF and the CGRF endorsed the action of the Respondent and directed the Appellant to remit the demand within 3 months.

The representation with the pleas noted above is submitted to the under signed in the above back ground. Both the parties were heard on 5.11.2008.

I. The contentions/arguments/points raised by the Appellant in the representation and during the hearing are summarized below

It is pertinent to note that the order of CGRF has not been challenged by the Appellant. Hence the arguments related to the order of the CGRF put forward by the Appellant are not relevant and hence not examined as long as the same are not related to the relief sought for. The main points raised by the appellant are:

1. The order of the Chief Electrical Inspector dated 9.5.2007 is illegal improper and vitiated by error apparent on the face of the record.
2. The demand cum disconnection notice dated 1.1.08 is not in conformity with the order of the Chief Electrical Inspector. The basis for calculation of arrears for 2/92 to 5/99 is not shown in the Order as well as demand cum disconnection notice.
3. The Respondent should not have taken the old defective meter itself as basis for raising demand is not proper.

II. The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below

The demand cum disconnection notice has been prepared in conformity with the order of the Chief Electrical Inspector after thorough scrutiny and applying the Tariff rates applicable for the relevant periods.

The additional bill for Rs 3737/- pertains to the excess consumption for the period 4/89 to 12/91 and has been properly revised as per orders of the Chief Electrical Inspector. The details of the arrear amounts have been explained to the Appellant during the sitting of the CGRF.

The details of the demand notice amounting to Rs 61866/- are given below: (Billed at the rate of 90 units from 8/91 to 1/92 and 135 units from 2/92 to 5/99 as per order of CEI):

Old monthly PIC arrears for 8/91 to 12/91	55.00
Additional bill for 4/89 to 12/91 (Revised as per CEI Order)	3737.00
Arrears from 1/92 to 5/99 (as per CEI order)	36384.00
Penal Interest	31690.00
Total	71866.00
<i>Less amount paid earlier</i>	<i>10000.00</i>
Balance	61866.00

III. Discussion and Findings

There are two points to be considered in this case:

1. Whether the decision and direction of the Chief Electrical Inspector is in order?
2. Whether the Demand cum Disconnection Notice dated 01.01.2008 is in conformity with the decision and direction of the Chief Electrical Inspector?

The Chief Electrical Inspector had been the statutory authority to decide upon the correctness of the Energy Meter when any party raises a dispute on the accuracy under the Indian Electricity Act 1910. The Section 26 of the above Act 1910 had laid down the frame work and circumstances under which the CEI had to exercise the authority. In the instant case it is seen that the CEI had considered all the viewpoints expressed by the Petitioner as well as the KSEB and have passed a speaking order on the matter confining herself to the statutory authority and limits. Hence it is neither necessary nor proper to review the matter. It has to be noted that the matter was taken up to the Electrical Inspector based upon the case filed by the Appellant in the Ponnani Munsiff Court. I do not find any fresh enquiry on the matter as pleaded by the Appellant necessary. The order of the CEI specifies that an average of 90 units per month has to be reckoned for the period from 8/91 to 1/92 and the recorded reading has to be reckoned for the periods anterior or beyond that above period. The Respondent has submitted details of

calculation month wise for the whole period under review for verification by the Appellant during hearing in CGRF as well as before the undersigned. The assessment of the arrears is found to be in conformity with the directives issued by the CEI.

IV. Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The Representation dated 19.9.2008 submitted by the Appellant is dismissed.*
2. *The Respondent KSEB shall be free to recover the arrears outstanding from the Consumer as per Demand cum Disconnection Notice dated 01.01.2008*
3. *No order on costs.*

Dated this the 12th day of December 2008,

P.PARAMESWARAN
Electricity Ombudsman

No P 26/08 / 110 / dated 12.12.2008

- Forwarded to:
1. Sri .K.M Sulaiman s/o KunjuMohammed,
Mooshirangath house, PONNANI 679577
Malappuram Dt
 2. The Assistant Executive Engineer
Electrical Subdivision
PONNANI 679577 Malappuram Dt

Copy (by e-mail) to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram 695010
- 2.The Chairman
Consumer Grievance Redressal Forum
KSE Board, Power House buildings
Power House Road ERNAKULAM 682018

Copy to: The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004

The Chairman
Consumer Grievance Redressal Forum
KSE Board, VaidyuthiBhavanam
Gandhi Road Kozhikode 673032

The Chairman
Consumer Grievance Redressal Forum
KSE Board, Vaidyuthi Bhavanam
KOTTARAKKARA