

STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No: P/242/2011.

(Present T P Vivekanandan)

APPELLANT : Prof. G. Ravindran Nair,  
General Manager (Operation), Mata Amritananda Mayi Math,  
Amritha Institute of Medical Sciences and Research centre,  
Ponekkara, Kochi- 682041.

RESPONDENT : The Assistant Executive Engineer,  
Electrical Sub Division, KSEBoard, Ayyanthole,Thrissur.

ORDER.

Background of the case: -

The Appellant is representing an Educational institution, named 'Amritha Vidyalayam', with consumer No. 15712, under LT VII A commercial tariff, and having a connected load of 8 KW, under Electrical Section, Ayyanthole. The appellant had requested the respondent to grant an additional load of 30 KW on 29.07.2010. It is stated that since the additional Load demanded cannot be met from the existing 160 KVA Panchikkal Transformer (T'rfr) due to overload, the respondent had asked the consumer to pay an amount of Rs.230100/- as the cost of work necessary for giving the load demanded by the consumer. A demand notice was served on the consumer on 13.08.2010, as per clause 8(4) of Electricity Supply Code. The demand raised by KSEB included the estimate cost for the works like drawing of 11 KV Line and installation of a new 100 KVA T'rfr for meeting the load.

While being so, the KSEB squad inspected the appellant's premise on 2.5.2011 and detected un-authorized additional load (UAL) of 13 KW being connected to the System. Hence they proceeded against the consumer, under section 126 of the IE Act, 2003, and issued a penal bill, amounting to Rs.114018/- for the irregularity committed, and also disconnected the Supply for nonpayment of the same. Aggrieved against the disconnection of Supply and the penal bill, the appellant filed Writ Petition before the Hon High Court, vide WP (C) No.17437/2011 and got reconnection of the service after paying an advance of 50% of the penal charges imposed.

Aggrieved by the delay in providing the additional Load requested by the consumer which paved the way for subsequent happenings, the appellant filed a Petition before the CGRF, Ernakulam. The CGRF has ordered the following:

"In this case petitioner being an applicant for load less than 50 KVA, has three options for regularizing his additional load.

1. By bearing the cost of new 100 KVA transformer and allied structure.

2. Petitioner shall wait till a new 100 KVA transformer is installed under normal development work by the respondent.
3. As per the load parameters of the transformer submitted by the respondent on 16/9/11 and on finding the existing diversity, the Forum orders that petitioner can still regularize an additional load of 13 kW. For this he has to revise the already submitted application and respondent shall regularize the same after observing formalities''.

Still aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority.

**Arguments of the Appellant: -**

The appellant has raised the following contentions in his appeal petition.

- 1). Even after acceding the contentions of the complainant with regard to the clause 8(1)(c) of the supply code 2005 in getting additional load below 50KVA without insisting development charges, CGRF have ordered the following three options for regularizing additional load of the complainant-
  - (a). By bearing the cost of a new 100 KVA T'rfr and allied structure,
  - (b). the petitioner shall wait till a new 100 KVA transformer is installed under normal development work by the respondent (KSEB)
  - (c). As per the load parameters of the transformer submitted by the respondent on 16.09.2011 and on finding the existing diversity, the Forum orders that petitioner can still regularize an additional load of 13 KW. For this he has to revise the already submitted application and respondent shall regularize the same on observing formalities. The above order of the CGRF is contradictory to the actual findings and hence the same is to be amended.

The application for additional load of 30 KW (total load 8 KW existing+ 30 KW additional) was pending with the Assistant Engineer, Ayyanthole, as back as 7/2010. The details, as revealed by the Forum have indicated that at the point of time of the application and later as on 03.05.2011, i.e. at the time of illegal assessment of UAL and even up to date, there was sufficient capacity for the existing 160 KVA transformer for regularizing 13 KW of the 30 KW requested. The respondent had never taken any action for regularizing this 13 KW. Instead of this, the Assistant Engineer, had proceeded action for issuing a demand for penal charges for unauthorized load of 13 KW for an amount of Rs.114018/-and disconnected the existing service. The appellant could get reconnection of the service only after getting the order of the Hon'ble High Court and paying an advance of 50% of the demand for penal charges (of Rs.57009/=). This action was really illegal. In the circumstances the Assistant Engineer should have asked the consumer to get the application for regularization of 13 KW modified instead of right away penalizing and thereby inconveniencing the consumer.

The illegal demand of Rs.230100/= for OYEC charges (Deposit) on account of 100 KVA T'rfr and accessories for regularizing 30KW (below 50KVA) is contrary to the clause 8(1) (c) of Supply Code 2005, and should be got withdrawn.

The illegal demand dated 18.05.2011 of penal charges for Rs.114018/- for unauthorized load of 13KW should be got withdrawn. In the light of the application dated 13.07.2010 for regularization, the 13KW load deemed to have been regularized pending modification of the application. The sum of Rs.57009/- (50% of penal charges) which had already been remitted should be got refunded.

The Hon'ble High Court has directed the consumer to get the load regularized limiting to the sanctioned load. As per existing provisions of the Supply Code 2005 the Complainant has the right to get the additional load without insisting the development charges. The additional load of 30 KW requested on 13.07.2010 for regularization may be got sanctioned by the Assistant Engineer, Ayyanthole, in conformity to the clause 8(1)(c) of supply code, 2005, without insisting development charges demand. On the hearing day, the appellant concluded with the reliefs sought as;

- 1). Regularize the load of 13 KW as ordered by the CGRF.
- 2). Limit the penal charges payable to 50%, which was already paid, as instructed by the Hon: High Court.
- 3). Please direct the respondent to enhance the capacity of the T'rfr, under normal development as the demand is less than 50 KVA, and issue the balance load required by the appellant, once the T'rfr is installed.
- 4). Please clarify, the date from which the 13 KW load is ordered by CGRF, to be regularized.

**Arguments of the Respondent: -**

The respondent has furnished a statement of facts denying all the contentions raised by the appellant in his petition.

The General Secretary, Mata Amrithanandhamayi, Matha Amritha Vidyalayam , Panchikkal, Ayyanthole, is a consumer, under Electrical Section, Ayyanthole, vide consumer No.15712, under LT VII A tariff for a sanctioned load of 8 KW. On 29.07.2010, the petitioner had submitted the request for power requirement for an additional load of 30 KW for enhancing the total load requirement to 38 KW and remitted Rs.10/- as power requirement application fee and Rs.2000/= towards advance as per rules. But no service connection application was submitted for enhancing existing 8 KW to 38 KW. The petitioner submitted fabricated document before the Hon: CGRF. Also the petitioner has not complied the formalities as envisaged under Regulation 5(1), 5(3) of Electrical Supply Code 2005 and the petitioner intentionally silent in disclosing that the fees that has to be remitted along with the application form which itself shows that the petitioner is putting forth false claims.

The Regulation 8(2)(c) of Kerala Electrical Supply Code 2005 stipulates that " After receipt of required amount from the applicant, the licensee shall complete the works under sub clause (a) and release the connection with in the time frame". In supply Code 2005, there is any provision to sanction and regularize the additional load within 30 days of receipt of application.

The Regulation of 8(4) of Kerala Electricity Supply Code 2005 stipulates that a Licensee should prepare the cost estimates for works in cases where supply of Electricity to premises requires commissioning of new substations along with extensions of electric line with in two months of receipt of application. Accordingly, after the inspection at site and analyzing the KSEB system technically, it was found necessary to install a 100 KVA Transformer after extending 11 KV line of 20 meters, to cater the additional 30 KW load requirement of power sought by the petitioner. Hence KSEB has issued a notice to the petitioner mentioning the work to be carried out and to remit the estimate amount of Rs.230100/= for carrying out the work required for providing the additional 30KW power to the petitioner. The work includes drawing of 20 meter of 11KV lines, Erection of

one number 11 KV DP and one number of 100 KVA Transformer. In this case the power requirement application was received on 29.07.2010 and the demand notice was served on 13.08.2010 itself.

The petitioner's requirement of additional load of 30 KW could not be catered from the existing 160 KVA Panachikkal Transformer considering the loading of the transformer. The petitioner was unable to meet the additional power requirement from this Transformer since there is no spare capacity available for this Transformer as it is fully loaded. As per section 46 of Electricity Act, it is the right of the respondents to decide technically whether any line or electric plant required providing additional strengthening and recovering expenses towards the same. This decision is entirely depends up on technical parameters. The respondent is statutorily bound to comply with the voltage level at petitioner's premises, while the technical feasibility is being worked out.

Accordingly, the respondents prepared the cost estimate for providing the service connection as per the Regulation 8(4) of Kerala Electricity Supply Code 2005. The regulation -8 (1) C of Kerala Electricity Supply Code 2005 stipulates that " The cost estimates for LT consumers shall include the cost of service line and terminal arrangements at the premises of the applicant but shall not include the cost of meter, if connected load below 50KVA. For loads 50KVA and above connection shall be effected only after installation of separate transformer of adequate capacity, the cost of which shall be recovered from the consumer". It is very clear that the licensee can collect the cost of all service line which includes (Transformer, conductors, line structure etc) and terminal arrangements excluding the cost of meter in case consumer having load requirement below 50KVA. Please note that as per definition the 'Service line' means any electrical supply line through which energy is or is intended to be supplied and 'Electric line' means any line which is used for carrying electricity for any purpose and includes (ii) any apparatus connected to any such lines for the purpose of carrying electricity as per 1(r) and I (ff) of Kerala Electricity Supply Code, 2005.

For consumers requesting for load below 50 KVA, installation of a new transformer is optional and depends on the technical feasibility of the existing T'rfr, where as for the consumers demanding the load above 50 KVA, installation of a new transformer is compulsory. It is the respondent's duty to supply electricity at specified voltage and maintain the voltage variation within specified limits, as per Regulation 4 (2) and 4 (3) of the Kerala Electricity Supply Code, 2005, and hence the additional cost was worked out on the actual expenses to be incurred, for providing the additional power to the petitioner. The petitioner's request for additional 30 KW load can only be met by constructing 20 meters of 11KV line and installing a separate 100KVA transformer near the petitioner's school, for which the cost of these works have to be paid by the petitioner.

Meanwhile the respondent's party inspected the petitioner's premises on 02.05.2011 and found unauthorized additional load connected by the petitioner to the KSEB system. Accordingly provisional invoice was served on 03.05.2011 for an amount of Rs.1, 14,018/- (Rupees One Lakh Fourteen Thousand and Eighteen Only). The petitioner has not filed any objection against the provisional invoice within the stipulated period, hence passed the final order and served on the consumer on 11.05.2011. A disconnection notice was issued to the petitioner based on the penal invoice on 04.06.2011 and disconnected the service connection. The petitioner appealed before the

Hon High Court of Kerala, and got direction to remit 50% of the penal charges imposed against them and remitted the same by the consumer. The Assistant Engineer, Electrical Section, Ayyanthole has not violated any existing rules/regulations. The demand notice was served as per the provisions mentioned in section 46 of the Indian Electricity Act, 2003 and Regulation 8 (4) of the Kerala Electricity supply Code, 2005.

Analysis and findings: -

The Hearing of the case was conducted on 03.01.2012, in my chamber at Edappally, and both parties were present. Prof. G. Raveendran Nair, represented the appellant's side and Sri. Ismail P. A., Assistant Executive Engineer, Electrical Sub Division, Ayyanthole, represented the Respondent's side and they have argued the case on the lines stated above. On perusing the Appeal Petition filed by the appellant, the counter of the Respondent, the documents submitted, the averments raised in the hearing and considering the facts and circumstances of the case, I come to the following findings and conclusions, leading to the decisions thereof.

The appellant is reported to have filed a Writ petition in the Hon: High Court of Kerala in WP(C) No. 17437/2011, against the disconnection of Supply to his premise, for non payment of the penal bill issued. The Hon: Court has issued an interim order in this Writ petition on 30/6/2011 to effect the reconnection on payment of 50% of the penal bill and the case is pending in the Hon: Court. At this juncture it is to be noted that, the Petition lying before this Authority is against the delay in the part of respondent in not sanctioning the Electric Load, as requested by the consumer, when there was spare capacity in the T'rfr, which led to levy of penal charges, among other related things.

The CGRF, Ernakulam, after hearing the Petition and studying the total electrical load being fed from the existing T'rfr and verifying other Electric Supply system parameters, has allowed 13 KW of additional load, out of the 30 KW demanded by the appellant. The consumer does not question this finding or decision of CGRF. Their further demand is that a new T'rfr should be erected by the KSEB, under it's infrastructure development scheme as per rules and once this T'rfr is commissioned, the balance load of 17 KW (requested 30 KW- 13 KW allowed by CGRF) should be allotted to them. The respondent also does not oppose the said decision of granting 13 KW load from the existing T'rfr by the CGRF. Hence the above decision is found acceptable and will continue to prevail.

The next point is about the unauthorized load found during inspection and the penal bill issued thereof. The squad has found a total connected load of 21 KW at the appellant's premise during inspection, when the sanctioned load was only 8 KW, thus there was an unauthorized additional load (UAL) of 13 KW when the inspection was conducted on 2.5.2011. The appellant does not dispute this finding and hence it is found as correct. But the argument of the consumer is that they have requested 30 KW load in 7/2010 and if the respondent had issued the requested load of 30 KW or part of it, which the CGRF has found 13 KW as admissible, then there would not be any question of unauthorized additional load at the consumer's end and imposition of penalty. The respondent should have calculated the 'admissible load that can be given without any technical problem' as done by the CGRF. Also they should have intimated the consumer, the load that is permissible for allocation as per the present site conditions. If the consumer is satisfied with the allocation of a part

of the total 30 KW, then that much Power (load), can be issued. If the party insists for the full load of 30 KW requested, then intimation may be issued about the estimated cost, for a new T'rfr and its Lines, which is required to be remitted by the applicant for the additional power. In the present case only the intimation to remit the total estimated cost for a new T'rfr and connected electric Lines were issued to the appellant by the respondent. This was due to wrong assessment of spare load of the existing T'rfr by the respondent, as they assessed that the T'rfr is fully loaded and allocation of further load is not possible. The net result was that the consumer was not able to use the balance available load of the T'rfr to his best advantage. This fact bears importance when the consumer's total load demand was less than 50 KVA including his present load. Hence I feel that there was some lapse on the part of the respondent in guiding or apprising the consumer of the correct facts.

Even though there was lapse on the side of the respondent, the consumer is not supposed to connect additional load to the Network of the KSEB with out its sanction, otherwise the whole Electrical System may collapse on 'overload' at any time, if resorted to adding load by consumers freely. Hence the bar or restriction imposed on the consumers, in connecting the loads/additional loads without sanction, should continue. The surprise check conducted on 2.5.2011, revealed that there was unauthorized additional load (UAL) at the premises of the consumer and he does not dispute the fact of UAL in his premise. A penal bill was issued for connecting UAL of 13 KW, under section 126 of IE Act, 2003, the assessment being done for the past one year prior to the date of inspection and detection of UAL, which amounts to Rs 114018/-. The action of the respondent in issuing a penal bill for availing UAL by the consumer is found to be in order.

It is also surprising to note that the appellant did not take up the issue of denial of additional load, by the Local Section officials, to the attention of the Superior officers of the KSEB for redressal of the grievance nor filed Petition before the CGRF to the same effect at that point of time.

**Decision: -**

After doing the analysis of the case and the findings arrived at, which is detailed above, I take the following decisions on the reliefs sought by the consumer.

1). The CGRF has established that 13 KW load is still available from the existing T'rfr, feeding supply to the consumer and hence the same shall be issued to the appellant. Both sides did not raise any objection or remark against this decision. The respondent did not assess the spare load of the T'rfr properly and citing technical non-feasibility, they did not sanction the additional load requested in time and therefore the consumer was not able to avail the part load. The argument of the opposite side that the consumer did not submit the Wiring papers for the additional load along with the Application for the additional load does not deserve merit. The AE should have asked the full set of Wiring papers along with the collection of AF or could have issued a notice to produce it. There is no need for power allocation sanction as far as a LT consumer is concerned.

Without proper wiring certificate issued as per I E Rules and the verification done by the competent person of KSEB, the Load cannot be connected to the system. Therefore the load can be treated as connected to the system only after the wiring papers are submitted by the appellant to the respondent. The order of CGRF can be made effective from the date of its order only and the 13

KW load can be treated as regularized with in one month's time, from the date of submission of Wiring Papers of the additional load of 13 KW, before the Respondent, unless the papers are rejected by the respondent, citing specific reasons.

2). Since it is proved that the consumer has connected UAL of 13 KW with out the permission of the respondent, the action taken to issue the penal bill is found to be in order. But on a perusal of the Meter readings of the appellant for the last 2 years prior to the inspection date of 2/5/2011, shows the following;

<u>Month of Meter reading</u>	<u>Energy consumption</u>	
05/2009	1990 units	
07/2009	1718 "	
09/2009	2274 "	
11/2009	2257 "	
01/2010	2170 "	
03/2010	2535 "	Average = 13715/6= 2286 units
05/2010	2382 "	
07/2010	2097 "	
09/2010	3121 "	
11/2010	3438 "	
01/2011	3141 "	Average = 14522/5 = 2904 units
03/2011	3182 "	
05/2011 (Inspection on 2.5.2011)	1640 "	

From the consumption pattern listed above, I am of the opinion that the consumer was using the UAL detected in the inspection, starting from 09/2010 only, when there was seen a sudden rise in energy usage of around 1000 units per bi-month. The consumer has submitted the application for additional load on 29/ 7/2010, after the Wiring works of equipments and might have used the same excess load only after the denial of sanction of additional load, which corroborates the finding of 09/2010 as the starting date of availing the UAL.. Therefore I decide that the date of UAL may be reckoned from 09.2010 to 05/2011, i.e. for the previous 10 months prior to date of inspection instead of 12 months. The appellant is liable to pay the penal charges for connecting the UAL.

The penal charges for the 'Fixed Charges' portion shall be for 10 months instead of 12 months.

The proportionate energy charges payable for availing UAL has been clarified by the Hon: KSERC in Petition No DP 75/2009, filed by KSSIA Vs KSEB, dated 19th Jan: 2010, as the difference in average energy consumption of 12 months, prior to availing the UAL and during the period of actual use, if the same can be assessed reasonably. It has ordered as;

*"The difference between the average monthly energy consumption for the last 12 normal months before the additional unauthorized load is connected and the monthly energy consumption after the unauthorized load is connected shall be used for charging the penalty".*

Based on the above decision, the proportionate energy consumption for the calculation of penal charges for the disputed 5 bi-months (10 months) shall be  $(2904 - 2286) = 618$  units  $\times 5 = 3090$  units (referring the Meter reading table shown above).

Hence it is decided that the penal bill needs revision as per the decision stated above in the case of the UAL availed for 10 months by the appellant.

The respondent shall strengthen the existing electrical Lines and T'rfrs and make sufficient load availability by enhancing the capacity of the existing T'rfr or by installing new T'rfr with lines under normal infrastructure development plan of KSEB, as the Licensee is bound to provide the power requirement for LT consumers with less than 50 KVA load demand. This direction may be considered and actions taken at the earliest.

The appellant can switch over to 'Optional Demand based Tariff' applicable for LT IV-industrial and LT VIIA & C –commercial consumers, having connected load equal to or more than 20 KW load, as ordered by the Hon: Commission and published in K G Ext No 1454 dated 28.6 2010. In such cases the contract demand shall be treated as the connected load.

The respondent is directed to issue 13 KW load as ordered by the CGRF, if not sanctioned already and also to revise the Penal bill on the lines decided above. The appellant is bound to pay the balance amount, if any or if there is excess amount, it may be adjusted in the consumers future bills issued with in 60 days of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the Appellant Sri. Prof. G. Ravindran Nair, is allowed to the extent ordered above and stands disposed of, as stated.

No order on costs. Dated the 30<sup>th</sup> of May, 2012.

Electricity Ombudsman.

Ref No, P/ 242/ 2011/1246/ Dated 30.05.2012.

Forwarded to : 1). Prof.G.Ravindran Nair,  
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2).The Assistant Executive Engineer,  
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Copy to: - 1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.  
2). The Secretary,  
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3). The Chairperson, Consumer Grievance Redressal Forum,  
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