

STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No:P/ 234/ 2011.

(Present-T.P. Vivekanandan)

APPELLANT : Sri. Sheik Muhammed,
KPCA Estate, Mattuthavalam,
Udumbanchola P.O., Idukki.

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, KSEB,
Kattapana P O, Idukki Dt.

ORDER.

Background of the case: -

The appellant is a consumer of Electrical Section, Nedukandam, Idukki, with No.18659 (1259) under tariff LT-V for agriculture purpose and the date of connection was 5.10.99. While being so, the electric connection to consumer's pump house was disconnected earlier in the year 2005 and he filed OP No. 131/2005 before CDRF, Idukki and the case was disposed of, with a direction to pay compensation and to restore supply to the consumer. It was also directed the Board to ascertain the actual MG (Minimum Guarantee) amount and the current charges separately and to issue fresh bill in excess of Rs. 20000/-. The KSEB filed appeal before the State Forum and National Forum, but both Fora confirmed the order of the District Forum. The Board paid Rs. 42650/- as compensation. As per the orders of CDRF, Idukki, the Board issued a fresh bill for Rs. 81,882/-. The appellant challenged the said bill before CGRF, Ernakulum, by filing petition on 20-12-2010. The CGRF disposed of the petition vide order no. CGRF-CR/Comp.73/2010-11 dated 18.5.2011 and passed the following;

"The bill issued to the consumer shall be revised by charging MG amount as per the original MG agreement executed between the respondent and the consumer. The other parts of the bill shall remain the same".

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

Arguments of the Appellant: -

The appellant has adduced the following arguments in his petition submitted before this Forum. The appellant has challenged the said bill on the following two grounds;

- The Mg amount per month is Rs. 788/- only and it is not Rs. 1305/- as alleged in the fresh bill.
- The arrears of MG bill till 07.03.2005 after deducting the payments from Krishi Bhavan was Rs. 29,034/- only. Therefore KSEB can demand arrears for the remaining 19 months (MG expired in October, 2006) @ Rs. 788 x 19 months. Still, Rs. 20000/- shall also have to be deducted there from. The CGRF has not accepted the arguments. Therefore the appellant has requested to expunge the order of CGRF to the extent objected to and to allow the complaint in full.

The appellant raised the following objections regarding the calculation statement submitted by the respondent during the Hearing. The calculation statement filed by the Asst. Ex. Engineer dated 17/4/2012 is incorrect and demand therein for Rs. 38454/- is highly erroneous and hence it cannot be accepted. As per the order of CDRF, Idukki and CDRC, Trivandrum, the arrear of the MG due to KSEB till 7/3/2005 after deducting the payments from Krishi Bhavan was Rs. 29034/- only. The 1st sentence in page 3 of the order of CDRF and last two sentences in page 3 of the order of CDRC clearly endorse this fact. The KSEB has no case before the CDRF or CDRC that the calculation is erroneous. Since the said finding of fact has reached the reality, Rs.20000/- is to be deducted from total arrears, as rightly held by CDRF Idukki, CDRC Trivandrum and CGRF, Ekm. According to the appellant KSEB can demand arrears as follows:

The arrears till 7/3/2005	: Rs. 29034/-
For the remaining 19 months @ Rs.788 i.e. (788 x 19) (MG expired in October 2006)	: Rs.14972/-
Total	: Rs. 44006/-
Subsidy	: Rs. 20000/-
Actual dues	: Rs. 24006/-

Therefore the amount payable to KSEB is Rs. 24006/- only.

Arguments of the Respondent: -

The respondent has furnished the following details on the petition filed by the appellant. The appellant has executed a Minimum Guarantee Agreement with KSE Board on 6th November 1995 vide No. EMSK 9/95-96/dated 6.11.95. At the time of execution of agreement the estimate cost was Rs. 37840/-. The work was executed and commissioned during November 1999. The estimate was revised to Rs.56948/- based on the actual materials used for the work. Hence the MG amount was revised to Rs. 1305/- per month.

As per the agreement, the consumer has agreed to pay 25% of the actual amount incurred by the KSE Board and 10% establishment cost to construct the electric line for effecting the electric connection to his premises per annum and for 7 years. The appellant's claim that the entire amount (MG amount+ 10% establishment cost + current charge) is payable by Krishi bhavan is wrong. As per the Govt. order No. MS 30/99/ Agricultural/ Thiruvananthapuram/ 4/2/1999, Krishi bhavan is bound to pay the agricultural current charges only, and is not liable for the electric line construction cost (i.e. the minimum guarantee amount).

In compliance with the CDRF direction KSE Board has issued revised bill for Rs. 81882/- to the appellant on 20-10-2010. Against the bill, the appellant has filed a petition before the CGRF, Ernakulam. After the hearing, the CGRF has directed the KSE Board to issue fresh bill based on the pre revised minimum guarantee amount.

According to the respondent, the appellant's argument on 2nd point is baseless and misleading. As per the government order, the Krishi bhavan is liable to pay only the electricity charges. The minimum guarantee agreement is made between the KSE Board and the consumer for constructing the electric line to the premises in which the consumer has agreed to pay the 25% of the actual cost incurred by the KSEB in a year and the same for 7 years. After getting the electric connection, the consumer is used to approach various Forums and Courts to skip away from remitting the agreed minimum guarantee amount. The appellant's argument that the arrear of MG amount is only Rs.29034/- till 7/3/2005 is not correct.

The MG amount as per the pre revised estimate is Rs. 788/- per month.
Minimum guarantee amount for 7 years i.e. from 11/99 to 10/06 (788 x 84) = Rs. 66192/-

Electricity charge portion during this period	= Rs. 7738/-.
Balance amount (Rs. 66192-7738)	= Rs. 58454)
KSEB subsidy	= Rs. 20000/-
Net amount payable by the appellant	= Rs. 38454/-.

The respondent submits that the CDRF, Idukki has not ordered that the arrear MG amount payable by the appellant till 7/3/2005 should be fixed at Rs.29034/-. The CDRF just quoted that as per the written statement filed by the KSEB the arrear amount till 7/3/2005 is only Rs. 29034/- and passed an order directing KSEB to ascertain the actual amount of the current charge and the MG amount separately and issue fresh bill to the consumer in excess of subsidy Rs. 20000/- and current charge which is to be paid by the Krishi bhavan. The reason for filing the statement in OP NO. 134/2005 before the CDRF by calculating the arrear amount to Rs.29034/- is detailed as below.

MG amount per month	- Rs 788/-	
Mg amount from 11/99 to 3/05, (788 x 65 months)		= Rs. 51220/-
Amount paid by Krishi bhavan during this period		= Rs. 2186/-
Subsidy		= Rs. 20000/-
Hence balance MG amount due from 11/99 to 03/2005	= 51220-2186-20000	= Rs. 29034/-.

As per the agreement between the consumer and the KSEB the minimum guarantee is for 7 years i.e. up to October 2006. Therefore for the balance period, the amount payable is;

The MG amount from 4/05 to 10/06 (19months) is Rs.788/- x 19	= Rs 14972/-.
Ccurrent charge paid by the Krishi bhavan for this period	= Rs. 5552/-
Balance payable for this period (Rs.14972/ - Rs.5552/-)	= Rs. 9420/-
Therefore the net amount to be paid by the appellant is (29034+9420)	= Rs.38454/-.

The respondent submits to dismiss the petition with cost.

Analysis and Findings: -

The hearing of the case was done on 12/1/2012 and 17/4/2012, in my Chamber at Edappally, Kochi, and the appellant was represented by Sri. Jeswin P. Varghese, advocate, and the respondent by the Assistant Executive Engineer, Electrical Sub division, Kattapana, Sri K.S. SalimKumar and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

The consumer has entered into a Minimum Guarantee Agreement in the year 1995 with KSEB for getting an agricultural purpose Electric service connection. The work was carried out in the year 1999, according to priority list and the connection was given in 10/1999. As per the MG agreement the appellant had agreed to repay the expenses incurred by the Board for drawing the electric line through MG basis for a period of 7 years. At the time of executing the agreement, it is the estimated amount only and the minimum guarantee amount per month was fixed at Rs. 788/- per month.

As per rules, when the priority of the applicant comes and when the KSEB is ready to take up the work, a notice will be served to the party informing that the estimate will be revised as per the actual cost and if he is ready to bear the additional cost, if any, the work will be carried out and a revised MG amount got executed and the new service effected to the consumer. That is to say the consumer is really bound to pay the actual cost of work and not the estimated cost at the time of execution of MG agreement. Whether the KSEB has followed all these office procedures before executing the work is not known and further the Board has not raised such an argument, I am

inclined to accept the MG amount payable by the consumer as Rs 788/- per month itself. The consumer is bound to pay, the MG amount or the electricity charges, whichever is higher.

The electricity charges of the electric connection for agricultural purpose were being paid by the Agriculture Dept. This was a scheme of the Govt. for promoting agriculture. It has only the liability to pay the current charges of agriculture motor pump sets and not the minimum guarantee amount. Hence the minimum guarantee amount in excess of the electricity charges, if any, is liable to be remitted by the consumer.

Decision: -

The Krishi Bhavan is liable to pay the electricity charges only. If this amount is lower than the MG amount, the difference is payable by the consumer.

The respondent has produced a detailed split up details of current charges and the MG amount payable by the consumer. On verifying the calculation statement of the respondent compared with that of the appellant and his contentions, it appears that the final arrears of the consumer, arrived at Rs. 38454/-, as correct. It is computed as follows;

The total electricity charges for the period from 11/99 to 10/06 (84 months) payable by the Krishi Bhavan is reported as = Rs.7738/-.

The MG amount for this 84 months comes to Rs 788/- x 84 = Rs.66192/-

Hence the net amount payable by the consumer is calculated as;

Rs. 66192 - Rs. 7738/- (current charge) – Rs.20000/- (subsidy) = Rs.38454/-.

The consumer is found to be liable to pay Rs 38454/- to the respondent. Having concluded and decided as above it is ordered accordingly. The consumer shall pay the amount within 30 days of this order. No interest shall be payable by the consumer for the Appeal pending period before this Authority. No order on costs. Dated the 21st of January, 2013.

Electricity Ombudsman

Ref. No, P/ 234/ 2011/ 1549/ Dated 21.01.2013.

Forwarded to

1. Sri. Sheik Muhammed,
KPCA Estate, Mattuthavalam,
Udumbanchola P.O., Idukki.
2. The Assistant Executive Engineer,
Electrical Sub Division, KSEB,
Kattapana, Idukki

Copy to

- 1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.
- 2).The Secretary, KSEB,
Vydyuthibhavanam, Pattom,
Thiruvananthapuram- 4. Pin-695004
- 3). The Chairperson, CGRF,
KSEB, Power House Buildings,
Cemetery mukku, Ernakulam, Cochin- 18.Pin-682018.