

STATE ELECTRICITY OMBUDSMAN

Thaanath Building Club Junction Pookkattupadi Road Edappally Toll

KOCHI 682024

www.keralaeo.org

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

REPRESENTATION No: P 53/09

Appellant : Sri Akilesh Agarwal S/o Santhosh Kumar Agarwal
SukanthVihar, Pulleppady Junction,
Chittoor Road, KOCHI 682017

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division PALARIVATTOM Kochi

ORDER

Sri Akilesh Agarwal S/o Santhosh Kumar Agarwal submitted a representation on 24.2.2009 seeking the following relief :

1. *Quash the order of the CGRF Ernakulam No CGRF/CR/Comp 38/08-09 dated 26.11.2008*
2. *Quash the order of Assistant Engineer dated 3.1.2009 including Interest and Surcharge*
3. *Direct the authorities to repay additional amounts paid by the complainant or adjust it towards future payments*
4. *Issue an interim order of stay directing the Assistant Engineer not to collect excess amount or penalty but assess only on the basis of actual meter reading for electricity consumed*

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 23.4.2009.

The Appellant has two service connections namely 9222 and 9223 under Electrical Section Kaloor under LT VII Tariff. The disputes on 9222 are reported to be settled already and hence this representation is confined to 9223 only.

The shop room/godown related to 9223 was occupied by a tenant till November 2002 and remained vacant there after according to the Appellant. A new tenant occupied the room in 10/2003 only.

The energy meter in the premises is reported to be faulty from 5/2002 onwards with FR 9228. The meter was replaced on 5.2.2004 with an electronic meter.

KSEB issued bill based on average consumption for the bi-months from 5/2002 onwards. The average taken was 1174 units per bi-month and the average bill amount was around Rs 11174/- per bi-month. KSEB continued the average-based billing even after the Godown was vacant in 11/2002. Consumer objects to this and demands that only Fixed charges shall be billed for the Locked-up/unoccupied period of 11/02 to 10/03. This is the main point of contention.

The Appellant claimed that the fact that the premises are un-occupied and locked out have been promptly communicated to KSEB. But the Respondent do not agree to it. Fixed charge based bill is seen issued from the bill dated 30.7.2003 which shows that the KSEB was aware of the fact only by that time.

The bill based upon average until November 2002 was paid by the Tenant. The Appellant paid the bill based upon average for 1/2003 also. There after the consumer did not make any payments. The consumer claims the refund of the excess amount involved in the Bill for 1/2003 since only Fixed charges are payable for the period.

The matter was examined by the CGRF which issued direction on 26.11.2008 'to revise the entire bills from 3/03 to 1/04 taking succeeding three months average since the replacement of the meter'. The Appellant has a grievance on the above direction that he is made to pay average charges for the period of non-occupancy by tenants.

He also complains that the amounts paid by him (Rs 25000/- each) as per orders of Hon : High Court on 1.9.2008 and 30.9.2008 was adjusted against the interest by the KSEB unilaterally.

Discussion and Findings

The Respondent claim that there was no official communication on the non-occupation of consumer number 9223 in time seems to be correct. But it is seen that the Appellant has produced documentary evidence on the matter during the hearing by the Executive Engineer Ernakulam in January 2005. A vacation certificate from M/s Gati Ltd showed that the premises have been vacated by them in December 2002. Hence it can be concluded that the premises were un-occupied and locked out from December 2002 to October 2003.

The Regulations relating to Conditions of Supply of Electrical Energy issued on 4.12.1989 by KSEB, which was prevalent at that time, deals with Door-Locked cases in Section 31(e). The consumer has liability to pay only the *Meter Minimum / Minimum charges* during such periods as per the regulations. Hence the Appellant has to pay applicable Meter Minimum charges only from December 2002 to September 2003 (both included). What ever is paid in excess related to this period is liable to be refunded or adjusted.

From October 2003 onwards the Appellant has to pay the charges for the actual consumption. But the energy meter being faulty the charges from October 2003 to January 2004 has to be assessed as directed by the CGRF in the order dated 26.11.2008.

In other words the consolidated demand issued to the Appellant on 3.1.2009 by the Respondent shall be reconstructed as per the guidelines given below:

1. Meter Minimum charges from December 2002 to September 2003(both included).
2. Demand based upon average 192 units bimonthly from October 2003 to January 2004 (both included).
3. Demand based upon actual readings from February 2004 onwards.
4. Any amount collected from the consumer in excess of the above, in any month, shall be adjusted in the subsequent demands and interest shall be charged only when any amount become payable by the consumer.

The Respondent shall provide a detailed calculation sheet to the Appellant, along with the reconstructed consolidated demand, and allow sufficient time to pay the balance amounts if any.

The power supply shall be disconnected after giving 15 days clear notice if the payment is not made in time.

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 order of the CGRF Ernakulam No CGRF/CR/Comp 38/08-09 dated 26.11.2008 is set aside.*
2. *The consolidated demands raised by the Assistant Engineer Kaloor on 3.1.2009 shall be modified as directed above, providing partial relief to the Appellant.*
3. *No order on costs.*

Dated this the 23rd day of April 2009,

P.PARAMESWARAN
Electricity Ombudsman

No P 53/09 / 217 / dated 24.4.2009

Forwarded to: 1. Sri Akilesh Agarwal S/o Santhosh Kumar Agarwal
SukanthVihar Pulleppady Junction,
Chittor Road, KOCHI

2. The Assistant Executive Engineer
Electrical Sub Division PALARIVATTOM Kochi

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF, KSE Board ,
Power House buildings
Power House Road ERNAKULAM 682018