

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 47/09

*Appellant* : Sri Paul Thomas . C  
Chakkalakkal House , Near Nirmala College  
POOTHOLE 680004 THRISSUR

*Respondent*: Electricity Department of Thrissur Corporation  
*Represented by* Assistant Secretary

### ORDER

Sri Paul Thomas Chakkalakkal House , Poothole, Thrissur  
submitted a representation on 30.1.2009 seeking the following relief :

*Refund of excess penal interest collected by the Licensee, Electricity  
Department of Thrissur Corporation.*

Counter statements of the Respondent was obtained on 24.2.2009 and hearing of both the parties conducted on 2.4.2009.

Sri Paul Thomas is a consumer with consumer number 7035-C of Electricity Department Thrissur which is a Licensee for distribution of electricity in the erstwhile Thrissur municipal area. He had defaulted payment of current charges as per 13 spot bills dated 14.7.2004 to 18.5.2006 . The total defaulted amount was Rs 9720/- which was paid on 4.7.2006 . The licensee collected Rs 6140/- towards interest for this amount for the period. In addition to the above the Licensee collected Rs 5/- per bill towards Late Fee. The contention of the Appellant is that the interest collected was much higher than what the statutes allowed. The Appellant moved the CGRF of the Licensee on the matter on 3.5.2008 but the Forum in their order dated 5.2.2009 did not approve the contentions of the Consumer. The Appellant also alleged that the CGRF took around 9 months to dispose the petition .

The Appellant approached the under signed for granting the relief cited, in the above back ground.

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

The statutes allow the Respondent to collect penal interest at 12% per annum for the defaulted number of days. The Respondent claimed that they are collecting interest at 24% per annum as done by KSEB. But in actual practice the interest collected was anything between 28% to 72% per annum.

- ✓ For an amount of Rs 1227/- defaulted from 25.5.2004 the Respondent collected Rs 1300/- as interest on 4.7.2006 which works out to 48.9% per annum.
- ✓ For an amount of Rs 1222/- defaulted from 22.7.2004 the Respondent collected Rs 1200/- as interest on 4.7.2006 which works out to 49% per annum.
- ✓ For an amount of Rs 1241/- defaulted from 25.9.2004 the Respondent collected Rs 1100/- as interest on 4.7.2006 which works out to 48% per annum.
- ✓ For an amount of Rs 1264/- defaulted from 25.11.2004 the Respondent collected Rs 1000/- as interest on 4.7.2006 which works out to 47.5% per annum.
- ✓ And so on – The interest collected varies from 49% to 32.35% per annum depending upon the number of defaulted months.

The Appellant has submitted detailed calculation statements in respect of the interest collected against each bill.

The contention of the Respondent that they were collecting interest as per the procedures and orders being followed in KSEB is not correct. The details of the Orders issued by KSEB on the matter are given below:

1. BO (FM) 841/98/Plg Com 3472/97 dated 17.4.1998 : Interest rates at specified slab rates upto defaulted amount of Rs 5000/- and above that at 24%
2. BO dated 5.6.2003 : Interest rates for any defaulted amount at 24% with the condition that part of a month shall be treated as a month.
3. BO dated 4.11.2004 : Interest rates for any defaulted amount at 24% with the condition that interest shall be realized for actual number of days of default only

The Respondent had claimed that they have implemented the BO dated 4.11.2004 with effect from 3.10.2007. They never implemented the BO dated 5.6.2003. They collected interest based upon the *BO dated 17.4.1998* up to 3.10.2007.

The Licensee has collected huge amounts running to Crores of rupees from various consumers illegally as explained above.

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

The respondent is distributing power to the erstwhile municipal area of Thrissur. KSEB is distributing power to the public residing in areas which were subsequently brought under the Corporation area.

The Respondent is following the same Tariff rates of KSEB for collecting current charges from its consumers and collecting the same rates of interest from the defaulting consumers. If the Respondent reduce the interest rates in its distribution area alone, without KSEB following suit, it would create 'two classes of citizens' within the corporation area.

Hence the Respondent found it difficult to reduce the interest rates as per Regulations of KSERC.

The Respondent had not raised any other contentions or points to substantiate their actions.

Discussion and Findings:

The main contention of the Respondent is that they will be 'creating two classes of citizens' if they follow the directives contained in the statutes for reducing the interest rates because the consumers of KSEB who happen to be citizens under the Corporation shall continue to pay higher rates of interest. But this argument of the Respondent is neither sensible nor have any legal backing. The consumers of KSEB, if put on a disadvantage, have the right to look for remedies from KSEB. The Corporation should not have denied justice to its consumers on the basis of such lame excuses.

As a Licensee the Corporation is bound to follow the provisions of the Electricity Act 2003 as well as the Rules and Regulations framed under the Act.

The KSERC in the communication dated 4.6.2008 had pointed out that the Corporation has to function as an independent Licensee and follow the rules and regulations. If the Corporation follows the practices of KSEB blindly why should they function as an independent Licensee? Is the Licensee expected to function just like any other field office of KSEB? It is rather intriguing to see responsible officials of the Licensee stating that they had followed the KSEB circulars "as and when it was received by them"!

The KSERC had promulgated the Electricity Supply Code with effect on 2.3.2005. The Section 23 of the Supply Code reads as follows:

*23. Interest charges for belated payment.- In case of belated payments penal interest at twice the bank rate based on actual number of days of delay from due date may be charged by the Licensee.*

Hence the Corporation can realize the penal interest only at twice the bank rate from March 2005 onwards.

The contention of the Respondent that they had been following KSEB practices in respect of penal interest rates is also false. The Appellant has pointed out that the Licensee had not implemented the KSEB order dated 5.6.2003 and 4.11.2004 from the respective dates. This contention had not been disputed by the Respondent. They had taken their own time in implementing the same on the plea that the orders 'were not received by them' in time!

It is also seen that the Respondent is realizing another fee called 'Late Fee' from the defaulting consumers at Rs 5/ per bill. The representative of the Respondent could not provide any explanation on the nature and authority under which this fee was collected. The Licensee had not obtained any approval for the same from KSERC.

The fact of the matter is that the Respondent had been arbitrarily realizing interest and other charges from the consumers with total disregard to the regulatory directives and statutory obligations.

Such arbitrary attitudes of Licensees can not be entertained. I conclude that pleas of the Appellant are genuine and the Respondent has to refund the excess amounts collected from the Appellant with interest.

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 Licensee, Electricity Department of Thrissur Corporation, shall collect interest rates from the Appellant at the rates specified in the un-amended Electricity Supply Code 2005 for the defaulted payments as on 4.7.2006.*
2. *The excess amounts realized from the Appellant shall be refunded with interest at the rate specified above, ie twice the bank rates, from 4.7.2006 within One month from the date of receipt of this order.*
3. *The Respondent shall submit a report on compliance of this order with copy to the Kerala State Electricity Regulatory Commission.*
4. *No order on costs.*

Dated this the 26th day of May 2009 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P47 / 09 /243 / dated 28.5.2009

- Forwarded to:
1. Sri Paul Thomas . C  
Chakkalakkal House , Near Nirmala College  
POOTHOLE 680004 THRISSUR
  2. The Assistant Secretary ,  
Electricity Department of Thrissur Corporation  
THRISSUR

Copy to :

1. The Secretary,  
Kerala State Electricity Regulatory Commission  
KPFC Bhavanam, Vellayambalam,  
Thiruvananthapuram 695010

