

**THE STATE ELECTRICITY OMBUDSMAN**

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,  
Edappally, Kochi-682 024

[www.keralaeo.org](http://www.keralaeo.org) Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

---

APPEAL PETITION NO. P/151/2015

(Present: V.V. Sathyarajan)

Dated: 30<sup>th</sup> December 2015

Appellant : Smt. Tessy K Mathews  
Chempakathinal House,  
Kizhathadiyoor P.O., Monnani,  
Pala, Kottayam.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
Erattupetta, KSE Board Ltd,  
Kottayam.

**ORDER****Background of the case:**

The appellant, Smt. Tessy K Mathews is a consumer with consumer No. 7899 under Electrical Section, Poonjar, who has availed a single phase connection on 19-04-2014 under LT VII A tariff for the construction purpose and later the tariff was re-categorised under LT VI F. On 15-11-2014, the appellant had applied for tariff change to I A domestic category. On receipt of the application, the Assistant Engineer, Electrical Section, Poonjar inspected the appellant's premises and requested to rectify the anomalies already noticed. It is alleged that the respondent has not regularized the service connection availed for construction purpose and proceeded against the appellant under Section 138 of Electricity Act, 2003 by issuing a notice dated 09-01-2015 for unauthorised shifting of the meter under non standard conditions flouting safety norms. Aggrieved by this, the appellant approached the CGRF, (South) Kottarakkara by filing a Complaint No. 1356/2014. The Forum disposed the petition vide order dated 27-05-2015 with the following directions.

1. The petitioner shall arrange the suitable & safety place for fixing the meter box.
2. The respondent shall take necessary actions to change the tariff with immediate effect after fixing the meter box in the safe place after collecting the required charges for the necessary works.

Aggrieved against the above decisions of Forum, the appellant has approached this Authority with this appeal.

**Arguments of the appellant:**

Smt. Tessa K Mathews is the petitioner before CGRF (South), Kottarakkara in OP No 1356/2014 and her complaint was against the illegal action of non conversion of tariff from LT VII A to 1-A for the connection having consumer No. 7899 in the building situated at Poonjar Thekkekara Village. As per her application for tariff change dated 15-11-2014 the Assistant Engineer, Electrical Section, Poonjar conducted an inspection on 19-11-2014 and made the following objections as per his letter dated 19-11-2014 as shown below: *"The meter box is installed wooden plank affixed on an iron pillar and it is viewed by the Board as a temporary arrangement and I was advised to construct a Kiosk to install the meter and to draw the line from the meter to the rooms through the u/g cable or to remit the amount required to draw the OH line failing which the application will not be considered"*

The appellant had raised an objection to this letter on 17-12-2014 wherein appellant had raised strong objections to their observations and stated that this letter is with the sole objective of harassing her and also with ulterior motive. In fact, the Assistant Engineer who conducted inspection had found that the meter and accessories are originally fixed within the distance of 35 meters from the nearest electric pole at the main road and there is no need for an additional electric pole in her compound to regularize the connection. The appellant took the stand that the car porch is part of her house and that the temporary connection already given is within 35 meters from the electric post. If appellant install an additional post it would cost her around Rs. 12,000.00 and the Assistant Engineer informed that the connection can be regularized if appellant ready to share the expenses saved on account of avoiding the additional post. Appellant was not amenable to the corrupt practice of the respondent / licensee and she filed a complaint before the CGRF Kottarakkara

The officials of licensee reciprocated to this by giving appellant another letter dated 09-01-2015 wherein they framed a concocted charge against appellant. As per their above letter, they levelled a false charge of shifting the meter and threatened the appellant that she has committed a punishable offence and an explanation was called for within 7 days failing which the connection will be disconnected.

Since there was no progress in the complaint filed before the CGRF, appellant approached the Munsiff Court, Erattupetta seeking a stay for disconnection. The Court ordered urgent notice to the officials of licensee and they acknowledged. The officials of licensee retaliated against this by disconnecting the supply after receiving urgent notice from the Court. They also filed a police complaint against appellant and an FIR was lodged. The Court appointed an Advocate Commission and the report was filed. The Court orally directed the officials of licensee to reinstate the supply within hours and the Assistant Engineer was allowed to leave the premises only after reinstating the supply and confirming the same by way of an affidavit.

On the next posting date the matter was heard in detail and the Court ordered temporary injunction against disconnection on 27-03-2015. Before the issuance of order from the Munsiff Court, Erattupetta, CGRF made a posting and appointed a Commission to visit the site and to report. Meantime the order was released by Munsiff Court. The second posting of the CGRF was on 25-05-2015 and the notice was served only on the previous day and hence appellant could not arrange leave and to appear before the Forum. However, appellant had sent an email to the CGRF on 25-05-2015 stating the fact that the Civil Court has already issued injunction for disconnection. But on 27-05-2015 itself CGRF passed a biased order disregarding all the evidences produced.

The order of the CGRF is challenged on the following grounds.

1. The Assistant Engineer had conducted inspection on 15-11-2014 and sent an objection letter. In his reply itself he has clearly described the position of the meter. There is no allegation that appellant had shifted the meter. When appellant made a complaint against the Board, the same officer visited the premises on 19-01-2015 and raised the charge of shifting the meter. This is retaliatory action.
2. The officials of licensee miserably failed to prove the shifting of meter before the Civil Court. Civil Court appointed an Advocate Commission and had come to the conclusion that the meter shifting charge is false.
3. There was no documentary proof available with the officials of licensee to produce before the Civil Court to prove that the meter was shifted. However they produced some concocted proof before their own Forum i.e. CGRF. The CGRF order says that they produced proof but there is no mention about the document they produced and appellant was not given a chance to examine the same.

For the above reasons and the other points which will be raised during hearing, appellant pray for the following reliefs

1. To set aside the impugned order of the CGRF
2. To change the tariff
3. To refund the excess amount collected
4. To honour the Civil Court order of temporary injunction

**Arguments of the respondent:**

The averment made by the appellant that he is the Power of Attorney Holder of the original petitioner may be put to strict proof. The Original Petition No. 1356/2014 filed by the appellant was disposed of by the Hon'ble C.G.R.F. (South) Kottarakara vide order dated 27-05-2015 showing tremendous leniency to the appellant by directing her to standardize the installations commensurate with safety standards. It is humbly submitted

before this Hon'ble Appellate Authority the findings of the learned Forum was based on the report of the Commission appointed and findings made. The appellant failed to take any action based on the directions passed by Hon'ble C.G.R.F Kottarakara to standardize the consumer end of the installations, these defendants filed a review petition before the C.G.R.F Kottarakara. The above review petition has become infructuous following of the Appeal before this Hon'ble Authority.

Since the appellant has resorted to unauthorized shifting of energy meter, resulting in unauthorized interference in the installations of the licensee these defendants have proceeded under section 138 of Indian Electricity Act, 2003. Therefore the primary objection of the jurisdiction this Hon'ble Authority is raised as a preliminary issue before this Authority. The non co-operative and reckless attitude of the defendants have resulted in faux pas and as a responsible licensee KSEB Ltd cannot proceed on to regularize the service connection availed temporarily for construction purpose by allowing tariff change for the reason that non standard conditions exists flouting safety standards as ascertained by the Commission appointed by the Hon'ble C.G.R.F (South). The energy meter stands unauthorisedly installed under non standard conditions flouting safety norms.

The allegation raised by the appellant against officers and staff of licensee is found to be baseless and various complaints raised by the appellant were found to be without any merit. The Vigilance Wing of licensee on enquiring in to the matter also arrived at the above position. The employees of licensee have taken position in accordance with the statutes and the appellant needs amendments to the above position which was not forthcoming, hence tries to raise baseless allegation to demoralize the officers.

There is also findings made by the Commission appointed by Hon'ble C.G.R.F (South) with respect to the unauthorized shifting of the energy meter. There is strict proof available with respect to effecting of service connection with 35 meters of weather proof wire from the electric post to the metering point of consumer No. 7899. On unauthorisedly shifting the meter the appellant erected the same under non standard conditions at a distance of 33.5 meters. The above finding stands approved by the Commission as well as the Hon'ble C.G.R.F (South). There is no objection submitted by the appellant either before the Commission appointed or before the Hon'ble C.G.R.F. Therefore it is an imperative that action to be pursued against the appellant under section 138 of Electricity Act, 2003.

The appellant is misleading this Hon'ble Appellate Authority with respect to the appointing of Commission by Hon'ble Munsiff Court, Erattupetta. So far these defendants were not served with any notice in this regard and no information about the same. Further these defendants have filed C.M.A 15/2015 before Sub Court, Pala challenging the injunction

passed by the Hon'ble Munsiff Court, Erattupetta in O.S. No. 27/2015 as such the matter is subjudice.

There is no basis in the theory propagated by the appellant that these defendants are taking retaliatory actions with malafide intention. The sole purpose of the actions taken by this defendants were to ensure that standard wiring and safe installation of energy meter in accordance safety standards are fully complied with at the installations of the appellant in order to effect a permanent service connection.

There is sound proof for the unauthorized shifting of the energy meter under non standard conditions. The Commission appointed by Hon'ble C.G.R.F have also made the findings that the energy meter was unauthorisedly shifted. The report of the Advocate Commission is not known to this defendants and the appellant may be asked to produce the same before this Hon'ble Authority.

These defendants are pursuing the matter under section 138 of Electricity Act, 2003 by filing Police complaint. There is enough proof available to prove the unauthorized shifting of the energy meter. On the basis of the above it is humbly prayed before this Hon'ble Appellate Authority to dismiss the appeal with costs to these defendants as the same if filed without any merit.

### **Analysis and findings**

A hearing of the case was conducted on 16-12-2015 in my chamber at Edappally. Sri C.M. Bose represented for the appellant's side and Sri Rajmohan P, Assistant Executive Engineer, Electrical Sub Division, Ramapuram for the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

On going through the records, it can be seen that the appellant had filed a petition before CGRF, and thereafter he also approached the Munsiff Court, Erattupetta by filing O.S. No. 27/2015 and obtained an injunction order restraining respondent from disconnecting the service connection. At the same time the respondent filed a CMA No. 15/2015 before Sub Court, Pala challenging the injunction passed by the Munsiff Court and the same is still pending. At this juncture it is to be noted that, Regulation 22 of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, stipulates ***“Maintainability of the Complaint- (1) No representation to the Ombudsman shall lie:***

- a) Unless the complainant has made a written representation in the prescribed form, to the Forum;***

- b) Unless the Complainant is aggrieved on account of his complaint being not redressed by the Forum within the period and manner specified in these Regulations;**
- c) Unless the representation against an order of the Forum was made within the period specified in these Regulations and is not in respect of the same subject matter that has been settled by the Ombudsman in any previous proceedings**
- d) In case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”.**

In this case on hand, the respondent filed C.M.A. No. 15/2015 before Sub Court, Pala, against the injunction passed by the Munsiff Court, Erattupetta in the OS No. 27/2015 which is pending for decision for the same cause of action and related grievances, this Authority does not going to the merits of the case.

### **Decision**

In the light of the provision under Regulation 22 (d) of Kerala State Electricity Regulatory Commission (CGRF & Electricity Ombudsman) Regulation, 2005, which restricts the maintainability of petition filed for the same cause of action and relief, the appeal filed by the appellant, need no further action at this end and accordingly stands dismissed.

**ELECTRICITY OMBUDSMAN**

P/151/2015/\_\_\_\_\_ /Dated:\_\_\_\_\_

1. Smt. Tessy K Mathews, Chempakathinal House, Kizhathadiyoor P.O., Monnani, Pala, Kottayam.
2. The Assistant Executive Engineer, Electrical Sub Division, Erattupetta, KSE Board Ltd, Kottayam.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.