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APPEAL PETITION NO. P/140/2015  
(Present: V.V. Sathyarajan)  
Dated: 27<sup>th</sup> January 2016

Appellant : Sri Kunjiraman  
Valiya parachalil,  
Aroor P.O., Vatakara,  
Kozhikode

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
Vatakara North,  
KSE Board Ltd,  
Kozhikode

## **ORDER**

### **Background of the case:**

The appellant is a domestic consumer with consumer No. 13794 under Electrical Section, Ayanchery. The energy meter in the premises of the appellant was alleged to be not working properly, resulting abnormal consumption recorded during the period from 23-07-2014 to 25-09-2014. Accordingly the appellant was issued a bill for an amount of Rs. 10,181.00 on 25-09-2014, for the abnormal consumption. So the appellant filed a complaint on 01-10-2014 against the said bill. The service was disconnected on 18-10-2014 due to non payment of current charges.

Consequent to this, a complaint was made before the CGRF, Kozhikode. The Forum has disposed of the complaint with a direction to remit the balance amount by the appellant in 10 installments without surcharge vide Order OP No. 84/2014-15 dated 20-7-2015. Still aggrieved by the said order, the appellant has filed the appeal petition, before this Authority.

### **Arguments of the Appellant: -**

The appellant is a daily worker and his family consists of his wife and two children. The bi-monthly current charges of less than Rs. 400.00 were being paid by the appellant. On 25-09-2014, the appellant was served with an exorbitant bill amounting to Rs. 10,181.00. In the meter testing report it is recorded that the meter was magnetic tampered. But, the Board officials after checking the meter in the appellant's premises informed the reason for excess reading is due to earth leakage. The appellant denied the allegation of tampering. The appellant received normal bills after replacing the meter,.

The appellant has submitted an argument note with the following averments. The respondent has not specified the actual reason for excess consumption is either due to earth leakage or magnetic tampering. The Forum has also not clarified the reason for high consumption but only depend the arguments of respondent. As a layman without any technical knowhow to defend the argument against the magnetic tampering, the appellant failed to prove his innocence. The findings of the respondent regarding earth leakage and magnetic tampering are contradictory. The appellant requested to cancel the exorbitant bill issued to him and to revised bill based on the average consumption for the previous periods.

**Arguments of the respondent:**

The appellant Sri KunhIRaman, Valiya Parochalil, Aroor is the registered consumer in respect of the LT single phase domestic connection bearing consumer No.13024 under Electrical Section, Ayanchery. The respondent had issued a spot bill for Rs. 10,181.00 to the appellant on 25-09-2014 being the bi-monthly current charges for the period from 23-07-2014 to 25-09-2014 as per the recorded consumption in the meter. A complaint was received from Sri KunhIRaman on 01-10-2014 regarding the above said bill. Since the appellant remitted the meter testing fee on 01-10-2014, the staff of Electrical Section, Ayanchery inspected the premises on the next day and thoroughly checked the installation. From the inspection they found earth leakage from the main switch in the premises of the appellant. On the detailed check up it was found that the metallic rod inside the main switch was in burnt condition and touching with the phase wire. This fact was convinced to the appellant and advised him to do the needful for rectifying the fault. The appellant had expressed that they were experiencing electric shock near the earth pipe.

Later the earth leakage was rectified by the appellant. The excess reading was due to the above mentioned earth leakage and the same was informed to the appellant and he was convinced about the fact. However KSEB has installed a parallel meter by considering the request of the appellant. After observing the reading of parallel meter, no irregularities were noted and the same was convinced to the appellant. The disconnection was effected on 18-10- 2014 due to non payment of the current charges. Later the appellant approached the Section Office for availing instalment facility and the same was sanctioned. But the appellant remitted the first installment of Rs.730.00 on 21-10-2014 (This was the only amount available with him at that time). For the balance amount KSEB sanctioned two instalments and the same was agreed by the appellant. The subsequent installment amounts and date of disconnection were detailed as follows.

2<sup>nd</sup> installment - Rs. 4,739.00 Disconnection dated 21-11-14

3<sup>rd</sup> installment - Rs. 4,738.00 Disconnection dated 21-12-14

The appellant did not turn up and not remitted the second installment on 21-11-14 and hence automatically ceased the installment facility. Hence the disconnection was effected on 22-11-14. A spot bill for an amount of Rs.704.00 was served on the appellant for the period from 25-9-2014 to 24-11-2014. The consumption recorded in the meter was 105 units for the above period. This is normal consumption. This confirms that the existing meter is still working properly. Since the

appellant did not turn up to remit the balance installment, the service was disconnected on 22-11-2014.

The appellant then approached the Hon'ble CGRF, Kozhikode against the above mentioned bill. As per the interim order dated 03-12-2014 of the Hon'ble CGRF, Kozhikode, service connection to the premises of the appellant was reconnected on 04-12-2014. It is further submitted that as per the request made by the appellant during the hearing before the Hon'ble CGRF, the Forum ordered the respondents to take necessary actions to test the meter in the presence of the appellant after observing all formalities. Then the disputed energy meter was tested on 04-06-2015 at TMR Division, Kannur in the presence of the appellant. The gist of the test result dated 04-06-2015 by the TMR, Division, Kannur are the following.

- 1) The errors of the energy meter are within limits.
- 2) As per the downloaded data the meter has recorded magnetic tamper count of 37 and total duration of 6 days, 3 hours and 46 minutes and the last occurrence of magnetic tamper date was 28-08-2014.

From the hearing and the evidence, the Hon'ble Forum concluded that the above stated meter was working within the permissible limits of error and it was not faulty. Moreover, the Hon'ble Forum noticed that the energy meter in the premises of the appellant had been tampered. It is humbly submitted that the Hon'ble CGRF has categorically pointed out that as per Regulation 21 and 22 of Supply Code 2014; the safe keeping of the energy meter and responsibility of tampering of energy meter is the sole responsibility of the appellant.

The Hon'ble CGRF has observed that the disputed energy meter was tampered and the mode of tampering was magnetic tampering and that will not leave any sign of tampering to be reported by the licensee/supplier. Such tampering could be detected only by downloading the data recorded in the meter.

The Hon'ble Forum directed the appellant to remit the balance amount in the bill dated 25-09-15 in 10 instalments without surcharge. As per the Regulation 21 and 22 of Supply Code, 2014, the safe keeping of the energy meter and responsibility of tampering is on the consumer, and as the consumer is bound to remit the current charge as per the units recorded in the energy meter, the appellant (consumer No. 13024) is bound to remit the bill amount in the bill dated 25-09-2014, with surcharge and prays for an order accordingly.

**Analysis and Findings: -**

The Hearing of the Case was conducted on 12-01-2016 in the Court Hall of CGRF, Kozhikode. Sri Kunjiraman and Sri Vinithan V.P., have represented for the appellant and Sri. Vinodhan K, Assistant Engineer, Electrical Section, Ayanchery, has appeared for the respondent's side. On examining the petition, the counterstatement of the respondent, the documents attached and the arguments made during 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, thereof.

**The point to be decided is whether the energy meter provided in the appellant's premises was faulty during the period from 23-7-2014 to 25-9-2014 and the consumption recorded during that period is in order or not.**

On going through the contentions and documents it can be seen that the disputed energy meter was not tested at the consumer premises itself, by installing a good energy meter in tandem with the existing meter; so that both meters carry the same electric current and will measure the same energy, consumed by the party. The test so conducted at the site shows that the two meters are recording exactly the same quantum of energy consumption.

The bi-monthly energy consumption has reached the abnormal level of 1313 units. The installation of a good meter (standard reference meter), in tandem to the existing (disputed) meter to verify the accuracy of the meter is justifiable as per clauses 42(3) in KSEB Terms and Conditions of Supply, 2005. The test done at site in the presence of the consumer is more convincing than any documentary evidence and would help the appellant to clear his doubts on the existing meter. Here, the above argument of the respondent is without any documentary evidence and cannot be admitted.

As per the inspection conducted by the staff of Ayanchery Electrical Section found that the metallic rod inside the main switch is in burnt condition and touching with the phase wire and thus an earth leakage is detected. Though the respondent argued that they have detected earth leakage on the appellant's premises, they failed to record the defects noticed in the appellant's installations. Hence this argument also without any documentary evidence and cannot be admitted.

As per the direction of CGRF, the disputed energy meter was tested on 04-06-2015 at TMR Division, Kannur and the test report is detailed as under:

1. The meter tested and errors were found within the permissible limits.
2. Dial test has been conducted and the error was found within the permissible limit.
3. Upon downloading the data, it is observed that the meter has recorded magnetic tamper count of 37 and total duration of 6 days 3 hrs and 46 minutes and the last occurrence of magnetic tamper was on 28-8-2014.

On going through the downloaded data it is seen that the last occurrence of magnetic tamper was during the billing period from 23-07-2014 to 25-09-2014. But the contention of the respondent for the excess consumption was due to earth leakage and that of the Forum was due to magnetic tamper. These two arguments are quite contradictory and not convincing. Further, Executive Engineer, TMR Division, Shornur has reported that there are instances reported where there is no presence of magnet but certain meter recorded magnetic tampering. During the period from 01/2010 to 01/2015 five such instances were reported. Hence the finding of the Forum that the excess consumption was due to magnetic tampering cannot be admitted.

The respondent issued bi-monthly bill for the period from 23-07-2014 to 25-09-2014 for Rs. 10,181.00 on the assumption that the appellant's energy meter is in good condition. But the Forum has observed that the average consumption recorded in the said bill is 104 units. This also shows that the Forum has not correctly analyzed the reason for excess reading.

The consumption of the appellant from 25-01-2014 to 25-09-2015 is as follows:

Bill Date	Meter Reading	Energy consumption in Units
25-01-2014	5216	104
28-03-2014	5216	101
	17	17
28-05-2014	253	236
23-07-2014	479	226
25-09-2014	1792	1313
24-11-2014	1897	105
24-01-2015	1969	72
26-03-2015	2092	123
25-05-2015	2147	55
	114	114
24-07-2015	291	177
25-09-2015	489	198

From the above it can be seen that the bi-monthly consumption of the appellant has not crossed 236 units. The connected load of the appellant is only 845 Watts. On going through the contention and documents it can be seen that the contention of the respondent that the excess consumption is due to earth leakage is without conducting any inspection in the appellant's premises. At the same time the Forum observed that the excess consumption was due to magnetic tamper. The alleged leakage in the premises could have been easily detected if the respondent had conducted testing of appellant's meter as per Clause 18(2) of Central Electricity Authority Regulation (Installation and Operation of Meters).

It is the duty of the respondent to inspect and check the meter and the installations periodically and to ensure the correctness of the meter as per the above Central Electricity Authority Regulation. Here in this case, either the respondent or the Forum failed to conduct a detailed checking to find out the exact reason for the excess consumption in the appellant's premises. It is also pertinent to note that in few cases it is reported that there are instances of jumping of digits in the electronic meters and this jumping cannot be detected in the earth leakage tests or calibrating the meter at a later stage, since it does not affect the functioning of the meter. Likelihood of jumping of digits cannot be rejected at the face value. If the respondent had taken an earnest effort to find out the reason for the excess consumption, this sort of litigation could have been avoided.

**Decision**

In the above circumstances this Authority comes to the conclusion that it is not just and proper to realize the bill amount under dispute from the appellant without analyzing or finding out the exact reason for the excess consumption. The test report of the TMR Division, Kannur that the error in the meter is within the permissible limit may be correct. But the demand issued based on the above findings cannot be admitted. Hence the disputed bill is quashed. The respondent is directed to issue revised bill based on the average consumption for the period preceding the date of bill challenged before this Authority. The order of CGRF in OP No. 84/2014-15 dated 20-07-2015 is set aside. The appeal petition is allowed. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/140/2015/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Forwarded to:

1. Sri Kunjiraman, Valiya Parachalil, Aroor P.O., Vatakara, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, Vatakara North, KSE Board Ltd, Kozhikode

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, KSEBoard Ltd, Gandhi Road, Kozhikode