

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/039/2020
(Present: A.S. Dasappan)
Dated: 17th February 2021

Appellant : Sri. Jeevan George
Kunnathuparambil (House),
Vennoor, Annamanada,
Thrissur Dist. - 680741

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Koratty, Thrissur Dist.

ORDER**Background of the case:**

The appellant is a consumer of Electrical Section, Annamanada and the appeal petition pertains to the tariff allotted to the agricultural connection having consumer number 1156489012423. The tariff allotted to the premises was LT VA for agriculture purpose and the service was disconnected following detection of unsafe drawing of electric wires inside the premises during the inspection conducted by the officers of KSEB Ltd. on 23-10-2019. The electric connection was disconnected by the respondent and a notice to this effect was served on the appellant on the same day directing to rectify the defects and inform the Section Office for reconnection. The appellant rectified the defects and informed the Assistant Engineer, but the electric connection was not reconnected. Aggrieved by the action of respondent, the appellant filed a petition before Consumer Grievance Redressal Forum, Central Region vide OP No.23/2020-21 and the Forum in its order dated 17-11-2020 issued the following:-

“The respondent is directed to reinstate the electricity supply of Cons. No. 12423 under V B tariff without insisting the required requisite certificate/ approval/permit from the competent authority as per the Board Order dated 05-11-2020 and effect the ownership change on production of required documents as well as remittance of arrear charges within 15 days”.

The appellant is not satisfied with the order of CGRF, the instant appeal petition is filed before this Authority on 01-12-2020.

Arguments of the appellant:

On 23-10-2019, the premises having consumer number 12423 was disconnected by KSEB Ltd. and issued a notice to the appellant stating the reasons of disconnection: -

- (1) “The connection given with UG cable is now connected with a weatherproof wire, which is dangerous. Also, informed that the electric connection will be restored after rectifying the defects in the premises and intimating the Section Office”.

During the heavy rain in 2018 and 2019, a part of the building was collapsed. The UG cable was fixed and it reached only up to one side of the wall and it was connected with a weatherproof wire. KSEB Ltd. did not hear this.

- (2) It was also printed in the notice that “ആയതിനാൽ ഈ നോട്ടീസ് കൈപറ്റി 15 ദിവസത്തിനകം മേൽ പ്രസ്ഥാവിച്ചിരിക്കുന്ന പോരായ്മകൾ / അപകട സാധ്യതകൾ പൂർണ്ണമായും പരിഹരിച്ച് രേഖാമൂലം ഈ ഓഫീസിൽ അറിയിക്കാതിരിക്കുന്ന പക്ഷം Kerala Electricity Supply Code 2014 ലെ റെഗുലേഷൻസ് 139 (1), (2), (3), (4), (5), (6) എന്നിവ പ്രകാരം വൈദ്യുതി ബന്ധം വിച്ഛേദിക്കുന്നതുൾപ്പെടെയുള്ള മറ്റു മേൽ നടപടികൾ കൈക്കൊള്ളുന്നതാ- ഞെന്നുള്ള വിവരം ഇതിനാലാറിയിക്കുന്നു.”

But the respondent strike off the above portion and effected disconnection. This is injustice from the part of KSEB Ltd. The immediate disconnection led to a huge loss to the appellant being a farmer. After rectifying all the defects mentioned in the notice and gave letter to the Assistant Engineer on 23-03-2020. But no action was taken by the officials, even on repeated requests.

The appellant completed all the formalities to change the ownership of the connection from the name of appellant’s father to him and submitted application on 28-05-2020. KSEB Ltd. officials conducted an inspection on 17-06-2020. On 18-06-2020 the respondent accepted the fee for changing the ownership and issued receipt for the same. The officials agreed to effect reconnection. After one week, the appellant was informed that the reconnection cannot be given for want of certificate from the Animal Husbandry Department in addition to the certificate from the Agriculture Department.

Both KSEB Ltd. and Agriculture Department inspected the premises, but could not find any misuse of electricity and only used for agricultural purpose. The Agriculture Dept. permitted the appellant for using electricity for agriculture purpose and the electricity charge will be remitted by the department. Appellant is getting fertilizers, seeds, electricity, agriculture etc. in subsidized rate and free of cost to the farmers. The request of the appellant is to reconnect the electric connection and retain the tariff under LT VA.

Arguments of the respondent:

The appeal is not filed against the operating part of the order of the Consumer Grievance Redressed Forum, hence cannot be reckoned as an appeal and hence liable to be dismissed. This appeal lacks its merit from its pleading itself and sans merit, locus standi and hence liable to be dismissed on that score.

The operative part of the order of the CGRF is to “reinstate the supply of consumer no. 12423 under LT VB tariff without insisting the requisite certificate/permit from the competent authority as per the Board order dated 5.11.2020 and effect the ownership change on production of required documents as well as remittance of arrear charges within 15 days”. The appellant has not mentioned anything against the order and no grounds for appeal has been pleaded and hence this appeal is not maintainable either under law or facts.

The appellant had applied for change of the ownership of the consumer no 1156485000246 (for brevity 246) on 6.6.2020 along with the certificate from the agricultural officer dated 18/7/2019 and a possession certificate. Based on his request the application was duly processed and ownership of the said consumer number was changed w.e.f 6.6.2020 in favor of the appellant. The appellant has not raised any material objection in this regard hitherto.

On 18.6.2020, the appellant submitted another application for change of ownership in his favour for consumer no. 1156489012423 (for brevity 12423) under LT VA tariff itself. The application and documents submitted by the appellant was scrutinized. This connection was seen used for cattle farming. Upon inspection no pure agriculture activity was seen in that premises as well and effecting electricity connection under LT VA cannot be possible. Besides, the change of ownership of consumer no. 12423 was not possible due to the fact that a change of ownership for consumer no. 246 was effected already and the new ownership change was requested for agriculture purpose under LT VA in the same possession certificate and same survey number. The reason for disallowance of the ownership change was the regulation 52 of the Kerala State Electricity Supply Code 2014 in which it is provided that “supply shall be given only at one point for the same purpose at the same voltage level in single premises”. During the period when the application was provided, certificate from the veterinary department was essential for providing supply to cattle farms under LT VB tariff. Owing the above facts, the application was not processed in full. The appellant moved to the CGRF against the denial of ownership change. The appellant has not mentioned any pleading in his petition submitted before the CGRF except as stated supra.

As of now, and accordingly KSEB Ltd has issued an order dated 5.11.2020 simplifying the procedure for giving electric connection under LT VB tariff, effecting service connection under LT VB tariff to the appellant could be made based on the above Board order and the CGRF has directed accordingly.

The connection to the appellant's consumer number 12423 can be effected only under LT VB tariff as the activity in this premises is a cattle farm which cannot be provided under LT VA tariff.

For these and other grounds to be submitted at the time, it is prayed that this Authority may be pleased to accept the contentions and dismiss the Appeal on that score.

Analysis and findings:

An online hearing was conducted at 11-30 AM on 15-01-2021 with prior intimation to both the appellant and the respondent. Sri. Jeevan George, the appellant and Sri. Sabu, Assistant Executive Engineer, Electrical Sub Division, Koratty attended the hearing. On examining the petition, the counter statement 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 decision thereof.

The electric supply to the premises with consumer number 12423 was disconnected temporarily by the respondent on 23-10-2019, following an inspection conducted by KSEB Ltd. The reasons stated for the disconnection in the notice issued to the appellant is the unsafe drawing of electric lines in the premises. Also stated in the notice that the premises where the electric connection given earlier was collapsed which attracts Regulation 138 (1) (j) of Kerala Electricity Supply Code 2014. Regulation 138 of Kerala Electricity Supply Code explain the grounds for disconnection.

Regulation 138 (1) – The Licensee shall not disconnect the supply of electricity to any consumer except on any one or more of the grounds in Sub regulation 138 (1) (a) to 138 (1) (p). The respondent found unsafe electric lines in the premises and disconnected the supply with issuing notice of disconnection.

The appellant had no dispute in the anomalies found in the premises and hence, rectified the defects noted by KSEB Ltd. and informed them on 23-03-2020 through a letter. The contention of the appellant is that the notice for disconnection had to be given to the appellant giving 15 days for rectifying the defects. As such as per appellant, the immediate disconnection on the date of inspection is not at all proper. The appellant argued that disconnection was done by making some manipulations in the disconnection notice. But in this case, it is viewed that the disconnection made by the respondent cannot be said as improper as they can disconnect an electric supply which is found dangerous on inspection. But the respondent had to prepare a detailed site mahazar while the disconnection was done.

On evaluating the documents produced by the appellant, an application for Low Tension connection along with an application for transfer of ownership to legal heir is seen submitted to KSEB Ltd. on 28-05-2020. The required application fee is seen remitted on 18-06-2020. The purpose for which the connection is required is seen as 'Agriculture'. The connected load details are LED lights – 20 Nos. (180 watts); plug

10 Nos. (600 watts); fan 15 Nos. (900 watts); Motors – 2 Nos. each having capacity of 1119 watts and 373 watts. The total connected load required is 3172 watts of which more than 50% is for lights, fan and sockets. The above load pattern is not intended for an agriculture connection under LT VA tariff. One of the disputes in this case pertains to the tariff proposed to be reassigned, whether LT V(A) or LT V(B).

The tariff of a consumer is fixed based on the nature of activity or the purpose for which the electrical energy was used by him. The KSEB Ltd. is supposed to assign the tariff of a consumer based on the directions, guidelines and notifications issued from time to time by the Hon'ble KSERC which is the empowered body to classify the appropriate tariff of a particular class of consumers. It is very clear that the tariff fixation is not at all depend on the appellant's concern, but as per Hon'ble KSERC notifications only.

As per the Schedule of Tariff and Terms & Conditions of Retail Supply by KSEB Ltd. and all other Licensees with effect from 18-04-2017 and revision of tariff from 08-07-2019, LT V(A) tariff is applicable for the use of electricity for :-

- (1) pumping, dewatering and lift irrigation for cultivation of food crops, fruits and vegetables.
- (2) pumping, dewatering and lift irrigation for the cultivation of cash crops, such as cardamom and coffee and for the cultivation of crops such as coconut, arecanut, pepper, nutmeg, cloves, cocoa and betel leaves as pure crops or as inter crops.

LT V(B) tariff is applicable to the supply of electricity for the use of the following activities: -

- (i) Livestock farms, combination of livestock farms with dairy, poultry farms, rabbit farms, piggery farms, hatcheries,
- (ii) silk worm breeding units, sericulture,
- (iii) floriculture, tissue culture, agricultural and floricultural nurseries, mushroom culture,
- (iv) aquaculture, fish farms including ornamental fish farms, prawn farms, other aqua farms, aquarium run by the Agency for Development of Aquaculture, Kerala, and
- (v) cheenavala without fish farming and egger nurseries.

In both LT V(A) and LT V(B) tariff, the fixed charge per kW is same and the per unit energy charge for the consumption under LT V(B) tariff is more than 50 paise from LT V (A).

Another contention of the appellant is that the respondent had not restored supply even after rectifying the defects and intimation. Also, the ownership was not changed into the appellant's name. In reply to this, the respondent argued that the connection was seen used for cattle farming. On inspection, no pure activity was seen in the premises and hence, tariff LT VA cannot be given. Besides, the change of ownership of consumer number 12423 could not made possible due to the fact that

a change of ownership for another consumer number 246 was effected already and the new ownership change was requested for agriculture purpose under LT VA in the same possession certificate and same survey number. The reason for disallowance of the ownership change was “supply shall be given only at one point for the same purpose at the same voltage load in single premises” as per regulation 52 of Kerala Electricity Supply Code 2014. Moreover, certificate from the veterinary department was essential for providing supply to cattle farm under LT V (B) tariff. Besides, the appellant stated that as per recent order dated 05-11-2020 of KSEB Ltd. agriculture tariff under LT V(B) category can be given on production of only two documents along with the application, one regarding proof of ownership and the other regarding proof of identity. As such the respondent can provide the reconnection under LT V(B) tariff without insisting other documents.

I visited the premises on 21-01-2021 in the presence of the appellant and respondent. In the discussion, the respondent informed that the supply can be restored at any time under LT V(B) tariff, as the premises is intended to use as a cattle farm by the appellant. The appellant stated that, he is proposing to function the premises as a cattle farm soon after getting electric supply and which may be granted under LT V(A) tariff.

Decision: -

For the reasons detailed above, the appeal petition for assigning tariff under LT V(A) is dismissed. The decision of Consumer Grievance Redressal Forum, Central Region, Ernakulam in OP No. 23/2021-21 dated 17-11-2020 is upheld.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/039/2020/_____ dated _____.

Delivered to:

1. Sri. Jeevan George, Kunnathuparambil (House), Vennoor, Annamanada, Thrissur Dist. - 680741
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Koratty, Thrissur Dist.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.