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APPEAL PETITION No. P/027/2020
(Present: A.S. Dasappan)
Dated: 29th September 2020

Appellant : Smt. Divya Mary Mathew
Kanjirakottu House,
Chungath Road, Irimpanam P.O.,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSEBL,
Chottanikkara, Ernakulam

ORDER

Background of the case:

The appellant is a commercial consumer under the Electrical Section, Chottanikkara having consumer number 1155513030830. The appellant complained that she had submitted application for service connection on domestic tariff for the said service, but the licensee assigned service connection on commercial tariff. She has requested to change the tariff from commercial to domestic by approaching the officials of KSEBL. The respondent denied the request of the appellant and aggrieved by this, the appellant filed a petition before Consumer Grievance Redressal Forum, Central Region, Ernakulam. The Forum dismissed the petition due to lack of merits vide OP No.109/2019-20 dated 11-06-2020. Against the decision, the appellant has submitted this appeal petition before this Authority on 10-08-2020.

Arguments of the appellant:

The appellant had applied for a domestic connection for her to the Asst. Engineer, Electrical Section, Chottanikkara on 18.09.2018 and the connection effected on 28.09.2018 under LT VIIA tariff. All the documents required for a domestic connection had already been enclosed in the application for the connection. As per the petition submitted by the appellant on 09.10.2018, the Asst. Executive Engineer handed over the file to the Asst. Engineer in May 2019 with a decision. But the Asst. Engineer had not taken any action in accordance with the direction of the Asst. Executive Engineer and kept the file with him for several months. As demanded by the Asst. Engineer, the appellant again submitted application in December 2019 and even in the Adalat in 2020,

decision was not taken. The premises given on rental basis comprising of five rooms and with kitchen facility and is not being used for other purpose than domestic purpose. The appellant requests for justice from the officials.

Arguments of the respondent:

The appellant herein has applied for electric service connection to the building bearing No. 141-L and connection was effected on 28.09.2018 from Electrical Section, Chottanikkara and consumer No. 30830 was allotted. The said connection was included under commercial tariff considering the purpose for which energy is being used and contrary to her allegations, no documents are seen in the office to support her claim that she has requested for a change of tariff to domestic one immediately on effecting the said service connection.

While so, on 09.10.2018, the appellant submitted an application before the Assistant Executive Engineer, Electrical Sub Division, Chottanikkara for getting the connection converted from commercial to domestic. The application was acted upon and site was inspected by the Assistant Executive Engineer, Electrical Sub Division, Chottanikkara. The Assistant Executive Engineer had made remark that this service connection is used for residence purpose and can be granted with domestic tariff. But no office proceedings were seen issued by the Assistant Executive Engineer to this tariff change.

Still aggrieved, the appellant approached the Adalat conducted on 25.01.2020 and it was decided by the said Adalat committee to get the premises in question inspected by the Executive Engineer, Electrical Division concerned and accordingly the same was inspected by Executive Engineer, Electrical Division, Thripunithura. On inspection, it was revealed that the building in question and rooms therein are serially numbered as 100, 101 etc and the same are being used for hostel purpose only. Moreover, upon interacting with the inmates therein, it was revealed that they are living there on rental basis. Accordingly, the Executive Engineer informed the appellant that tariff change is not possible as the building was used for hostel accommodation.

Again, the appellant approached before the Consumer Grievances Redressal Forum (Central Region), Ernakulam and the forum dismissed petition due to lack of merits and with the following observations.

"As per the tariff order, the purpose of a hostel and residence have been segregated with tariff of LT VII A and LT I A respectively.

In the present context, the premises being used for accommodating only male individuals on independent rental agreements and not for family occupants. The literary of the word 'domestic' is 'related to house' or 'family affairs'. In the instant case, no such family affairs could be seen among the occupants of the rooms.

Therefore, the electricity tariff regulated for family occupancy under LT I A is not found suitable to be granted. Hence the Forum finds it just and prompt to grant LT VIIA tariff as applicable to private lodges, private hostels etc".

In this building multiple persons with multiple rental agreements are residing and it can be considered as commercial purpose only. Therefore, it has been concluded that, as things stands now, the appellant is not entitled to get the tariff converted from a higher one to lower one.

Analysis and findings:

An online hearing of the case was conducted on 08-09-2020, at 11 A.M. as per prior information to both the appellant and respondent and with willingness of them. Sri Joby Alexander, for the appellant attended in the hearing and Smt. Shiny K. Abraham, Assistant Executive Engineer, Electrical Sub Division, Chottanikkara for the respondent's side. 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 decisions thereof.

The subject is connected with the request for domestic tariff to the building owned by the appellant. As per the appellant, the building to which connection provided has five rooms with facility of a kitchen. The security staff of a nearby company are residing in each room by executing a lease agreement for 11 months.

According to the respondent, the building in question and rooms therein are serially numbered as 100, 101 etc and the same are being used for hostel purpose only. There is no family occupation in the building and there is no ration card to the occupants.

The main dispute relates to the tariff assigned to the appellant's house, which is used for the stay of individuals in separate rooms. The appellant has produced a lease agreement dated 22-03-2019 executed in between the appellant as the first party and one Vijayan C and two others as the second party . The lease is for renting out one room out of five rooms in the building for 11 months from 1-1-2019 onwards. From the lease agreement, it is clearly revealed that the room was rented out to 3 individuals and not for a family. The KSEB is supposed to assign the tariff to the consumer, based on the guidelines, directions and notifications issued from time to time, by the Hon KSERC, which is the statutory empowered body to classify the appropriate tariff of a particular class of consumers. Accordingly, the tariff of a consumer is fixed based on the purpose or the activity for which the electrical energy was utilized. Though the appellant has requested for change of tariff from commercial, which is originally assigned, to domestic, it was discovered pursuant to an inspection carried out by the Executive Engineer that the house is being used for the stay of individuals and hence rejected the request. The main contention of the appellant is that 'electricity' is being used there just like a residential purpose and since no commercial business or activities are undergoing in the said premises, he is eligible for domestic tariff.

Further, in the 'Schedule of Tariff and Terms & Conditions for Retail Supply by KSEB with effect from 18-07-2017, vide order dated 17-04-2017, issued by the Hon KSERC, the tariff under LTVII (A) category is applicable to commercial and trading establishment such as "LT- VII Commercial (A) (iii)

private lodges, private hostels, private guest houses private rest houses, private travelers bungalows”. That is to say, the electricity being used for the above listed activities (among others) will fall under the Tariff of LT VII A (commercial) category. Hence, I am of the view that the ‘accommodation provided to the individuals of security staff of a company, will not fall under a residential purpose activity of a family and hence not eligible for domestic tariff. The tariff is decided in general, by the activity or purpose for which the electricity is being utilized by the consumer and in particular, in accordance with the Tariff notification issued by the statutory body, the Hon Commission, who fix the appropriate tariff of the consumers, from time to time after conducting public hearings. As per the tariff rules prevailing at least from 2002 onwards, it is an undisputable fact that the private hostels/lodges/guest/rest houses come under the purview of LT VII A commercial category. The term “Home, family, domestic purpose” etc. are given importance in our society and is usually given preference in almost all fields, whether it relates to electricity tariff, water charge, LPG Cylinder rate etc. Even if a family is staying in a Lodge or Guest house where no commercial activity or purpose is being done, the tariff assigned for such an accommodation or stay is classified as under commercial category. Therefore, I am of the considered opinion that a group of employees of a company or business concern, staying in a house, tantamount to be treated as a Lodging facility only and the eligible tariff is LT VII A-commercial and cannot be treated in par with a domestic family for the reasons stated above.

Decision: -

For the reasons detailed above, the appeal petition No. P/027/2020, filed by the appellant stands dismissed as it is found having no merits. The order dated 11-06-2020 in OP No. 109/2019-20 of CGRF, Ernakulam is upheld. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/027/2020/ dated _____.

Delivered to:

1. Smt. Divya Mary Mathew, Kanjirakottu House, Chungath Road, Irimpanam P.O., Ernakulam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Chottanikkara, Ernakulam.

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.