

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/08/2026
(Present A. Chandrakumaran Nair)
Dated: 05-05-2026

Appellant : Alzheimer's & Related Disorders Society of India,
National Administrative Office
PB No.53, Guruvayoor Road,
Kunnamangalam, Thrissur (dt) - 680503

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Ltd,
Viyyur, Thrissur (dt)

ORDER

Background of the case

The Alzheimer's Related Disorder Society of India is running a Dementia Respite Care Centre at Thundathil House in the premises owned by Smt.Shilaja Priyakumar. The Consumer number of this connection is 1156813010211 and was under the tariff LT VI D. An agreement was executed between the Owner and the Treasurer of ARDSI and the petitioner is only an occupant and not the registered consumer. The service connection has not been transferred to the tenant. The Licensee had conducted an inspection on 16/01/2023 and found that the Centre is functioning by collecting the monthly charges from the relatives of the inmates. The tariff LT VI D is applicable only for the old age homes where no charges are levied for the boarding and lodging for the inmates. The tariff applicable for Old age homes which charge the inmates for boarding and lodging is LT VI B. Accordingly the Licensee had issued short assessment demand for Rs. 2,03,619/- for a period from 10/2019 to 12/2022. This short assessment was challenged by the petitioner in CGRF and then filed appeal petition to the Kerala State Electricity Ombudsman as P/039/2023. The Ombudsman had dismissed the petition stating that the petitioner was not the consumer and hence won't be complainant as per the KSERC regulation. Then the petitioner filed the petition to Hon'ble High Court of Kerala as WP©/39690/2023. The Hon'ble

High Court had directed the Electricity Ombudsman to re-hear the petition and issue orders. As such this case has been accepted as P/08/2026.

Arguments of the Appellant

Appeal has been filed by the Appellant Society aggrieved by the Order dated 23.06.2023 in Complaint No. CGRF-CR/OP No.04/2023-24 of the Hon'ble Consumer Grievance Redressal Forum, Central Region.

It is submitted that earlier the aforesaid Appeal was numbered as Appeal Petition No. P039/2023. Then against the Order of dismissal dated 09.10.2023 of Appeal Petition No. P039/2023, the Appellant herein had approached the Hon'ble High Court of Kerala by filing Writ Petition (Civil) No.39690 of 2023. The Hon'ble High Court of Kerala vide Judgment dated 27.01.2026 in the said Writ Petition (Civil) was pleased to quash the Order of dismissal dated 09.10.2023 of Appeal Petition No. P039/2023 and has directed the Electricity Ombudsman to re-hear Appeal Petition No. P039/2023. It is stated that the said Appeal Petition No. P039/2023 has now been renumbered as Appeal Petition No. P/08/2026 by the Electricity Ombudsman and the present Interim Application has been filed under the Appeal Petition No. P/08/2026.

It is submitted that the Letter BB/APTS/MISUSE OF THARIFF dated 21.01.2023 issued by the Assistant Engineer, Electrical Section under Section 126 of the Electricity Act and the Letter DB/121/InspectionRVPM/135/dtd.06.03.2023 issued by the Assistant Executive Engineer, Electrical Sub-Division, Viyyur based on the above short assessment bill under Section 126 of the Electricity Act. It is submitted that the Assistant Engineer, Electrical Section and the Assistant Executive Engineer, Electrical Sub-Division is not empowered under Section 126 of the Electricity Act to issue such letters and direct the Appellant to remit the Short Assessment Bill amounts. The said Short Assessment is against the Circular No.D (D&IT)/General/2017-2018/20.10.2017 issued by the Office of the Director (Distribution & IT), KSEB Ltd.

It is submitted that the said aspect was not mentioned and pleaded by the Appellant herein in the Appeal Petition No. P039/2023. Therefore, it is necessary that the Appellant may be permitted to amend the present Appeal Petition No. P/08/2026 (earlier Appeal Petition No. P039/2023). It is essential to consider the fact that an Officer not empowered under Section 126 of the Electricity Act cannot issue Letters or Orders in contravention of Section 126 of the Electricity Act.

Thus, this Hon'ble Electricity Ombudsman may be pleased to permit the Appellants to amend the Appeal as follows:

The Letter BB/APTS/MISUSE OF THARIFF dated 21.01.2023 issued by the Assistant Engineer under Section 126 of the Electricity Act and the Letter DB/121/InspectionRVPM/135/dtd.06.03.2023 issued by the Assistant Executive Engineer, Electrical Sub-Division, Viyyur based on the above short assessment bill under Section 126 of the Electricity Act. It is submitted that the Assistant Engineer, Electrical Section and the Assistant Executive Engineer, Electrical Sub-Division is not empowered under Section 126 of the Electricity Act to issue such letters and direct the Appellant to remit the Short Assessment Bill amounts. The said Short Assessment is against the Circular No. D (D&IT)/General/2017-2018/20.10.2017 issued by the Office of the Director (Distribution & IT), KSEB Ltd."

A separate Application seeking the said relief is filed along with this Affidavit and it may kindly be allowed in the interest of justice. If the accompanying Application is not allowed the Appellant will be put to irreparable injury and hardship. All the facts stated above are true and correct to the best of my knowledge information and belief.

Arguments of the Respondent

Complainant is functioning in the premises owned by Smt Shilaja Priyakumar (the owner) and as per the record She is the owner of the service connection having tariff LT VID of the said premises. The rent agreement executed between Shilaja Priyakumar as first party and Shri Thomas Cheriyan as second party clearly shows the fact the Alzheimer's Society has been functioning on temporary basis in terms of this license agreement. As per the agreement the second Party has to remit all electricity, water bill etc promptly. Hence the complainant is having the status of occupier only in the said premises. He is using the service connection for running his business and paying the electricity charges. The consumer as occupier is not having any right to claim that he may be assigned a particular tariff without having NOC from the owner of the service connection for transferring the service connection as per Regulation 91 of the Kerala Electricity Supply Code 2014. In this matter, no transfer of ownership of service connection has been made in favour of the complainant, till date and Smt Shilaja, who had executed the service connection agreement with the licensee, who still holds the ownership of service connection No.1156813010211, is not a party to this case. Hence this representation is to be dismissed in limine being complainant has no locus standi to this matter.

Consequent to the inspection in the premises on 16/01/2023, a short assessment demand was issued for the period from 10/2019 to 12/2022 in 6B tariff amounting to Rs.2,03,619/- to the consumer. The complainant has produced Form 10AC which states that tax exemption to donations is

operational from the Assessment Year 2022-23 to 2026-27. However, It is not applicable to the disputed period from 08/2019 to 01/2023. Hence the mandatory document as specified in the Tariff Order 2019 for being reckoned as a charitable organization is clearly absent from the side of complainant in this case. Hence the complainant is ineligible to be categorised under LT VID tariff and representation is to be dismissed as baseless one.

During the inspection on 16/01/2023, it has been revealed that complainant is collecting advance amount and maintenance charges from all the inmates Rs.1,00,000/- and Rs. 25000/- respectively. Copy of receipts along with the site mahazar had been produced as respondent documents before the Hon'ble, CGRF, Ombudsman and High Court. The Hon'ble CGRF accepted the same and ordered that since they are collecting charges from inmates & they are not functioning on donations, they cannot be categorized under LT VID tariff, which is highly subsidized tariff only applicable to specified charitable organizations. The complainant had also failed to produce documents such as copies of Certificate of donation furnished in Form No,10BE to the donor etc as mandated vide condition No.(d) to Form 10AC to show that their activities are run solely by donations only. Audited financials are not a document to be used for fixing of tariff as per Electricity Act 2003/Tariff Orders Hence, the Order of Hon'ble CGRF is therefore valid as per law.

Applicability of Regulation 97 of Supply Code 2014: The present case squarely attracts Regulation 97 of the Kerala Electricity Supply Code 2014 which authorises licensee to suo moto reclassify the tariff of consumer, if it is found that the consumer has been wrongly classified or is no longer eligible for existing tariff. During the inspection, it was found that the complainant institution is collecting substantial amount as monthly fees from the residents thereby disqualifying it from the concessional LT VID tariff applicable only to old age homes where no charges are levied. In compliance with the Regulation 97, notices were issued to consumer and afforded opportunity to submit objections. During the hearing they could not produce valid documents to substantiate their claim that they be classified in LT VID tariff. Hence, the tariff was reclassified to LT VIB tariff, the tariff category to old age homes where charges are levied are being categorised and arrear assessed was issued for the actual period of misclassification as mandated vide provision (4) to Regulation 97. Hence the short assessment Bill is valid as per law.

Tariff Misuse: By Collecting substantial amount of maintenance charges for running the institution, amounts to misuse of tariff allotted along with the service connection, rendering the consumer ineligible for LT VID tariff which is applicable to specified categories of charitable consumers only. Thus, the consequential demand raised for the period of wrong classification is valid as per the Supply Code Regulations/Tariff orders. Prudent cost of recovery through Tariffs: The licensee is permitted to recover its costs by fixing the tariffs so determined by the Regulatory Commission, among the consumers,

according to the provisions of the Electricity Act 2003. The cost structure of each Tariff is determined by the Regulatory Commission by specifying the terms and conditions through Tariff Regulations as per Sec.61 and determination of Tariffs through Tariff Order as per Sec.62 of the Electricity Act 2003. Thus the cost structure of the LTVID tariff permit the licensee to classify only specified charitable consumers. The purpose of the complainant is not explicitly specified in Tariff Orders. Therefore, if the impugned tariff reclassification was not made, it will result in huge financial loss to the licensee and also it will amount to unjust enrichment to the consumer. Therefore, allowing the complainant to continue in LT VID Tariff is against the Provisions of Electricity Act 2003/Regulations made thereunder.

Last but not least, it is submitted that even though the complainant has no locus standi to apply for change of tariff, they have given two requests, one dated 24/03/2026, requesting for change of tariff to Domestic with effect from 01/04/2026 as they have shifted the present premises. Second one, dated 25/03/2026, requesting that they may be allotted 'Commercial Tariff' to the newly shifted premises, where the present tariff is Domestic. This action clearly reflects conflicts of interest of the complainant in the same matter. Hence the representation is not sustainable before law and hence has to be dismissed as devoid of merit.

Counter Argument of the Appellant

The Appellant has filed the above Appeal aggrieved by the Order dated 23.06.2023 in Complaint No. CGRF-CR/OP No.04/2023-24 of the Hon'ble Consumer Grievance Redressal Forum, Central Region (herein after referred to as 'CGRF') and also of the arbitrary acts of the Respondents by classifying the Tariff from LT-VI D to LT-VI B tariff. The Appellant society is engaged in the service of providing assistance to families having a member living with dementia, providing care and support for people with dementia, train medical and health professionals, students and volunteers for providing care to people with dementia. The Appellant submits that the change in tariff from LT-VI D to LT-VI B was done by the Respondents on the basis of an incorrect finding that the Appellant is charging an amount of Rs. 1,00,000/- as advance amount and Rs.25,000/- as monthly charges from the inmates at its Centre at Guruvayoor Road, Kunnampulam, Thrissur.

It is submitted that the Appellant society never levy any charges for boarding and lodging of inmates. The Appellant is a non-profit organisation and the main objective of the Appellant is only to provide service to people with dementia and assistance to the people for providing care to people with dementia. To substantiate this claim, the Appellant had produced the bye-law of the Appellant Society as an Addl. Document No.1 before the CGRF. A reading of Clause 6 of the bye-law would show that the Appellant is a non-

profit organisation devoted to the caring of people with dementia. The Appellant has already produced the Registration Certificate No.ER 243/93 of the Appellant establishing that the Appellant is a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955.

The allegation of the Respondents that the Appellant is charging an amount of Rs.1,00,000/- as advance amount and Rs.25,000/- as monthly charges from the inmates at its Centre is incorrect and hence denied by the Appellant. The Appellant had produced true copy of the Audited Financial Statements of the Appellant for the last three years i.e., 2019-20, 2020-21 and 2021-22 as Addl. Document No.2 before the CGRF. It is submitted that a reading of Income and Expenditure Account for each year would show that the main source of income of the Appellant is Donations from different sources. The other minor sources are bank interest, transfer of vehicle fund etc. The Respondents even though is alleging that the Appellant is charging an amount of Rs.1,00,000/- as advance amount and Rs.25,000/- as monthly charges from the inmates, no evidence showing it be true is produced by the Respondents. Whereas, the Audited Financial Statements shows that the Appellant only receives donations. The Respondents have without any basis claimed that the Appellant is charging amounts on a monthly basis. It is submitted that the Appellant had produced as Addl. Document No.3, some of the receipts issued over the time as a part of donations received from various persons and organisations.

It is submitted that the Appellant has already produced the Form No.10AC Order of Approval evidencing that the Appellant is granted Section 80G Approval as per the provisions of the Income Tax Act, 1961. It is pertinent to note that Section 80G Approval is only granted to charitable organisations which has Section 12A Approval as per the provisions of the Income Tax Act, 1961. So, in order to obtain an approval under Section 80G, a charitable organisation has to first get approval under Section 12A of the Income Tax Act, 1961. Moreover, Clause 10 (e) in Form No.10AC Order of Approval specifically states that the Appellant has to comply with provisions of Section 12A of the Income Tax Act, 1961.

It is submitted that the Respondents had threatened the Appellant that unless the due amounts are paid, the electricity connection would be disconnected by the Respondents. The Appellant under panic had issued letter dated 12.04.2023 requesting for instalments only under protest. The Appellant had never either impliedly or directly accepted the demands of the Respondents.

It is submitted that the Appellant is engaging full time Nurses at the Centre of the Appellant at Thrissur and also Doctors specialised in dementia are engaged on an on-demand basis at the Centre.

It is submitted that the issuance of the Order dated 21.01.2023 No.BB/APTS/MISUSE OF THARIFF under Section 126 of the Electricity Act by the Assistant Engineer, Electrical Section Ramavarmapuram is arbitrary and illegal. The said Assistant Engineer is not empowered as on 21.01.2023 to issue such Orders. To substantiate this argument the Appellant had also produced the Circular No.D (D&IT)/General/2017-2018/20.10.2017 issued by the Office of the Director (Distribution & IT), KSEB Ltd. In view of the above facts and submissions, it can be concluded that classifying the Tariff of the Appellant from LT- VID to LT-VI B tariff is arbitrary and illegal on the part of the Respondents. Therefore, it is humbly prayed that this Hon'ble Ombudsman may uphold the contentions of the Appellant and pass a Judgment/Decree setting aside the Order dated 23.06.2023 in Complaint No. CGRF-CR/OP No.04/2023-24 of the Hon'ble Consumer Grievance Redressal Forum, Central Region and pass a Judgment/Decree in favour of the Appellant by allowing the prayers of the Appellant.

Analysis and findings

The hearing of the appeal petition was conducted on 27/03/2025 at 11:00 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the appellant's representative Adv.K.V Krishna Kumar and the respondents Sri.Mini C.V, Asst. Executive Engineer, Electrical Sub Division, KSE Board Ltd., Viyyur, Thrissur (Dt) and Sri.Sankar.R, Nodal Officer(Litigation), Thrissur (Dt)

The Alzheimers and Related Disorders Society of India is a Charitable Organisation registered under Travancore-Cochin Literary Scientific & Charitable Society Act with National Registered office at Ernakulam and National Administrative Office at Kunnankulam. This organization is operating a Dementia Respite Care Centre (DRCC) at the premises owned by Smt. Shilaja Priyakumar with consumer number 1156813010211. The registered consumer of this service connection is Smt. Shilaja and the ARDSI is the occupant or Tenant of the building. The tariff of this connection was LT VI D. The said building was rented out ARDSI for functioning as DRCC.

During the inspection conducted on 16/01/2023, it is understood by the Licensee that this is functioning as an old age home on chargeable basis. The tariff LT VI D is applicable only for the old age homes where no charges are levied for the boarding and lodging of the inmates. The tariff applicable for old age homes which charge for the boarding and lodging of inmates is LT VI B. Accordingly the Licensee had issued a short assessment demand for Rs. 2,03,619/- for a period from 10/2019 to 12/2022 which is for 39 months. The petitioner have produced the tax exemption certificate from 22-23 to 26-27. But the assessment is for a period from 2019-22. However a tax exemption certificate is not a document to decide the purpose of the use of electricity. The appellant had approached CGRF and then to Ombudsman.

Ombudsman had dismissed the petition P/039/2023 as the appellant is not coming under the definition of complainant. Then they approached the Hon'ble High Court of Kerala by filing the case WP©/39690/2023. The Hon'ble High Court as directed the Ombudsman to reconsider this petition.

The Licensee has produced some receipts showing the amount of Rs.25,000/- paid as the monthly charges for the inmates. The Ombudsman also conducted an enquiry to check the genuineness of the charges. The staff explained that the deposit of Rs.1,00,000/- is to be made for each inmates and a monthly amount will be Rs.27,500/-. The amounts are collected as donations and not as charges. This receipts are not prepared as per the income tax regulation. The auditors used to examine the receipts are only donations. The auditors used to examine the receipts and prepare the financial statements. As the receipt shows as donations, the same is reflected in the financial statement and then the financial statement is also not a document to decided the purpose of use of electricity. The appellant put forward a new argument that the assessment is done on Section 126 of the Electricity Act 2003 as this is a misuse of tariff and the Assistant Engineer is not empowered to issue the short assessment as per Section 126 of the Act. This short assessment is not coming under the Section 126 but it is coming under the regulation 152 of the Kerala Electricity Supply Code 2014 which states as follows.

152. Anomalies attributable to the licensee which are detected at the premises of the consumer.-

(1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.

(2) In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted.

Provided that a site mahazar detailing the anomalies shall be prepared by the Inspecting Officer and the provisional bill for the short collected period shall be issued to the consumer. The licensee shall follow the due procedures for ensuring natural justice such as; hearing the consumer, issuance of provisional bill before finalization of the assessment bill etc., following the procedures specified in Regulation 157 of the Code:

Provided further that the provisional bill shall only be finalized by the licensee after giving a reasonable opportunity of hearing of the consumer: Provided also that the licensee may finalize the final assessment bill through the appropriate IGRC, if necessary.

*(3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realised by the licensee without any interest: Provided that while assessing the period of such short collection the factors as specified in subregulation (8) of regulation 155 shall be considered: Provided 145[*further*] that realisation of electricity charges short collected shall be limited for a maximum period of*

twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

(4) The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection.

This case is an anomaly of the wrong tariff application and the hence the regulation 152 is applicable. Further the prayer of appellant that this case is to be treated under Section 126 is a new prayer. This case is the appeal against the order of CGRF. The appellant's prayer to CGRF is not about the applicability of Section 126 and hence this argument is rejected. According to the above regulation the appellant is liable to pay the short assessment amount for a period of 24 months as the period during which the anomaly persisted is reliably assessable.

The regulation 97 of the Supply Code 2014 describes about the authority of Licensee for suo motu reclassification of consumer category.

97. Suo motu reclassification of consumer category by the licensee. -

(1) If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.

(2) The consumer shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any.

(3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately.

(4) Arrear or excess charges shall be determined based on the actual period of reclassification or a period of twelve months whichever is lesser.

Considering the above regulation, the short assessment issued by the Licensee is sustainable but only for 24 months as per the regulation 152 of the Supply Code 2014.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The appellant is liable to pay the short assessment amount for a period of 24 months from 01/2021 to 12/2022.
2. The Licensee has to revise the short assessment for 24 months for a period from 01/2021 to 12/2022.
3. If the Licensee had collected excess amount if any is to be refunded.
4. No other costs ordered.

ELECTRICITY OMBUDSMAN

No. P/08/2026/_____ dated: 05/05/2026.

Delivered to:

1. Alzheimer's & Related Disorders Society of India, National Administrative Office, PB No.53, Guruvayoor Road, Kunnamangalam, Thrissur (dt) - 680503
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Viyyur, Thrissur (dt)

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, Consumer Grievance Redressal Forum, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.