

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/022/2026
(Present A. Chandrakumaran Nair)
Dated: 15-06-2026**

Appellant : Sri. Muralidharan,
Manager,
Kadambur English Medium School,
Kadambur P.O, Kannur(dt)-670633

Respondents : The Assistant Executive Engineer
Electrical Sub Division
KSEBL, Chovva, Kannur (dt)

ORDER

Background of the case

The appellant Shri. Muralidharan is the Manager of a Self Financing Educational Institution named Kadambur English Medium School, situated Kadambur, Kannur. This institution is a consumer of the Licensee, KSEBL under their Electrical Section, Kadachira bearing consumer number 1166581013601 with connected load 49.030 KW in LT 3 phase. The Educational Institutions were under the tariff LT VI A and then changed to LT VII A with effect from 01/12/2007 as per the tariff order issued by the Hon'ble Kerala State Electricity Regulatory Commission. The consumer has remitted the energy charges as per the LT VII A upto 03/2010. Some of the Self Financial Institutions filed the petition challenging orders of KSEERC in High Court of Kerala. The final verdict was released by the Hon'ble Supreme Court on 20/02/2020 approving the tariff order of KSEERC. The Licensee had issued bill for the arrear charges for a period from 05/2010 to 07/2020 for Rs. 2559332 including the interest. The petition has been filed to CGRF vide OP/117/2020-21 and the CGRF issued order dtd 20/02/2021 by dismissing the petition. The appellant had challenged the order of CGRF in the Hon'ble High Court of Kerala filing the petition WP©/4578/2021. The Hon'ble High Court has issued order dtd 18/02/2026 directing the appellant to file the appeal petition to the State Electricity Ombudsman. The Hon'ble Court order states that the time spent from 22/02/2021 has to be excluded for the purpose of completing the period of limitation for approaching the Electricity

Ombudsman. Accordingly the appeal petition filed by the appellant has been considered.

Arguments of the Appellant

Complainant is the Manager of Kadambur English Medium School, Kannur and is a consumer of the Kerala State Electricity Board Limited (KSEBL) since 2003 having consumer no. 1166581013601 and was being billed under tariff LT-VIA. The complainant was continually being billed under LT-VIA tariff till November, 2020. While so, by communication dated 20.11.2020 an amount of Rs. 14,40,760/- along with interest of Rs. 11,18,572/- was demanded by the KSEBL towards change in tariff to commercial LT-7A for self-financing educational institutions. It is in November, 2020 that a demand is raised for the first time for alleged arrears due from May, 2010 to July, 2020. On perusal of the said communication, it can be seen that the demand is made pursuant to Judgment dated 20.02.2020 in C.A. no. 8350/2009 of the Hon'ble Supreme Court. No other reason is stated for demanding the said exorbitant amounts. Along with communication dated 20.11.2020, the complainant was also issued with demand cum disconnection notice dated 19.11.2020. The amounts demanded in the said communications is arbitrary, unlawful and liable to be quashed.

The complainant challenged the said demand before the Consumer Grievance Redressal Forum (Northern Region), Kozhikode as O.P. no. 117/2020-21 and also before the Hon'ble High Court of Kerala in W.P.(C) no. 4578/2021. The writ petition was filed challenging the demand on the grounds that the complainant was never a party to the litigation resulting in the Judgment of the Supreme Court referred in the communication nor was the complainant intimated of any change in tariff or billed under the fresh tariff till the demand issued in November, 2020. The Judgment of the Hon'ble Supreme Court does not permit retrospective collection of amounts in the enhanced rates. No arrears were shown even in the bills for January and February, 2021 issued after the demand in November, 2020.

Disconnection of supply for default of payment is barred by S. 56(2) of the Electricity Act if the demand is raised after 2 years from when the sum became first due. There is no continuous demand for alleged arrears. The demand is made on account of alleged mistake in applying tariff since 2010. The sum due ought to be continuously shown as arrears in subsequent bills for recovery through coercive mode of disconnection. KSEBL is unjustified in issuing demand cum disconnection notice for alleged dues from nearly 10 years ago. The demand made as also the disconnection notice are in violation of Section 56(2) as also the decision of the Hon'ble Supreme Court in Asst. Engineer, Ajmer Vidyut Vitran Nigam Ltd. Vs. Rahamatullah Khan @ Rahamjulla (C.A. no. 1672/2020) of the Hon'ble Supreme Court. Regulation 136(3) of the Electricity Supply Code also provides that "No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due

unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied". Therefore, the demand of Rs. 14,40,760/- along with interest of Rs. 11,18,572/- for the period from May, 2010 to July, 2020 made for the first time in November, 2020 is unlawful, arbitrary and liable to be quashed.

O.P. no. 117/2020-21 however was erroneously disposed of by the CGRF by Order dated 20.02.2021 rejecting the plea of the complainant to waive interest and allowing the complainant to pay the arrears in 12 instalments. When W.P.(C) no. 4578/2021 came up for consideration, the Hon'ble High Court disposed of the writ petition recording that the remedy of the complainant lies in preferring this complaint before this Hon'ble Ombudsman. It was made clear that the period spent from 22.02.2021 shall be excluded for the purpose of computing limitation for approaching this Ombudsman.

It is submitted that in a similar case, this Hon'ble Ombudsman was pleased to find that no amount was due from the similar complainant therein who was issued bill following the supreme court judgment along with interest. This Ombudsman found that since no bill was issued to the complainant therein before the supreme court judgment there is no amount due. The said finding of this Ombudsman was upheld by the Hon'ble High Court on the grounds that the consumer therein was not a party to any litigation and there was no embargo on demanding the amounts at any point in time. The KSEBL having failed to do so, raised the bill only after the Supreme Court Judgment. Accordingly, it was found that the consumer therein has not defaulted in any bill. Judgment of the Hon'ble High Court of Kerala in W.P.(C) no. 11281/2023 is attached herewith and is applicable to the case of the complainant herein. Order dated 08.08.2022 of this Ombudsman in P/025/2022 is the order upheld in the said Judgment.

Accordingly, the complainant prefers this Complaint challenging Order dated 20.02.2021 in O.P. no. 117/2020-21 of the CGRF Northern Region, Kozhikode as also demand notice no. ES/SDA/BB/Self-financing institution/2020-21/153 dated 20.11.2020 and demand cum disconnection notice dated 19.11.2020 demanding a total of Rs. 25,59,332/- towards alleged arrears with interest.

Arguments of the Respondent

The Petitioner's Self Financing Educational Institution (SFEI), Kadambur English medium school, is a consumer of KSEBL under Electrical section Kadachira bearing consumer number 1166581013601. Its connected load is 49030 watts. The Hon'ble Kerala State Electricity Regulatory Commission(KSERC) has changed the tariff of self financing educational institution from LT-VIA to LT-VILA with effect from 1-12-2007. This consumer's tariff also changed to LT-VIIA with effect from 12/2007 and billed under LT-VIIA tariff. The consumer has been remitted their bills up to March 2010 under the same tariff. But a group of Self financing educational institutions approached Hon'ble High Court against the tariff change and the

single bench of the Hon'ble High Court rejected their plea. Following this, the Self financing educational institutions filed appeal before the Division bench of the Hon'ble High Court and a favorable order was obtained to them. Hence this consumer's tariff retained as LT-VIA with effect from 5/2010 onwards. However the Kerala State Electricity Board Limited(KSEBL) approached the Hon'ble Supreme court by filing case number CA 8350/2009, and the Hon'ble Supreme Court vide order dated 20-02-2020 approved the tariff of LT-VIIA. In the meanwhile, vide tariff order dated 16-08-2014, tariff of Self financing educational institutions changed to LT-VIF by the KSERC. In line with the order of the Hon'ble Supreme Court and tariff revision order of the KSERC short assessment bill for the period from 5/2010 to 15/8/2014 under LT-VIIA tariff and from 16-8-2014 to 7/2020 billed under LT-VIF issued to the consumer. As per the Regulation 134 of the Electricity Supply Code 2014, this undercharged bill is justifiable and the consumer is liable to pay.

Hon'ble KSERC has changed the tariff of self financing educational institutions from LT-VIA to LT-VIIA with effect from 1/12/2007 and Hon'ble Supreme Court of India approved the tariff change vide order dated 20/02/2020 in CA 8350/2009. Later on the above tariff has been revised to LT-VIF from LT-VIIA (in 2014). The unaided educational institutions are also coming under LT-VIF tariff since no special tariff is fixed for those institutions. As per order dated 20/02/2020 of Hon'ble Supreme Court in CA 8350/2009 undercharged bill assessed for the period from 5/2010 to 7/2020 is Rs 2559332/- (Principal amount Rs.1440760/- and interest Rs. 1118572/-) and issued to the consumer The consumer was never threatened of disconnection of electricity on account of short assessment bill by the KSEBL. Consumer was requested to remit the arrears within 30 days. No disconnection clause incorporated in the notice which was produced as Exhibit P2 by the petitioner.As per the Regulation 134 of the Electricity Supply Code 2014, this undercharged bill is justifiable and the consumer is liable to pay.

The Petitioner filed OP No. 117/2020 before the Consumer Grievance Redressal Forum (CGRF), Kozhikode, seeking permission to remit the arrear amount in installments and to waive the interest portion. The CGRF, Kozhikode, vide order dated 20.02.2021 in OP No. 117/2020-21, rejected the plea to waive the interest portion and held that the action of KSEB Ltd. in levying surcharge (interest) for delayed payment of the over-billed amount is in order. Aggrieved by the said order, the Petitioner filed W.P.(C) No. 4578/2021 before the Hon'ble High Court of Kerala. The Hon'ble High Court, vide judgment dated 18.02.2026, disposed of the writ petition granting liberty to the Petitioner to approach the Hon'ble Electricity Ombudsman, as the grievance pertains to the order passed by the CGRF. It is submitted that the Kerala State Electricity Regulatory Commission (KSERC), in exercise of its powers under Section 62 of the Electricity Act, 2003, is empowered to revise tariff after complying with the statutory procedures. Accordingly, the tariff revisions effected by KSERC are applicable to the Petitioner, and the Petitioner is liable to pay electricity charges under LT-VIIA tariff with effect from December 2007 and under LT-VIF tariff with effect from 16.08.2014 onwards.

The matters relating to tariff determination and its revision fall within the authority of the Kerala State Electricity Regulatory Commission (KSERC). In accordance with the orders issued by KSERC, the tariff applicable to self-financing colleges was reclassified from LT VI A to LT VII A with effect from 01.12.2007. Accordingly, billing was carried out under the LT VII A tariff during the period from 12/2007 to 2010. Subsequently, in the year 2010, certain self-financing educational institutions challenged the said tariff revision before the Hon'ble High Court. The Hon'ble Court was pleased to pass a judgment in their favour, pursuant to which the tariff applicable to such institutions was reverted to LT VI A with effect from 05/2010. Challenging the said judgement, KSEBL filed an appeal before the Hon'ble High Court. In the said appeal, the Hon'ble High Court, vide judgment dated 20.02.2020, was pleased to allow the appeal and uphold the tariff classification under LT VII A. Consequently, it was ordered that self-financing educational institutions are liable to be billed under the LT VII A tariff. In view of the pendency of the such litigations, the arrears were not reflected in the monthly bills. Accordingly, the consumer is liable to remit the said amount.

In light of reasons stated above, the arrears were not continuously reflected in the monthly bills issued to the consumer. However, following the judgment of the Hon'ble High Court, the said amount has been raised by way of short assessment for the relevant period, in accordance with the revised tariff. Accordingly, the consumer is liable to remit the said amount. It is strongly denied that O.P. No. 117/2020-21 was "erroneously disposed of by the CGRF, Kozhikode, on 20.02.2021. The CGRF's decision to reject the waiver of interest was a considered order based on the fact that the KSEBL is legally entitled to recover undercharged amounts resulting from valid tariff revisions. The demand for interest (11,18,572) is not a penalty but a recovery of the time-value of money for energy already consumed but billed at a lower rate (LT-VIA) due to pending litigation. The CGRF order dated 20.02.2021 is legally sound, and the Petitioner remains liable for both the principal and the interest as per the statutory regulations.

The matters relating to tariff determination and its revision fall within the authority of the Kerala State Electricity Regulatory Commission (KSERC). In accordance with the orders issued by KSERC, the tariff applicable to self-financing colleges was reclassified from LT VI A to LT VII A with effect from 01.12.2007. Accordingly, billing was carried out under the LT VII A tariff during the period from 12/2007 to 2010. Subsequently, in the year 2010, certain self-financing educational institutions challenged the said tariff revision before the Hon'ble High Court. The Hon'ble Court was pleased to pass a judgment in their favour, pursuant to which the tariff applicable to such institutions was reverted to LT VI A with effect from 05/2010. Challenging the said judgement, KSEBL filed an appeal before the Hon'ble High Court. In the said appeal, the Hon'ble High Court, vide judgment dated 20.02.2020, was pleased to allow the appeal and uphold the tariff classification under LT VII A. Consequently, it was ordered that self-financing educational institutions are liable to be billed under the LT VII A tariff. In view of the pendency of the such litigations, the arrears were not

reflected in the monthly bills. Accordingly, the consumer is liable to remit the said amount.

Hence, it is prayed that the baseless contention of the appellant may be disposed and pass an order to remit the arrear amount by him. The above mentioned facts are true to best of my knowledge and belief.

Counter Arguments Filed by the Appellant

The demand is raised for the first time in November, 2020 for alleged arrears due from May 2010 to July, 2020, for nearly a decade. The demand is made pursuant to Judgment dated 20.02.2020 in C.A. no. 8350/2009 of the Hon'ble Supreme Court. No other reason is stated for demanding the said exorbitant amounts. The said demand is arbitrary, unlawful, belated, unjustified and liable to be set aside. The demand itself is raised 9 months after the Judgment of the Hon'ble Supreme Court, demanding amounts from 10 years ago. The demand was challenged before the Consumer Grievance Redressal Forum (Northern Region), Kozhikode as O.P. no. 117/2020-21 and also before the Hon'ble High Court of Kerala in W.P.(C) no. 4578/2021.

There is no continuous demand for alleged arrears. Disconnection of supply for default of payment is barred by S. 56(2) of the Electricity Act if the demand is raised after 2 years from when the sum became first due. The sum due ought to be continuously shown as arrears in subsequent bills for recovery through coercive mode of disconnection. The demand made as also the disconnection notice are in violation of Section 56(2) as also the decision of the Hon'ble Supreme Court in Asst. Engineer, Ajmer Vidyut Vitran Nigam Ltd. Vs. Rahamatullah Khan @ Rahamjulla (C.A. no. 1672/2020) of the Hon'ble Supreme Court. Regulation 136(3) of the Electricity Supply Code also provides that "No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied". The demand now made for alleged arrears from 2010 to 2020 is therefore unlawful and liable to be set aside.

O.P. no. 117/2020-21 was erroneously disposed of by the CGRF by Order dated 20.02.2021 rejecting the plea of the complainant to waive interest and allowing the complainant to pay the arrears in 12 installments. The writ petition was disposed of leaving liberty to approach this Ombudsman, excluding the period spent from 22.02.2021. A similar case of a self-financing educational institution was disposed of by this Ombudsman finding that since no bill was issued to the complainant therein before the supreme court judgment there is no amount due. Same is the case of the appellant herein who is issued with a demand only in November, 2020. The said finding of this Ombudsman was challenged before the Hon'ble High Court by the Board and the decision was upheld by the Hon'ble High Court in W.P.(C) no. 11281/2023, on the grounds that the consumer therein was not a party to any litigation and there was no embargo on demanding the amounts at any point in time. The KSEBL having failed to do so, raised the bill only after the Supreme Court Judgment. Accordingly, it was found that the consumer

therein has not defaulted in any bill.

Therefore, the appellant is also entitled to similar reliefs. The demand and order of the Consumer Grievance Redressal Forum (Northern Region), Kozhikode in O.P. no. 117/2020-21 is liable to be set aside. The appeal is liable to be allowed and is prayed accordingly.

Analysis and findings

The hearing of this appeal petition was conducted on 29/04/2026 at 12.00 p.m in the KSEB IB, Burnassery, Kannur. The hearing was attended by the the appellant Sri.P. Muralidharan his Advocate Adv. Sidharth R Wariyar and the respondent Sri. Ranjith K.V, Assistant Executive Engineer, Electrical Sub Division, Chowva, Kannur(Dist.)

The appellant, the Kadambur English Medium High School is a consumer of the Licensee, KSEBL under their Electrical Section, Kadachira with connected load 49.03 KW. All the Educational Institution were changed under the tariff LT VI A upto 30/11/2007. The Hon'ble KSERC has changed the tariff of Self Financing Educational Institution to the tariff LT VII A with effect from 01/12/2007. This tariff order was challenged by the Educational Institutions in the Hon'ble High Court of Kerala. The single bench order was in favour of the KSERC and on appeal the Division Bench Order was in favour of the Private Institutions. Then the Licensee had filed the appeal petition to the Hon'ble Supreme Court of India vide petition no.CA/8350/2009. The Supreme Court agreed with the decision of the KSERC vide order dtd 20/02/2020. The appellant tariff was changed with effect from 12/2007 LT VII A and billed in this tariff up to 03/2010. As the division bench order was in favour of the self financing Institutions, the tariff of the appellant has been reverted back to LT VI A. Then the Licensee has raised the bill for the undercharged tariff from 05/2010 to 07/2020 amounting to Rs. 25,59,332/-. This includes the principal amount of Rs. 14,40,760/- and the interest amount to Rs.11,18,572/-. The under charged bill was raised by the Licensee as per regulation 134 of the Supply Code 2014.

134. Under charged bills and over charged bills. -

(1) If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill.

(2) If, after payment of any bill, it is established that the licensee has overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate as on the date of remittance of such excess amount.

(3) The licensee may refund such overcharged amount along with interest at bank rate as on the date of remittance of such overcharged amount, by way of adjustment in the

three subsequent bills and if the adjustment is not possible in the next three bills, the licensee shall refund the balance amount in full by cheque.

The mode of recovery of arrears is described in the regulation 136 of the Supply Code 2014

136.Recovery of arrears and its limitation. -

(1) The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due.

(2) The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice.

(3) No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied.

Here in this case, the Licensee has charged the arrear amount or under charged amount with interest. The principal amount is charged for 10 years and two months. The appellant had objected the charging of the arrear for this long duration as per the Section 56(2) of the Electricity Act 2003.

56.(2) *Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

The Licensee had not charged as per the revised tariff only due to order of Division bench of Hon'ble High Court of Kerala favoring the Self Financing Institutions. The appellant was not a party to the case, however as per the order of the High Court the tariff VI A was maintained till the order of Hon'ble Supreme Court dtd 20/02/2020. As this was under litigation, the Section 56(2) was not applicable and the Licensee had the Liberty to charge the arrears for the full period.

Then the question arises the charging of interest is justifiable or not? The interest is applied only for the belated payments as per the regulation 136 from the date on which such payments became due. The payments became due only on raising the bills. Here it is noted that the interest charged for the difference in tariff with effect from 05/2010, considering this as belated payment. As the bills were not raised, there was no due date and hence no delay in making the payment. What ever bills raised by the Licensee is paid by the appellant. Further there is an order of Hon'ble High Court of Kerala dtd 14/01/2026 in the WP©/11281/2023 between KSEBL and Sister: M. Prasanthi which was a similar case. The Licensee had challenged the order of

Ombudsman permitting only the principal amount and disallowed the interest charged in the High Court of Kerala. The Hon'ble High Court of Kerala had agreed with the decision of Ombudsman.

The said order of the CGRF was challenged before the State Electricity Ombudsman, which allowed the appeal filed by the consumer, finding that no amount was due from the consumer till the bill was raised. It is stated that the bill was issued following the Supreme Court judgment, along with a claim for interest. Since no bill was issued to the consumer before the invoice was raised after the Supreme Court judgment, the Ombudsman rightly found that there is no amount due from the petitioner for demanding interest. The finding of the Ombudsman warrants no interference for more reasons than one. Firstly, the consumer herein was not party to any litigation, and therefore, there was no embargo on the Board for demanding the appropriate tariff from the consumer at any point in time. The Board having failed to do so, raised the invoice only after the Supreme Court judgment. Under Regulation 134 of the Kerala Electricity Supply Code, the Board is entitled to demand short assessment charges without interest.

Under such circumstances, the claim for interest along with short assessment charges was clearly wrong, as there was no bill defaulted by the consumer before the issuance of the invoice in question. Under such circumstances, I find that the Ombudsman calls for no interference in a judicial review.

In the case in hand also the appellant was not a party to the litigation. The Licensee would have billed the consumer as per the tariff order of KSERC. But the licensee has raised the bill only on 20/11/2020.

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 bill raised by the Licensee for Rs.25,59,332/- is quashed herewith.
2. The Licensee is permitted to charge only the arrears without interest which is Rs. 14,40,760/-
3. The appellant is liable to pay the principal amount which is Rs. 14,40,760/-.
4. The Licensee shall permit the appellant to pay the amount in 12 monthly installments
5. No other costs sanctioned.

ELECTRICITY OMBUDSMAN

No. P/022/2026/ dated: 15/06/2026.

Delivered to:

1. Sri. Muralidharan, Manager, Kadambur English Medium School, Kadambur P.O, Kannur(dt)-670633
2. The Assistant Executive Engineer,Electrical Sub Division,KSEBL, Chovva, Kannur (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, Vydyuthi Bhavanam KSE Board, Gandhi Rd, Kozhikode - 673032