

THE STATE ELECTRICITY OMBUDSMAN

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REVIEW PETITION No. R.P/003/2022

IN APPEAL PETITION No: P-061/2021

(Present: A.S. Dasappan)

Dated: 13th April, 2022

Review Appellant : The Manager,
Sirajul Huda English Medium School,
Peringathoor,
Kannur Dist. – 670 675

Review Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Panoor, Kannur Dist.

ORDER

The gist of the appeal petition preferred by the appellant / review appellant before this Authority is as follows:

The appellant is the General Secretary of Sirajul Huda Educational Complex, Kuttiyadi and is running the school “Sirajul Huda English Medium School” at Peringathoor. An electric connection has been given to the school with consumer number 11168171004460 from Electrical Section, Peringathoor. The appellant’s institution is a Self-Financing Educational Institution. Following the judgement of Hon'ble Supreme Court of India in Civil Appeal No. 8350 of 2009 filed by KSEB Ltd. pertains to the tariff category, the appellant was given a short-assessment bill for Rs.1,43,509/- (Energy charge Rs.67,386/- + Surcharge Rs.76,123/-) on 12-01-2021 being the difference in tariff between LT VIA and LT VIIA for the period from 12/2009 to 31-01-2021 towards the difference in tariff between LT VIA and LT VIIA. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Northern Region for the exemption of surcharge from the electricity bill, filing OP No. 136/2020-21 and

the Forum in its order dated 13-08-2021 dismissed the petition allowing 12 monthly instalments.

Not satisfied with the decision of the Forum, the appellant filed an appeal petition vide P-061/2021 before this Authority and a decision was taken on 30-12-2021 as follows:

“Since the appellant was given the short assessment bill as per the judgement of Hon’ble Supreme Court of India and for the reasons detailed above, the appeal petition No. P061/2021 filed by the appellant stands dismissed. The order dated 13-08-2021 in OP No. 136/2020-21 of CGRF, Northern Region is upheld.”

Not satisfied with the order of this Authority in Appeal Petition P-061/2021 dated 30-12-2021, the review appellant filed Review Petition vide R.P/003/2022 with the following contention:

The period of arrear calculation is to be revised from 17-08-2009 to 01-05-2013. Moreover, the surcharge for the period from 20-02-2020 to 12-01-2021 is to be exempted from the payment.

According to the review respondent, the appellant (review) was billed under LT VI A Tariff from 12/2009 to 03/2017 which was assigned for Government and aided educational institutions. Hence, the period of arrear calculation also from 12/2009 to 03/2017, as the matter of Tariff of Self-Financing Educational Institution was under litigation. Hence the difference in energy charge is calculated and claimed only after the receipt of Hon’ble Supreme Court Judgement. There is no illegality in charging interest for the short assessment vide verdict of Supreme Court dated 20-02-2020 in the Civil Appeal No.8350/2009 and other appeals attached to the case. Thus, it is very clear that the respondent(Review) acted only with the law laid by Hon’ble Supreme Court. The judgment of Hon’ble Supreme Court is binding on the Appellant(Review) since he is representing a Self-Financing Educational Institution.

Issue of notice to the appellant was delayed due to the Covid pandemic situation during which period, notices could not be served and generally

consumers were allowed deferring of payment of dues and later the KSEB Limited decided to grant installment facility for remittance of dues.

An online hearing was conducted on 16-03-2022 with prior intimation to both the review appellant and the review respondent. Sri. Mohammed Ashraf attended the hearing for the review appellant and Smt. Sujatha, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Panoor attended the hearing for the review respondent.

The appeal petition filed by the appellant vide P061/2021 was disposed of by this Authority upholding the decision of the Consumer Grievance Redressal Forum, Northern Region in the petition filed by the appellant before the Forum vide OP No. 136/2020-21.

The Forum dismissed the petition allowing 12 monthly instalments for the remittance of the bill amount. The contention raised by the review appellant is to revise the period of assessing the arrear amount and to exempt the surcharge from the date of judgement of Hon'ble Supreme Court of India to the date on which the notice was served on by the review respondent as per the judgement. But the review respondent revealed that the arrear bill was prepared in the period of remittance under LT VIA tariff and demand notice was delayed due to Covid-19.

The request of the review appellant in the review petition was for order permitting the appellant for remitting the short assessment towards the difference in tariff rate of LT VIA and LT VIIA, limiting the period of two years from 05/2011 to 04/2013 without any surcharge or interest. The appeal petition P-061/2021 was analyzed by this Authority on the strength of the judgement of Hon'ble Supreme Court of India dated 20-02-2020 in Civil Appeal No. 8350/2009 filed by KSEB Ltd. In the review petition, nothing is pointed out which escaped from the notice of this Authority while disposing the appeal petition. The review jurisdiction is limited to rectify a mistake or an error, which is apparent on the face of records and it cannot be used as appellate jurisdiction. In this background, this Authority did not find any reason to intervene the order already issued.

Decision: -

In view of the above discussions, I hold that review petition is not maintainable and hence, rejected.

Having decided as above, it is ordered accordingly.

ELECTRICITY OMBUDSMAN

R.P/003/2022/ _____ dated _____.

Delivered to:

1. The Manager, Sirajul Huda English Medium School, Peringathoor, Kannur Dist. – 670 675
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Panoor, Kannur 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.