

**THE STATE ELECTRICITY OMBUDSMAN**

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**APPEAL PETITION No. P/079/2022****(Present: A. Chandrakumaran Nair)****Dated: 20<sup>th</sup> December, 2022**

Appellant : Sri. Basid Chelakkod,  
Chelakkod House,  
Chungam College Road,  
Feroke College. P.O.,  
Kozhikode Dist. 673632

Respondent : Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Feroke, Kozhikode Dist.

**ORDER****Background of the case:**

The appellant is the owner of a small residential building, which is very old tiled roof having two rooms at Ramanattukara. The appellant obtained a domestic connection during 2012 and bimonthly bill amount was between Rs.65/- to Rs.100/- and increased to Rs. 250/- to Rs.300/-. This house was rented out for residing the staff of a borewell contractor. The Licensee has changed the tariff to VIIA w.e.f. 13-02-2014. This was not known to the appellant. The repeated request of the appellant was not heard and not changed to domestic tariff. Appellant was issued with bill for Rs.32,790/- for the period from 04/2020 to 06/2022. The appellant made last payment on 24-09-2020. The meter readings were not taken for the months 4/2020, 6/2020 and 08/2020 due to Covid-19 pandemic. The reading was taken on 10/2020 and the consumption recorded was 2558 units. The consumption was divided into 4 bi-months and bill is prepared accordingly. The supply was disconnected on 27-11-2021. The minimum monthly demand charges were also issued for 12/2021 to 06/2022. The bill for an amount of Rs.33,623/- was issued on 03-10-2022. The appellant

filed petition to the Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode and CGRF (NR) vide order dated 13-09-2022 ordered that the appellant is liable to pay the bill amount.

Aggrieved by the decision of the Forum, the appellant filed appeal petition before this Authority.

**Arguments of the appellant:**

The appellant is the owner of a small residential building having only two rooms at Ramanattukara Municipality bearing No.RKP 4/86B. The appellant has obtained a domestic connection No.116633805857 during 2012 and the bimonthly bills issued were about Rs.65/100 initially. The said tiny house has subsequently been rented out to one Mr.Ahammed Thahir, who is conducting bore well business elsewhere for staying two of his employees for a monthly rent of Rs.1500/-. Later it appeared that the bimonthly bills were increased to Rs.250/300. Of late it was informed that the tariff has been changed into LT VII A on the premise that the said building is used for running an office in the business of bore well digging, allegedly on the basis of the report of the field staff of KSEB Ltd. However, the said report was prepared without any notice to the appellant nor was the appellant or his tenant present while the field staff visited the spot and prepared the report. Though the appellant had protested and sought of a copy of the purported report of the field staff, it was not supplied to him till date. Further, the finding of the field staff that the said residential house is being for used as an "office of bore well business" is contrary to the facts, perverse and unsustainable in law as no commercial or trading activity is carried or undertaken in the house and electricity is used only for residential purpose such as for light and fan and the respondent is entitled to claim electricity charges only in accordance with the tariff applicable to domestic purpose. The repeated request of the appellant to convert the tariff to domestic LT 1A was also not found favourable acceptance by the respondent.

While so to the shock and dismay to the appellant, the respondent has issued a bill for Rs.32,790/- for the period from 04/2020 to 06/2022 on 7/10/2020. It is bewildering to see that a demand of Rs.32,790/- had been issued to the appellant with respect to the said premise. The appellant was pointed out

this figure to respondent, but did little more than agree with the appellant that "something sure is wrong". The bill had been never reviewed at any level though the appellant had made several representations to the respondent and later a petition to CGRF, Kozhikode. The appellant craves the leave of this Authority to permit him to produce the copy of the complaint given to CGRF and other representations submitted to the respondent in due course of the hearing as the file containing the same has been misplaced. The authorities of the CGRF, Kozhikode has not properly considered or appreciated the points at issue arising for consideration in the matter and had not appreciated the points in disputes in its proper prospective.

The appellant submits that the service connection is not used for any commercial purpose as alleged at any point of time. The tiny building itself is not suitable for any commercial activities. The purported report said to have been prepared by the field staff of the respondent had not even been copied to the appellant at any point of time. It is true that the tenant Sri. Ahamemed Thahir who is conducting a borewell business at Feroke College Road, Ramanattukara has allowed two of his employees to stay in the said tenanted premise. But the authorities of the KSEB cannot change a domestic connection of the premises where the house is used for staying employees of the tenant employer to commercial connection as nature of the domestic connection has never been changed.

The CGRF, Kozhikode has not exhibited any seriousness in discussing the above aspect of the matter and without going any reason or discussion, simply dismissed the matter. The CGRF ought to have note that the respondent has no case that the appellant had extracted energy unauthorizedly or had committed any malpractices or had tampered with the meter.

Nature of relief sought:

- (1) to declare that the complainant is eligible for domestic tariff 1A and that change of tariff to LT VIIA commercial is illegal and direct the respondent to revise the bill under domestic 1A tariff.
- (2) to quash the order dated 13/09/2022 of the CGRF, Kozhikode and the electricity bill issued by the respondent amounting to Rs.32,790/-.

**Arguments of the respondent:**

The date of connection is 06-10-2012 and the connection was initially effected in IA tariff. Later the petitioner requested to change the tariff to VII A for which he remitted an amount of Rs.10/- towards AF and Rs.25/- towards TF on 13-02-2014. Upon receiving the said request and payment the tariff was changed to LT VII A and it was reflected in the very next bimonthly bill issued on 04-04-2014. From 13-02-2014 onwards the petitioner has been remitting current charges in LT VII A tariff.

As submitted above, the appellant is a commercial consumer and bills are served on him bimonthly. The dispute of the petitioner is with respect to a current charge bill including arrears issued for the period from 04/2020 to 06/2022 for Rs. 32,970/-. Disconnection date of the bill was 30-06-2022.

The petitioner remitted current charges up to 02/2020. COVID-19 outbreak affected the smooth functioning of KSEBL also and the most affected was the process of taking meter readings. As a result of COVID pandemic meter readings in respect of the petitioner could not be taken in 4/2020, 6/2020 and 8/2020 during which time the pandemic was at its pinnacle. When the reading was taken in 10/2020 the total consumption for the period from 4/2020 to 10/2020 was found to be 2558 units. Since it was the total of four bi-months the said consumption was divided by 4 and the bill was prepared accordingly.

After the above billing period the consumption pattern of the petitioner is as follows.

12/2020	325 units	Rs.2690/-
02/2021	535 units	Rs.4650/-
04/2021	93units	Rs. 909/-
06/2021	0 units	Rs. 294/-
08/2021	0 units	Rs.294/-
10/2021	0 units	Rs.294/-

Since the appellant did not make any payment, the supply was disconnected on 27-11-2021.

After disconnection, bills from 12/2021 to 06/2022 were issued for minimum monthly demand charges @ Rs.294/- per month. The appellant has

defaulted payment of monthly minimum charges for the months of 08/2022, 10/2022 also.

The last payment the appellant made was on 24-09-2020 and after that the appellant though used power was not interested to remit current charges. It means for over two years the appellant did not make any payment with KSEBL.

The bills are issued as per the meter reading of the consumer. The meter installed in the appellant premises is working properly.

On receipt of the current charge arrear bill, the appellant filed a petition vide OP No.28/2022-23 before the CGRF, Kozhikode. The said petition was dismissed with a direction to the appellant to remit the current charge bill issued to him

The bill issued to the appellant is only for energy consumed by him and the appellant has responsibility to remit the amount. It is submitted that the bills have been prepared as per the recorded consumption data in the energy meter and as per the billing procedure. This petition has been filed on an experimental basis and without any merit.

The appellant has been remitting current charges in LT VIIA tariff ever since 13-02-2014 and therefore the appellant's contention that he is not now willing to remit the current charges in LT VIIA tariff is baseless and does not have any merit.

In view of the above facts, this Authority may be pleased to dispose of the OP with directions to the appellant to remit the electricity bill issued to him for Rs.32,970/-.

**Appellant's version on the arguments of respondent:**

Except to the extent which are specifically admitted hereunder the appellant denies all allegations and claims set out in the statement filed by the respondent in the statement dated 9/11/2022.

The statement filed on behalf of the respondent is devoid of any merit and does not disclose any defense and the statement is based on manufactured and concocted facts for instant litigation. The said statement is plainly frivolous, got up and motivated to somehow justify their illegal demand.

The allegation of the statement that the appellant requested the respondent to change the tariff IA to VIIA for which he remitted an amount of Rs.10/towards AF and Rs.25/-towards TF on 13/2/2014 and that the details of payment made by the appellant that is available in Oruma software and that upon receiving the said request and payment the tariff was changed to LT VIIA and it was reflected in the very next bimonthly bill issued on 04/04/2020 are all false to the root and hence denied. These allegations are also raised in first time in the statement filed by the respondent and the appellant came to know of such an application/request for the first time through the statement filed by the respondent before this Authority on 9/11/2022. The purported statement, allegedly obtained from Oruma software and produced is got up, adding and inserting entries only for the purpose of the case. The respondent had no such reasoning for the tariff conversion when the appellant had made an application under RTI Act on 18/10/2021. In the above circumstance, mere insinuations of an application/request for tariff conversion by the appellant cannot be accepted to its face value as genuine.

At the risk of repetition, it is further submitted, in a haste to create new evidence, the respondent failed to, note that the respondent has earlier informed the appellant that the tariff has been changed into LT VII A on the premise that the said building is used for running an office in the business of bore well digging, allegedly on the basis of the report of the field staff of KSEB Ltd. When the appellant had complained that the said report was prepared without any notice to the appellant nor was the appellant or his tenant present while the field staff visited the spot and prepared the report before this Authority, the respondent has committed a volt face and got up and fabricated, purported statement of payment to suit their case to somehow justify their illegal demand. The respondent has also not produced any application/request signed by the appellant requesting for the tariff conversion.

The allegations that when the reading was taken in 10/2020, the total consumption for the period from 4/2020 to 10/2020 was found to be 2558 units are equally frivolous and no cognizance should be taken. It is bewildering to see that 2558 units were consumed when the tiny premise was locked as the sole

tenant was left to Tamil Nādu due to the nationwide lock-down during the pandemic. A demand of Rs.32,790/- had been issued to the appellant with respect to the said tiny premise having two small rooms due to the mistake committed by the officers of the respondent, and the arbitrary demand had been never reviewed at any level though the appellant had made several representations, which is nothing but irresponsibility on their part. The respondent now wants to justify the illegal demand even through manufactured documents exploiting the weakness of the appellant. Since no commercial use or activity is carried on in the house and it's premises and the electricity is used only for residential purpose such as for lights and fans, KSEB is entitled to claim electricity charges only in accordance with tariff applicable to domestic purpose.

The reliefs sought by the appellant is wholly maintainable and the defense raised in the statement filed by the respondent are on afterthought to vitiate the legitimate claim of the appellant.

Therefore, it is humbly prayed to pass an order as prayed in the above complaint, as otherwise the appellant will be put to irreparable loss, injury and hardships.

**Analysis and findings:**

The hearing was conducted on 06-12-2022 in the meeting room of PWD Rest House, Kozhikode. The appellant Sri. Basid Chelakkod was attended the hearing and on the respondent side, Sri. Reghunath. P.V., Assistant Executive Engineer, Electrical Sub Division, Feroke of Licensee was attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached 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 Ombudsman had conducted a field inspection of the site on 07-12-2022 in presence of Assistant Engineer and the appellant. The appellant Sri. Basid Chelakkod is to the owner of a very old house with two rooms. The house is a old tiled roof, which is in a dilapidated condition. This home was rented to a

Borewell contractor for residential accommodation of their staff. There is no electrical equipment or machinery other than lights and fans. There is no furniture and also the workers are sleeping in the floor. No traces of functioning any offices in this premises. The Borewell contractor has installed a small advertisement board on the wall of building. The walls are not plastered and roof tiles are in broken and partially damaged condition.

The domestic connection under tariff 1A was availed by the appellant on 06-10-2012. The Licensee has changed the tariff Suo motto on 13-02-2014 without the knowledge of the appellant. The letter of Assistant Engineer dated 12-11-2021, states “the connection has been converted to tariff VIIA under Section initiated tariff change” based on the report of field staff that this premises was using as an office of Borewell company. The Borewell company states vide their letter that their office is functioning in Feroke College Road and this premises is taken for residing their staff of other States. The respondent has not produced any document such as site mahassar or inspection report, which leads to the tariff change. It seems that the tariff change is effected by seeing the advertisement board only. No site mahassar/report was prepared and the appellant was not appraised about the tariff change. The content of the board is as follows:

FOR BOREWELLS  
HADI Borewell & Pumps  
Mob No. ....

According to the tariff order of Kerala State Electricity Regulatory Commission, the tariff LT VIIA-Commercial is applicable to commercial and trading establishments, such as:

- (1) shops, showrooms, display outlets, business houses;
- (2) hotels and restaurants (having connected load exceeding 1000 W), house boats;
- (3) private lodges, private hostels, private guest houses, private rest houses, private travellers bungalows;
- (4) freezing plants, cold storages, milk chilling plants;
- (5) shops selling confectioneries, sweetmeat, breads and such other eatables without manufacturing process;
- (6) petrol/diesel/LPG/CNG bunks, LPG bottling plants;
- (7) automobile service stations, computerized wheel alignment centres;



- (8) marble and granite cutting units;
- (9) units carrying out filtering, packing and other associated activities of oil brought from outside;
- (10) share broking firms, stock broking firms, marketing firms;
- (11) godowns of Kerala State Beverages Corporations;
- (12) photo studios/colour labs.

This small old house is not coming under any of the above category. Therefore, the decision taken by the respondent to change the tariff from IA to VIIA is not at all justifiable. The inspection by the employee of the Licensee should be transparent, fair and free of prejudice. The Section 173 of Kerala Electricity Supply Code 2014 clearly explains about the inspection.

Section 173 (1) Every inspection conducted by the licensee shall be transparent, fair and free of prejudice.

Section 173 (2) While seeking entry into the premises of the consumer, the authorised employee of the licensee shall visibly display his name tag and produce for scrutiny, the proof of identity or authorisation of the distribution licensee and shall inform the consumer of the purpose of his entry into the premises.

Section 173 (5) Every inspection shall be complete in all respects and the officer authorised to conduct inspection shall inspect thoroughly, all relevant aspects of the installation including the load connected, purpose for which electricity is being used, condition of the metering installation etc., without limiting the scope of inspection to one or two aspects.

Section 173 (6) The officer who prepares the mahazar or the inspection report shall obtain the signature of inspecting officers, officers of the licensee at site and of independent witnesses.

Section 173 (8) In case the consumer or the occupier or his representative refuses to affix his signature in the mahazar, the fact shall also be recorded in the mahazar.

The employee who recommended for tariff change has not complied with this regulation and as such the decision to change the tariff is seen to be with prejudice.

**Decision: -**

From the analysis of the arguments and the hearing, following decision is hereby taken:

- (1) Decision of Licensee to change the tariff from I (A) to VII (A) is set aside and the appellant should be in the tariff I (A).
- (2) The demand notice issued to the appellant is quashed. Prepare a revised bill as per tariff I(A) and the appellant is liable to pay the charges, if any, as per the revised bill.
- (3) The Licensee has to refund the excess charged on the tariff VII (A) to the appellant.

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

**ELECTRICITY OMBUDSMAN**

P/079/2022/ \_\_\_\_\_ dated \_\_\_\_\_.

**Delivered to:**

1. Sri. Basid Chelakkod, Chelakkod House, Chungam College Road, Feroke College. P.O., Kozhikode Dist. 673632
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Feroke, Kozhikode 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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode