

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/012/2023
(Present A. Chandrakumaran Nair)
Dated: May-08-2023

Appellant : M. Faisal
The Secretary
Kuruvattoor Grama Panchayath
Payimbra P.O.,
Kozhikode (Dt)

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEB Limited,
Kakkodi,
Kozhikode

ORDER

Background of the case

The appellant Shri: M Faizal is the Secretary of the Kuruvattoor Grama Panchayath, Kozhikode. The Panchayath availed connection for street lighting for the area under the Vellimadukunnu, Electrical Section. No billing was done by the licensee to the panchayath for the street lights for years together and hence an assessment for Rs. 2,68,913/- has been done for a period from 07/2018 to 6/2020 (24 months) and issued to the Grama Panchayath on 16/07/2020. The appellant has remitted an amount of Rs. 3,33,500/- including the surcharge of Rs. 64,587/- on 07/2022. Additional surcharge bill have been raised by the licensee for Rs. 26,387/- and this has been quashed by the CGRF. The appellant's request is to waive of the surcharge totally and reimburse the amount already paid. CGRF had allowed the waiver of Rs. 26,387/- only. Aggrieved by the decision of the CGRF, the appeal petition is filed to the authority.

Arguments of the Appellant

1. A demand notice was issued from Electrical Section, Vellimadukunn, Kozhikode (Dist.) showing that there is an amount of Rs. 268913 /- to be paid as electricity charges for the period from July 2018 to June 2020.

An application was made to CGRF, Kozhikode to exempt the Panchayat from payment of this amount, as demand notice for the payment of amount was not available in their office during the said period. CGRF ordered that the demand for a period from 07/2018 to 06/2020, Rs. 268,913/- which was to be paid to the Vellimadukunn, Electricity office is legally valid and should be paid by the customer. Based on that, a letter was received from KSEB Vellimadukkunnu, Electrical section to pay electricity charges of Rs. 268913 and including surcharges (64587) totaling Rs. 333500/-. The amount including the surcharge amount had to be paid because the Assistant Engineer Vellimadukunn Electrical section informed that if the said amount is not paid, the amount will be increased again. On the basis of the letter NO/BB/ST.LIGHT received from KSEB Vellimadukunn Electrical section dated 27.07.22, demanding additional surcharge amounting to Rs. 26,387/-, then approached to CGRF to waive off this amount and also to allow refund of Rs. 64587 paid earlier as surcharge. It is also pointed out that the status of disputed bills is changed from the date of filing of CGRF and hence the paid bill amount has been adjusted to the short assessment amount first prepared and what was shown in the letter is not applicable to the Panchayath and the issues related to the software of the electricity office are also the subject of charging the surcharge amount.

2. On the basis of approaching the Consumer Grievance Redressal Forum, OP No. 76/2022-23 order was issued. In the said order it is pointed out that the panchayath has been exempted from paying the surcharge amount of Rs. 26387/-. However, it is humbly prayed for a favourable order to cancel the surcharge amount of Rs. 64587 paid as per letter from Vellimadukunn Electrical Section. It is also pointed out that on 23.02.2022, the appeal was submitted to the Ombudsman through registered post, but due to the fact that he was instructed that the necessary documents were not submitted along with the appeal petition, there was delay in filing the appeal.

Arguments of the Respondent

1. The back assessment bill of Rs. 2,68,913/- was issued to the Secretary Kuruvattoor Grama Panchayath on 16/07/2020.

The bill was issued since the panchayath was not remitting payment for the lighting of street lights for the area within the boundary of Electrical Section, Vellimadukunnu. This anomaly was identified in the audit of RAO held for the section office.

2. As per the audit report of RAO, detailed physical inspection of un-metered street lights were conducted in the panchayath area within the boundary of Electrical Section, Vellimadukunnu. On verification with the details of Electrical Section, Kakkodi, it is found that these connections are not being charged in their bill. In order to recover the loss incurred to KSEBL, the same is assessed in burning hours for 24 months i.e.. for 2 years as the actual installation date of the street lights are not known. The assessment details are furnished below.

Type of Lamp	Wattage	Quantity	Calculation
CFL Double tube	18W	191	191x2x29x24=265872
CFL Single Tube	22W	3	3x35x24=2520
Fuel Surcharge			521
Total			268913/-

3. The bill of back assessment was issued on 16/07/2020. Due date was 26.07.2020. Against this demand, the petitioner approached Hon'ble CGRF, Kozhikode on 15/10/2021 (OP No.58/202 1-22) and order issued by the Hon'ble Forum had been against them. The initial surcharge stated in the petition is due to the delay made by them. As per the regulation 133. Appropriation of the amount received from the consumer shall be adjusted in the following order of priority

- 1 Interest on electricity duty arrears
- 2 Electricity duty arrears
- 3 Interest on electricity charge arrears
- 4 Electricity charge arrears.
- 5 Dues of current month.

4. Even though the bill was issued during 07/2020, they approached the Forum only during 10/2021. KSEBL was issuing regular bills from 8/2020 onwards and they were initially not paying them. They started payment of regular bills only from 04/2021 onwards.

The regular payment made by the petitioner from 04/2021 to 11/2021 was credited against the back assessed demand of Rs.2,68,913/- and the petitioner was not aware of this. When the complaint was registered in the Forum, the back assessed amount was put in dispute and then the paid amount was credited against the dues from 03/2021. After receiving the order from the Hon'ble Forum, the bill put under dispute was revoked and the remaining calculated surcharge was informed to them. In the order from Hon'ble Forum, there had been no mention over the surcharge to be realized from the petitioner and hence the remaining surcharge was demanded. But the payment of surcharge was not mentioned in the order No. 58/2021-2022 but a total of Rs.333500/- was paid to KSEB on May 2022.

5. The details of demand and payment are as follows.

Consumer Number 1166058026654

Back assessment bill amount	Rs.2,68,913/-
Bill date	16.07.2020
Due date	26.07.2020
Date of payment of bill	13.06.2022
Surcharge for the period 26.07.2020 to 13.06.22	Rs.90974 (268913 x 18 % x 686 days/365)

Amount quashed by Honourable CGRF on 10.01.2023	Rs. 26,387/-
Balance surcharge amount	Rs. 64,587/-
Amount paid on 13.06.22	Rs. Rs.333500/- (268913 + 64587)

6. Honourable Forum quashed the demand for surcharge of Rs.26,387/- as per the order dated 10.01.2023 (OP No. 76/2022-23). Sanction received for compliance of the order.
7. Now Sri.M.Faizal, The Secretary, Kuruvattoor Grama Panchayath, Payimbra P.O.Kozhikode approached the Honorable ombudsman for quashing the amount of Rs.64587/- paid on 13.06.2022 as surcharge for the period of 26.07.2020 to 13.06.22. In its verdict of honourable CGRF it is assessed that the omission of surcharge can only be given for the period of addressal of complaint by the forum.
8. In view of the above facts, I request your good self to dismiss the petition being filed by the petitioner.

Analysis and findings

The hearing of the case was conducted on 27/04/2023 at 11:30 am in the office of the State Electricity Ombudsman. The respondent; AEE Kakkodi Section attended in time and presented their arguments. The representative of the Respondent has reached the office of the Ombudsman only at 2:30 pm. However, opportunity was given to the appellant to present their arguments.

The Kuruvattoor Grama panchayath has provided street lights by getting power supply from Electrical Section Vellimaukunnu with consumer number 1166058026654. The power charges was not billed by the Licensee (KSEB) and the same was not paid by the panchayath. The RAO has conducted a physical inspection of unmetered street lights and found that energy charges of the street lights were not billed and not paid. There are total 194 Nos of street light fixtures are there in which 191 are of 18 w double tube CFL and 3 numbers are of 22w single CFL fittings. The date of connection is not known to either panchayath or licensee and hence the period of consumption is not known. The consumption is calculated for a period of 24 months. The back assessment bill issued on 16/07/2020 and the due date was 26/07/2020.

The section 136 of Kerala Electricity Supply Code 2014 states about the recovery of arrears.

136(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”.*

136(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”.*

136(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”.*

The regular bills are raised since 16/07/2020. The appellant made the payment of Rs. 3,33,500/- on 13/06/2022 which consists of back assessment amount Rs. 2,68,913/- and the surcharge Rs. 64,587/-.

The section 133 of Supply Code 2014 specifies about the appropriation of amounts received. 133 *“All payments made by the consumer shall be adjusted in the following order of priority: - interest on electricity duty arrears; electricity duty arrears; interest on electricity charge arrears; electricity charge arrears; dues of current month”.*

The panchayath has complained to CGRF, Kozhikode only on 15/10/2021.

The payment was made on 13/06/2022 which is after a lapse of 686 days and the petition was under the consideration of CGRF for about 160 days. The surcharge waiver is applicable only when the case is pending in CGRF, and the surcharge for balance period is payable.

The CGRF has already considered the exemption of surcharge for the period when the case was pending with CGRF. The surcharge is charged by the licensee for the delayed payment to compensate the loss due to the delayed payments and the rate of surcharge is as approved by the Kerala State Electricity Regulatory Commission. The appellant has not acted in time either for making payment or for filing the petition about the dispute. The delay from the part of the appellant is the only reason for the surcharge.

Decision

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

1. I hereby agree with the decision of CGRF.
2. The case is disposed.
3. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/012/2023/

dated:

Delivered to:

1. M. Faisal, The Secretary, Kuruvattoor Grama Panchayath, Payimbra P.O., Kozhikode (Dist.)
2. The Assistant Executive Engineer, Electrical Sub Division, KSEB Limited, Kakkodi, Kozhikode.

Copy to

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Gandhi Road Kozhikode- 673011.