

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/015/2024 (Present A. Chandrakumaran Nair) Dated: May-24-2024

Appellant : Smt. Theressia Thottathil,
Sr. Superior, St. Mary Leuca Convent,
Pallippuram P.O., Alappuzha Dist.- 688541

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Ltd,
Poochakkal, Alappuzha (Dist)

ORDER

Background of the case

The appellant Smt. Theressia Thottathil is the Sister Superior of St. Mary of Leuca Convent, Pallippuram under the Poochakkal Section of the licensee KSEBL. They have availed a power connection for their convent with connected load 7.461 kw under the tariff LT VI A. The appellant has requested to the licensee to change the tariff from VI A TO I A domestic as this building was utilized as the home of Nuns. The licensee has examined and changed to LT I A with effect from 25/05/2023. The anti power theft squad had inspected the premises on 13/12/2023 and found that the tariff applicable should be LT VI A and also found that the actual connected load was 12.011 kw. Then a short assessment was prepared for Rs. 5678/- and served them as demand notice. The appellant is contented the decision of the licensee in changing the tariff from I A to 6 A and filed petition to CGRF. CGRF issued order dated 20/02/2024 on completing the procedural formalities. Aggrieved with the decision of CGRF, this appeal petition is filed to this authority.

Arguments of the Appellant

The complainant herein is the Sister Superior of St. Mary of Leuca Convent, Pallippuram, having Electric Consumer No.1155147024346. The convent was originally granted Electricity Tariff under LT-VIA. The said convent is a residential place of Nuns of the Congregation. The said place is not used for

any other purpose. Therefore, the complainant is entitled to electricity tariff for domestic purpose. This is not a place used for any religious worships. No Chappal for public place of worship is attached to the said Convent. Except the Nuns residing there nobody else have access to the said Convent. It is a private place of residence.

Section 62 (3) of the Kerala Electricity Act, 2003 states that appropriate commission shall not, while determining the tariff under this Act show undue preference to any consumer of electricity but may be differentiate according to the consumers load factor, power factor, voltage, total consumption of electricity during a specific period order the time at which the supply is required or the geographical [position of any area, the nature of supply and the purpose for which the supply is required.

The Electricity Tariff is to be fixed for the purpose for which the electricity is used. It is submitted that the said building is used only as a resident of the Nuns. Therefore, the complainant submitted an application before the Electrical section for changing the tariff from LT-VIA to LT-IA. The officers of the Kerala State Electricity Board conducted inspection in the premises of the complainant and having convinced that the said building was used only for the purpose of residential use, the tariff under LT-IA was assigned on 25.05.2023 and the subsequent bills were issued under the new tariff. It is submitted that on 13.12.2023 the officers of the Electrical Section Poochakkal along with the Anti Power Theft Squad (APTS) jointly inspected the premises of the complainant and prepared mahazar stating that the applicable tariff for the complainant is LT- VIA and not LT-IA and therefore, issued a short assessment bill of Rs.5695/- and re-fixed the tariff of the complainant as LT-VIA.

As per schedule of Tariff and terms and conditions for retail supply of electricity by the Kerala State Electricity Board Limited and all other licensees with effect from 01.11.2023 to 30.06.2024 made applicable vide Order dated 31.10.2023 in OP.No.18/2023. LT-VIA is applicable to Centre of Religious Worship such as Temple, Mosque and Churches, Institutions Imparting religious educations Monasteries and Convents. It is most humbly submitted that the Convent of the complainant is not a place of worship or an institution imparting religious education. It is used as a residence of Nuns living there. Therefore, the only tariff that can be issued to the complainant's building is for domestic purpose.

As per the above tariff order LT-I tariff is applicable for supply of electricity for domestic purpose both single and three phase. The complainants are using the electricity, connection only for the purposes mentioned in LT-I. Therefore, the findings of the APPS is wrong and therefore, the short assessment bill will not stand. The complainant raised those grounds before the Consumer Grievance Redressal Forum. But contentions raised by the complainant were not considered or answered in the No. CGRF-CR/OP

No.76-2023- 24-482 dated 20.02.2024 of the CGRF. The CGRF stated in its order that a sign Board was placed before the building of the complainant stating that it is a convent. It is most humbly submitted that it is for the purpose of identifying the building that such a board is placed. There is an Un-Aided school in the same premises. Both the convent and the school have same entrance. The school having a separate electricity connection. It is reiterated that the Convent building is used only for the residence of the Nuns.

The CGRF stated in its Order that the complainant failed to produce any proof that no religious worship is going on in the said building. It is humbly submitted that it is general law that no person shall be call upon to prove a negative fact. Therefore, the reasons stated in the Order No.CGRF-CR/OP No.76-2023-24-482 dated 20.02.2024 is unsustainable and against natural justice. Therefore, it is liable to be quashed. In the above circumstances is it most humbly submitted that the short assessment bill dated 18.12.2023 issued by the Kerala Electricity Board Limited may be quashed and the Order No.CGRF-CR/OP.No.76-2023-24-482 dated 20.02.2024 may be quashed and Direct the Kerala State Electricity Board Limited to allot LT-IA Tariff to the Complainant.

Arguments of the Respondent

Consumer number 1155147024346 in the ownership of Sister Superior,St. Mary of Louca convent pallippuram was in domestic tariff with effect from 25-5-2023 with connected load 7460 w. The Anti power theft squad of KSEBL alongwith the staff of Electrical Section Poochakkal inspected the convent on 13-12-2023 and found out the following irregularities

1. The convent was given LT 1 (domestic tariff)
2. The actual load at the time of inspection was 12011 watts

Hence a mahassar has been prepared and a short assessment bill of Rs 5698/-was prepared by assigning 6 A tariff to the convent. Since the officials of Elecrical section Poochakkai had inspected the premises on 25-5-2023, the additional load as well as tariff correction was taken into account only from the bill of 7-2023 and also as the voluntary disclosure scheme for connected load was ongoing, no penal charges for unauthorised additional load was assessed to the consumer.

Short assessment bill revising the connected load and tariff from the regular CC of 7-2023 for the tune of Rs. 5698 (Rupees Five thousand six hundred and ninety eight only) was issued to the consumer giving thirty days time and showing the appeal provision on 20-12-2023. Against the bill, the consumer approached Consumer Grievance Redressal Forum,Ernakulam vide OP NO 76/2023-24 and Consumer Grievance Redressal Forum in their order dated 20-2-2024 disposed the petition filed by Sister Superior,St. Mary of Louca convent pallippuram,confirming that tariff applicable to

convent is LT VI A. Classification of consumer and tariff is as per section 30 of Kerala Electricity Supply Code 2014 .Section 30 of supply code is as follows.

1. The commission may classify and reclassify consumers into various traiff categories from time and determine tariff for different categories of consumers.
- 2.No additional category other than those approved by the commission shall be created by the licensee.
3. No additional charges other than those approved by the commission shall be levied on the consumer.

Tariff Order BO No 427/D(T)/2023/KSERC.Tvm dated 31-10-2023 is as follows LT-VI General (A)LT -VI(A)- The tariff under LT VI(A) category is applicable to i)Government or Government aided educational institutions, libraries and reading rooms of government or Government aided educational institutions. ii) Educational institutions administered by the Government such as LBS,HIRDI, CAPE etc. iii) Primary health centers, dispensaries and hospitals under the central Government or State Government or Local Self Government Institutions.X-Ray units, laboratories, blood banks, mortuaries and such other units attached to such primary health centers, dispensaries and hospitals, blood banks of IMA, Poly clinics under Ex-servicemen Contributory Health Scheme (FCHS). iv)Centers for religious worship such as temples, mosques and churches, institutions imparting religious education, monasteries and convents.

The above said premises is a convent and the a name Board which is placed in front of the Convent clearly specify that the building is a convent.The tariff applicable to the convent as per the above said tariff order is LT VIA.

As per Regulation 134 of Kerala,Electricity Supply Code 2014- 'if the licensee establishes either by review or other 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 30 days shall be given to the consumer for making payment of the bill'. Hence as the licensee realized that the tariff given to the above consumer is wrong, a short assessment bill amounting to Rs 5698/-is issued to the consumer giving 30 days to make the payment. Being considered the aforementioned facts, it is most humbly prayed this respondent to dismiss the petition. Hence I may request that necessary orders may kindly be issued to realise the above short assessment amount from the consumer.

Analysis and findings

The hearing of the appeal petition was conducted on 21/05/2024 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 appelliant Sr. Theressia Thottathil, her representative Adv. Sri. Joshy P.O., and respondents Smt. Letha S., Asst. Executive Engineer,

Electrical Sub Division, KSE Board Ltd., Poochakkal and Sri. Shalimon M.G.,
Asst. Engineer, Poochakkal.

The convent named St. Mary of Leuca Convent of Pallippuram, is a consumer of the Poochakkal Electrical Section of the licensee. The appellant is the sister superior who is the administrative head of this convent. There is an unaided school having classes from 5th standard to 12th standard under CBSE syllabus. There is two service connection one for the school and the second is for the convent. The convent is constructed for housing the nuns in which most of them are the teachers of this school, Both the connection was under the tariff LT VI A. The sister superior had applied to the licensee to change the tariff of convent from LT VI A to LT I A as the purpose this service connection was for the housing of nuns. The licensee had inspected the premises and changed the tariff to LT I A with effect from 25/05/2023. They were making the payment as per the bill issued by the licensee regularly without fail. Then they have installed solar plant with 9 kw capacity which is grid interactive solar plant. The excess power imported to the Grid is wheeled and used for the consumption of the school. The tariff change is executed as per the regulation 98 of the Kerala Electricity Supply Code 2014 which states as below

98(1) *“If a consumer wishes to change his consumer category, he shall submit an application to the licensee in the format given in Annexure - 10 to the Code and the licensee shall process the application as per the relevant provisions of the Code”.*

98(2) *“The licensee shall conduct site inspection within seven days from the receipt of application and record the meter reading at the time of inspection”.*

98(3) *“If on inspection, the request of the consumer for reclassification is found genuine, change of category shall be made effective from the date of inspection and a written communication shall be sent to the consumer to this effect within fifteen days of inspection”.*

98(4) *“Arrear or excess charges if any shall be determined based on the actual period of wrong classification and the account of the consumer shall be adjusted accordingly”.*

98(5) *“If the actual period of wrong classification cannot be ascertained reasonably, the period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter”.*

98(6) *“If the licensee does not find the request for reclassification genuine, it shall inform the applicant in writing, giving reason for the same, within seven days from date of inspection”.*

98(7) *“For the period in which the application of the consumer for reclassification is pending with the licensee, the consumer shall not be liable for any action on the ground of unauthorized use of electricity”.*

The tariff change from LT VI A to LT I A was granted after the due inspection and the findings that the request was genuine. On 13/12/2023 the APTS along with officials have conducted inspection and found this is a convent and hence the tariff applicable should be LT VI A and also found that the connected load is increased to 12.011 kw. A site mahazzar was prepared in the presence of consumer. Accordingly the charge applicable for the tariff change from 25/05/2023 to 13/12/2023 was worked out to Rs. 5698/- as per regulation 134 of the Kerala State Electricity Supply Code 2014 and issued as a demand notice.

134(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”.*

In the tariff order issued by the Kerala State Electricity Regulatory Commission, which is published on extra ordinary Gazette there is tariff under LT VI A which is only applicable to convents.

LT-VI General (A)LT -VI(A)

The tariff under LT VI(A) category is applicable to;

- i. Government or Government aided educational institutions, libraries and reading rooms of government or Government aided educational institutions.
- ii. Educational institutions administered by the Government such as LBS,HIRDI, CAPE etc.
- iii. Primary health centres, dispensaries and hospitals under the central Government or State Government or Local Self Government Institutions.X-Ray units, laboratories, blood banks, mortuaries and such other units attached to such primary health centres, dispensaries and hospitals, blood banks of IMA, Poly clinics under Ex-servicemen Contributory Health Scheme (FCHS).
- iv. Centers for religious worship such as temples, mosques and churches, institutions imparting religious education, monasteries and convents.

The sub clause (iv) is clearly mentioned that this is applicable for monasteries and convents.

The definition of convent is *“A christian community of nuns living together under monastic Vows”*. Then another definition is *“House of religious order or congregation or establishment of nuns”*

Appellant argued that this premises is only used as the home of the nuns and not used for any other religious purpose. The tariff is to be as per the purpose of use of electricity. Here the purpose is for the house of nuns, the domestic tariff only is to be applied. However as the tariff order is very clear that the convent is to be charged in LT VI A.

Here the licensee has made a mistake in changing the tariff from LT VI A to LT I A. The official who has inspected the premises and recommended for tariff change has violated the procedure and the tariff order which is to be viewed seriously. The applicant has got an impression that their actual tariff would be LT I A.

Another point mentioned by the appellant, is that when the solar plant is commissioned there electricity bill is only for fixed charge as the power exporting is more than importing. Then the fixed charge payable is more than that of domestic tariff as it is based on the connected load. The fixed charge was much less when it was under LT I A. This also a concern for them on the change of tariff.

The appellant is also agreed that the premises is used for residence of the nuns and they are failed to produce any document stating that this is not utilized as the convent. As such it is to be concluded that the premises under the dispute is a convent and hence tariff LT VI A is to be applied.

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 tariff applicable for the appellant is LT VI A.
2. The appellant is liable to pay the short assessment amount demanded by the licensee.
3. The licensee shall not charge any surcharge over this amount.
4. The appellant has to apply for the regularization of enhanced connected load in compliance with the regulation.

ELECTRICITY OMBUDSMAN

No. P/015/2024/_____ dated: 24/05/2024.

Delivered to:

1. Smt. Theressia Thottathil, Sr. Superior, St. Mary Leuca Convent, Pallippuram P.O., Alappuzha Dist., Pin- 688541.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Poochakkal, Alappuzha (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, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.