

**THE STATE ELECTRICITY OMBUDSMAN**

D.H. Road & Foreshore Road Junction, Near Gandhi Square,

Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

[www.keralaeo.org](http://www.keralaeo.org) Email: [ombudsman.electricity@gmail.com](mailto:ombudsman.electricity@gmail.com)

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**Appeal Petition No. P/035/2024  
(Present A. Chandrakumaran Nair)  
Dated: 30-07-2024**

Appellant : Sri. K.N. Vijayan  
Manayil House,  
S.A. Road, Vytilla  
Ernakulam (Dist.)

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division  
KSE Board Limited, Pala,  
Kottayam Dist.,

**ORDER**

**Background of the case**

The appellant Shri. K.N.Vijayan is the son and legal heir of Shri.K.Narayana Kurup who was the consumer of consumer number : 1156247003265. This was a 3 phase industrial connection with tariff LT IV and connected for an industry named as Rubber Footwear Industry situated in Pala. The power was connected in 1972 with connected load 68 Kw. The industry was functioned from 1972 to 1982 and the electricity charges was regularly paid.The KFC has attached the industry on 06/09/1982 and was closed during Sep 1982. KFC has released a portion of land during 2000, and this land have been sold out and dues of KFC was cleared. The electric connection was disconnected due to arrears and the amount of arrears up to 4/2003 was Rs. 2,90,149/-. The Licensee has permitted for re connection through a special order and reconnected on October 2003. The licensee has sanctioned instalment facility (20 installments) to clear the arrears. The arrear was not remitted. Then the industry was closed during 2004 and the power connection was dismantled on 17/07/2004. The total arrear at the time of dismantling was Rs. 3,31,994/-. KSEB has initiated Revenue, recovery procedure to recover the outstanding arrears. The original consumer Sri. K. Narayana Kurup expired on 19/10/2008. After the death of the defaulter consumer, the Revenue authorities stop the RR procedure and the land in the name of the consumer was divided and registered in the name of the legal heirs. The revised RR action initiated against the son of

the consumer K.N.Vijayan. The appellant filed the petition to the CGRF and CGRF disposed the case stating that the appellant is not a consumer. Then filed the petition to Hon'ble High court of Kerala vide WP ( c ) No: 3284/2020 and the Hon'ble court disposed the case vide order dated 28/05/2024 by directing him to file the petition the State Electricity Ombudsman.The court also states that the Ombudsman shall decide on the appeal without considering the question of limitation. Accordingly this petition was filed to this Authority.

## **Arguments of the Appellant**

Appellant's father, Late Sri. K.K.Narayana Kurup was running an industry named Rubber Footwear Industry situated at Pala since 1972. The said firm was a LT IV consumer under Electrical Section, Pala with Consumer No 3265. The KSEB Ltd. installed a transformer in the premises of the firm for providing electric connection. The petitioner's father availed loan from Kerala Financial Corporation for functioning of the above said industry. It is respectfully submitted that the failure in remitting dues to the Kerala Financial Corporation, they proceeded against the industry and Revenue Recovery steps initiated by the District Collector, Trivandrum vide letter No.34-0544/82 dated 17-6-2-1982 and the Thahasildar, Meenachil properties belonging to the industry on 06-09-1982 and as the result of the same, the industry was closed from that day onwards. Petitioner's father approached this Hon'ble Court by way of filing O.P.No.59/1983-F against the Revenue Recovery proceedings and for releasing the articles attached by the revenue authorities as per proceedings No.07-6838/82 dated 7-9-1982 and this Hon'ble Court as per judgment dated 4/1/1983 directed to consider and dispose of Ext.P1 representation pending before the District Collector, Kottayam as expeditiously as possible. District Collector, Kottayam vide order dated 18/3/1983 ordered to release the movable properties attached by the revenue authorities to the petitioner and his father with certain conditions and granted time till 31/5/1983 for clearing the dues. But the petitioner or his father were not in a position to comply with the conditions the industry remained closed for long time.

After a long period, on 27/7/2000, the Kerala Financial Corporation released 2.02 Ares (5 Cents) of land to petitioner's father and after disposing the said land and closed the entire loan account and they issued letter to that effect. In the meantime, petitioner's father Sri.Narayana Kurup was died on 19/10/2008. It is respectfully submitted that all the electricity bills of the KSEB were paid by the petitioner promptly when the company was working. It is further submitted that the industry has not been working from 1982 onwards and the electric connection has been disconnected by the KSEB immediately after the closure of the industry upon the request of petitioner's father.

It is submitted that the Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vydyuthi Bhavan, Pala issued a letter in on 31 October

2014 stating that Rs. 1161088/- due in Consumer No.3265 and the KSEB settling the same with interest rebate till 1/12/2014. On receiving the bill, petitioner submitted a representation before the Assistant Executive Engineer, Kerala State Electricity Board, Electrical Section, Vydyuthi Bhavan, Pala on 3/11/2104 stating that all the arrears in due to KSEB were already paid and requested to drop the recovery proceedings. But the KSEB officials have not taken any action so far. Subsequently petitioner's sister made an application on 8/3/2019 to the Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vydyuthi Bhavan, Pala under Right to Information Act seeking for the date and year of connection of Consumer No.3265, last date of consumption, any deposit made by her father for the installation of the transformer by the KSEB, the date of disconnection and the reason for disconnection. The Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vydyuthi Bhavan, Pala stated in the reply that the date and year of connection of Consumer No.3265 is not available, last date of consumption was 17/7/2004, KSEB installed transformer under Minimum Guarantee provision, date of disconnection was 17/7/2004 and reason for disconnection was nonpayment of dues in electricity charges. True copy of the reply of the Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vydyuthi Bhavan, Pala is produced herewith and marked Exhibit.P6.

Due to the non consideration of the request of the petitioner in taking any action against the belated and illegal demand of the respondents and removal of the transformer installed in the premises of the petitioner, he approached the Consumer Grievance Redressal Forum, Kerala State Electricity Board LTD-Southern Region, Vydyuthi Bhavan, Kottarakkara with all supporting documents.

The respondent filed a version stated that the petitioner was a registered consumer in the name of Sri Narayana Kurup, Kalarikkal, Kizhatrhadiyoor, Pala under Electrical Section, Pala with Consumer No 3265 under LTIV tariff. The said electric connection was dismantled on 17/07/2004 due to default in electricity charges and Revenue Recovery procedures were initiated. Then the petitioner was issued an arrear bill amount of Rs 33099/-. Since the connection has been dismantled on 17/07/2004, the Consumer of KSEB Ltd. Ltd. The petitioner is not currently a respondents also stated that the said electric connection was availed under Minimum Guarantee Scheme. So the consumer is responsible for paying the Minimum Guarantee amount. Moreover the KSEB issued a notice to the petitioner to attend in the onetime settlement programme which was conducted by the KSEB. But he had not attended. So the Revenue action has been taken by the KSEB to recover the arrear amount.

After hearing both sides the Consumer Grievance Redressal Forum, Kerala State Electricity Board LTD-Southern Region, Vydyuthi Bhavan, Kottarakkara disposed the case on the following lines "On going through the petition and other documents in the file, it is seen that the petitioner's father Sr Narayana Kurup possessed an LT IV electric connection under Electrical Section, Pala for running an industry named Rubber Footwear industry at Pala which was

started in 1972. But due to some financial crisis, the firm was closed in 1982. Then the electric connection has been dismantled by the KSEB. The petitioner also stated that when the firm was working, all the electric bills were paid promptly. But after the death of his father he was issued an arrear notice from the KSEB. Then he lodged a complaint against the bill and also requested to remove the existing transformer. Since the connection has been dismantled on 17/07/2004, the petitioner is not a consumer of KSEB Ltd. Moreover the said electric connection was availed under Minimum Guarantee Scheme. So the consumer is liable to pay the arrear amount. On perusal of the documents in the file, the Forum found that this dispute is a long pending matter. It is also seen that the Revenue Recovery steps were taken by the respondent. Moreover this electric connection was dismantled on 17/07/2004. So the petitioner is not a consumer of KSEB Ltd at present. Hence the forum sees no merit in the matter. So the forum decided to close the petition due to lack of merit. Again the petitioner made an application on 29/11/2019 to the Senior Supt. of the office of the Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vidyuthi Bhavan, Pala under Right to Information Act seeking the details of consumption of Consumer No.3265 and monthly bill and other details from 1982 January to 17/7/2004. He also seeks the details of monthly dues which claimed as principal amount and details of percentage of interest claimed. The Senior Supt. of the office of the Assistant Engineer, Kerala State Electricity Board, Electrical Sub Division, Vidyuthi Bhavan, Pala stated in the reply that they have no knowledge with regard to the above aspects except the principal amount is Rs.331994/-and interest is Rs. 123381/-and total amount due is Rs. 15,65,375/-as on 21/12/2019. Aggrieved by the Exhibit P4 demand notice and Exhibit P9 CGRF order the appellant approached the Hon'ble High Court by way filing Writ petition WP(C) 3284/2020. During the pendency of the above writ petition, approached again, before the respondents for a reasonable settlement of the claim as per request dated 27.04.2020, including for shifting the transformer from the petitioner's property. But again the Assistant Executive Engineer, Kerala State Electricity Board, Electrical Section, Vidyuthi Bhavan, Pala issued a communication No. E.D.P/R.B/3265/2020-21/1149 dated 04.12. 2020 demanding the very same amount of Rs.3, 31,994/- plus interest of an amount of Rs.3,28,680/-

But without considering the objection of the petitioner, the The Assistant Executive Engineer, Kerala State Electricity Board, Electrical Section, Vidyuthi Bhavan, Pala issued another notice through Special Messenger dated 11.07.2022 directing the petitioner to remit an amount of Rs.17,60,046/- within 15 days from the date of receipt notice. The writ petition was finally heard on 28/05/2024 and was disposed of directing the petitioner to approach the appellate authority, the Ombudsman under Regulation 130(8) of the Kerala Electricity Supply Code 2014 within 15 days.

## **GROUND**

A) The electric connection with Consumer No 3265 was disconnected on 06-09-1982 due to the closure the industry of petitioner's father and after long period the respondents claimed an imaginary amount without any basis and they themselves having no knowledge regarding claimed amount. The respondents have no knowledge with regard to the details of principal amount and interest. It is clear from the above, the respondent claim in Exhibit.P4 has no legal basis and the same is liable to be questioned. The specific case of the petitioner is that the industry of petitioner's father was closed in September 1982 and so the version of the respondents that electric connection was dismantled only on 17/07/2004 is no basis. They have no knowledge regarding any details of electric connection with Consumer No 3265. It is also very much relevant to consider the fact that the electric connection was dismantled either in the year 1982 or 2004, there is no reason for proceeding against the liability for a long period more than 40 years.

Therefore, it is most humbly prayed that this Hon'ble Ombudsman may be pleased to:

- i. Call for the record relating to Exhibit.P4, Exhibit P12, Exhibit P13 and quash the same.
- ii. Issue any appropriate order or direction directing the respondents to drop all further proceedings pursuant to Exhibit. P4, P12,P13.
- iii. Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to shift the transformer from the petitioner's property within a time frame.
- iv. Grant such other and further orders which this Hon'ble Court may deem fit in the facts and circumstances of the case.

## **The Statements of Facts Submitted by Respondant**

This statement is submitted in response to the errors found in the previously submitted statement of facts regarding Consumer Number 1156247003265. During the computerization process in the 2007-08 period, data entry errors occurred due to insufficient records for old consumers. The details previously submitted have inaccuracies. The records have been manually checked against old documents, and this statement provides the corrected information. We request the Honorable Ombudsman to condone the errors and accept this revised statement of facts. The consumer with Consumer Number 1156247003265 registered in the name of Sri. K Narayana Kurup, Kalarickal, Kizhathadiyoor, Pala under Electrical Section Pala was established during 1972. The exact date of connection is not known as the check records are beyond 50 years. It was an LT IV connection for supply power to Rubber Footwear Industry. The available records shows that the connection has a connected load of 68 KW. It was availed in 1972

as minimum guarantee scheme by installing a 150 KVA Transformer in his premises. The premise had an area of 35.85 cents (14.51 ares) in Survey No. 38/2/1 (old), Block No.50, Lalam Village, Meenachil Taluk of Kottayam District. The industry has functioned from 1972 to 1982 till KFC has attached it on 06.09.1982 and the industry was closed during 09/1982. High Court case no. OP59/1983 was regarding the KFC attachment of movable properties from the premises of Narayana Kurup. After many representations to minister and higher officials, on their interventions, KFC reduced the arrear amount and permitted the consumer to sell out a small portion of their land on 27.07.2000 around 2.02 ares to clear the dues. On clearing the dues, KFC released the attachment of the premises. Now the consumer was in a position to restart the firm. But the electric connection was disconnected due to arrears. Then the consumer approached higher officials and minister regarding the reconnection of electricity at their premises. The arrear amount till that period i.e. up to 04/2003 is Rs.2,90,149/-. It was given as 20 installments during that time by Assistant Executive Engineer. But they have not remitted the amount. They have got a re connection order with a special order and the premises was reconnected in 10/2003 with arrear pending

Even after restarting the industry, it could not flourish. So the industry was closed. So the service connection was dismantled on 17.07.2004. Having dismantled with arrears, the RR action was initiated on 05.10.2004. By this time, the Outstanding current charge arrears with KSEB reached to the tune of Rs. 3,31,994/- including the interest charges as on date.

At this juncture on 05/10/2004 KSEB had initiated Revenue Recovery (RR) procedures to recover the outstanding arrears of the above said amount from the consumer. At this time, KSEB officials made an attempt to dismantle the transformer and allied installations from the Consumer Premises. But, unfortunately the Consumer had objected the same physically, and as such the dismantling procedures could not be materialized during that time. But, the RR procedures initiated by the Revenue authorities were not at good pace during the period, and in meantime, Sri.Narayana Kurup, the defaulted Consumer expired on 19-10-2008. It may be noted that, the RR action Process was initiated against the defaulted consumer Sri.Narayana Kurup, Kalarickal, Chethimattom, Pala against the factory premises where the industry was functioned.

The premises compound comprises of 35.85 cents (14.51 arcs) of land in Survey No. 38/2/1 (old), Block No.80, Lalam Village, Meenachil Taluk of Kottayam District. But surprisingly, after the death of the defaulter consumer Sri.Narayana Kurup, the Revenue Authorities have returned the file of RR Proceedings and as such the RR Procedures came to a stand-still. But, later on perusal with the Revenue authorities, it is understood that, the above said land bearing Survey No.38/2/1 where the industry was functioned was divided and registered in the name of legal heirs of the late Sri.Narayana Kurup as a part of settlement reached in a Civil Court Forum.

The Legal heirs being, Sri.K.N. Vijayan, Smt.Geetha Sasidharan, Smt. Sheela Madhu and Smt.Pushpa. As the initial RR action initiated in the name of Sri.Narayana Kurup could not materialize, as he got expired in between the process, during 2014, again efforts were taken to initiate RR action against his legal heirs. But, as these steps were initiated by KSEB officials, his legal heirs tried all their way to evade from their responsibility in clearing the dues related to the industry functioned in that premises.

Further, they have filed many RTI queries and complaint to freeze the Revenue Recovery Process. The revised RR action was initiated against Sri.K.N Vijayan, the son of the defaulted consumer, late Sri.Narayana Kurup. It may please be noted that, in between all these times, various efforts were taken by board officials for realizing this arrear, through various OTS Schemes from 2019 to 2023. During 2019, the Executive Engineer, Electrical Division, Pala vide a registered letter dated 14-12-2019 intimated Sri.K.N Vijayan (heir of the Consumer) to avail the benefits of OTS Scheme for settling the arrears. Later, on 14-05-2020, a Personal Hearing was conducted at the office of the Executive Engineer, Electrical Division, Pala. But, no consensus reached. In OTS 2023 also, the consumer was approached to settle the arrears. But, they were not willing to settle the arrears.

Then, in 2019 they approached CGRF, Kottarakkara vide Complaint Case No.97/2019. But, the Forum disposed off his case. Then he approached the Hon'ble High Court of Kerala vide W.P.(C) No.3284/2020. The Hon'ble Court also disposed the case vide order dated 28-05-2024 by directing him to approach the State Electricity Ombudsman. Subsequently, he approached the Electricity Ombudsman. The following para wise remarks are submitted without prejudice to the above primary contention. It is admitted that the service connection with Consumer No.3265 under LT IV tariff was availed by Sri.K.K. Narayana Kurup under Electrical Section, Pala of KSEB Ltd. As admitted in the petition the industrial unit was not functioning well and there are numerous instances in which the above consumer erred in the payment of current charges. The service connection to the premises remained live up to 17.07.2004 and thereafter the same was dismantled. Since service connection remained in the premises without disconnection/dismantling the petitioner is bound to pay fixed charges for maintaining the service connection in the premises. The Hon'ble Kerala State Tariff Regulatory Commission has permitted the licensee KSEB Ltd. to settle the long-term arrears of various consumers with reduced fee for belated payments. Accordingly KSEB Ltd took earnest efforts towards realizing the arrears under various one-time settlement schemes by issuing communication to consumers who have current charges dues pending realization. The letter dated 01.12.2014 (Exhibit.P4) is an effort in this regard. The legal heirs of the registered consumer No.3265 late Sri.K.K. Narayana Kurup are trying their level best for evading their responsibility towards clearing the dues. They have filed numerous queries under RTI Act

and the respective Right for Information officers has provided details as and when required. Had there been any complaints regarding the information passed the respective petitioners should have resorted to Appellate Remedies. So far no such actions were resorted by the Applicants as such it is premature to raise the above ground by the petitioner in this petition. The KSEB Ltd on verification of books and records maintained have gone to the specific details of the system-entered arrear dues of Consumer No.3265 and produces before this Hon'ble Court the details of arrears thus worked out marked as Exhibit D1.

As per the meter reading records maintained at Electrical Section, Pala the service connection to Consumer No.3265 was dismantled on 17.07.2004. The system maintained outstanding dues 17.07.2004 is Rs.3,31,994/- and split up details were produced before this Hon'ble Court marked as Exhibit D1. The Exhibit D1 statistics clearly maintains that the dues are on account of fixed charges and current charges. There is no Minimum Guarantee dues outstanding from the consumer. The Revenue Recovery actions were initiated under legitimate grounds. In accordance with the system maintained statistics Rs.3,31,994/- was found as arrears outstanding from the Consumer No.3265. It was a laborious process to search the manually maintained ledger and Meter Reading Registers to arrive at the specific details. Now active efforts were taken by KSEB Ltd in tracing out records which were maintained 15 years back and clear details of arrears exists were traced out to the extent possible and Exhibit D1 depicts the same. The petitioner being the legal heir of the deceased registered consumer Sri.K.K. Narayana Kurup has the bounden responsibility to clear the arrears.

The consumer No.3265 has sought installment facility for the remittance of outstanding arrears up to 4/2003 for Rs.2,90,149/- and 20 installments were sanctioned to him. But the consumer failed to remit a single paisa and stalled the entire process of dismantling the service connection. Thus it is clear that the arrears of Fixed Charges accumulated only for the reason that the consumer wanted to maintain the service connection without dismantling. Numerous notices were issued to the consumer till date for clearing the dues but at no point of time the above registered consumer raised objections regarding the bonafides of the arrears. The doubts expressed by the legal heirs are only to shy away from clearing the dues. As per Exhibit D2 communication marked and produced herewith the petitioner has expressed his willingness to pay a sum of Rs.2,00,000/- towards the settlement of arrears. From the above it is clear to the petitioner that there exists arrears and the petition is filed with deliberate intention to evade responsibility to pay the arrears. On the basis of the above it is humbly prayed that this Hon'ble State Electricity Ombudsman may kindly dismiss the petition with costs to this defendant.

## **Counter arguments filed by the appellant**

All the versions of the respondents in the statement of facts are totally false, fabricated, contradictory, not maintainable under the law and hence denied except those which are specifically admitted hereunder. Even the basic details of the electric connection and claimed arrear except the consumer number, tariff, phase, and name of the consumer are false and without any documentary evidence to substantiate them. In a reply to the query under RTIA which are produced as Exhibits (Exhibit. P10 & Exhibit P (11), in the petition reveals that the date of connection, period and split up details of arrear, months pertaining to the bills, are unavailable and not known to the respondent. Also, the connected load, minimum guarantee amount, period and date of disconnection are not mentioned to establish claim. However, it is shocking to note that the date of formation of KSEB is mentioned as date of connection of electric connection and it is submitted that the company was started only in the year of 1972 creating a mortgage as mentioned in Exhibit P(3). The industry was stopped on 06/09/82, following the revenue recovery attachment and since then electricity was not used, the matter was intimated to the section office and as the minimum guarantee period was over and fully paid, after clearing the current charges for the month the service connection was disconnected permanently. As all these facts are very clear from the documentary evidences produced in the appeal petition and as there is no other ways, the respondents is trying to impose and shoulder illegally the fictitious huge arrear amount accumulated due to the non-updating of office records and serious lapses from them. Hence it is humbly submitted that no dues/ arrears is outstanding against the Consumer Number 3265 and I am not in any way bound to pay any amount under any heads viz. Current charges arrears / Minimum Guarantee Amount.

The following para wise remarks are submitted without prejudice and in the statement of facts submitted by the Respondents. The current charges up to the date of closure of the company, 06/09/1982 was paid and the matter of stop functioning of the industry was intimated to the KSEB office. A request for permanent disconnection was given during the month of 10/1982 and accordingly the service connection was detached from the premises. Hence It is submitted that the version of the respondents that the service connection was live up to 17/7/2004 is not true. Further, it is absolutely baseless, illogic and impossible under law to keep live a service connection with recurringly accumulating arrear resulting to a huge amount for a long period of more than 40 years. As per the conditions of supply 32 C (i&ii) and 34 (d) and Indian Electricity Act Section 24, service connection could not be kept without disconnection after seven days from the due date of regular current charges bill and the respondent was bound to disconnect it and if the charges remained unpaid further for six months from date of disconnection the the service connection should be dismantled after issuing 15 days' notice. Hence the argument of the respondents that the consumer

is bound to pay the Current charges/ Fixed charges as long as the service connection is deemed to be live by them is not maintainable under law and is not admissible.

On receiving the intimation regarding the OTS, the petitioner approached the office and submitted a representation explaining the facts which is produced as Exhibit P5 in the petition. As per the guidelines of the Adalat, period of arrears is to be limited to six months from the date of disconnection of the defaulted bill, but KSEB authorities were not willing to adhere the instructions to limit the period of arrear for six months from the date of disconnection of the first defaulted bill and levy only the fixed charges. This adamant stand violating the guidelines led to remain the fictitious arrear muddled for a long period. The reply to the queries under RTI Act reveals that there is no documentary proof or details regarding even the date of connection, connected load, consumption, periodical demands issued, monthly Fixed charges, energy charges and the date of disconnection and the appellant tried his best to convince the factual and errors occurred from the part of the respondent in raising the regular false demand for an erstwhile electric connection dismantled decades before. The details of arrear shown in Exhibit D1 is cooked up, fictitious and without the split ups of period and demands.. The split-up details such as fixed charges energy charges and parameters such as consumption, connected load period or details of calculation are not available from the exhibit produced. Hence the exhibit D1 has no credentials and is defective and totally false.

The basic issue is related to the current charge's arrears pertaining to Con.No.3265. Hence the respondent owes to specify the month from which the amount is due, period of arrear, connected load, fixed charges, consumption, energy charges, monthly demands, and date of disconnection before stating the date of dismantling for establishing their claim. Hence the attempt of the respondents to stick to the bogus amount by keeping a deep silence regarding all these fundamentals and making a flavor of story is only a verb in vain to conceal the lapse from their side. C) No application for availing instalment was submitted by the appellant, As there was no payment as instalment towards the claiming amount, it is baseless to picturize any commitment to pay the fictitious arrear for the sake of a non-existent instalment order.

During the OTS scheme 2023 the respondents had approached the appellant and persuaded to settle the issue by agreeing to pay Rs.200000 in lump. Being aggrieved by the prolonged difficulties, it is a fact that I expressed my willingness to settle the issue. But to uphold it as the only ground to establish the illegal claim of a bogus arrear is a short cut to run away from the facts and reality and cross the barriers of law resulting in the denial of natural justice deserving to the appellant. In the light of the aforesaid facts based on the documentary evidences submitted, it is humbly

prayed that this Hon'ble State Electricity Ombudsman may be pleased to allow the Appeal Petition..

### **Analysis and findings**

Hearing of this case P/035/2024 has been conducted in the Office of the Kerala State Electricity Ombudsman at Durbar Hall Fore Shore Road Junction Ernakulam on 11/07/2024 at 11.am. The appellant Shri. K.N.Vijayan along with Shri. Radhakrishnan attended from the appellant side. Shri.Unnikrishnan, Executive Engineer, Pala Division, Shri. Bibin G.S, AEE ESD Pala, Smt. Rajitha R.P. Nodal Officer, Electric Circle, Pala. Were attended from the Respondent's Side.

Late.Narayana Kurup was running a Rubber Footwear Industry at Pala and obtained 3 phase service connection during 1972 with connected load 68 Kw. The industry was functioning well up to 1982 and power charges were paid regularly. They have availed loan from KFC for the industry and due to the default in repayment of loan, KFC has attached the industry and the property during September 1982. KFC has released 02.02 ares of land from the attached property on July 2000. They have disposed the released land and cleared the dues of KFC and accordingly KFC has released the industry and property. The electric connection was disconnected due to arrears and arrear amount up to April 2003 was Rs. 2,90,149/-. The Licensee has agreed for the clearance of dues as 20 instalment but the consumer was not able to comply with the decision. As per the special order of the Licensee the power supply was reconnected pending arrears on October 2003. The industry could not function well and was closed during 2004. The power was dismantled on 17/03/2004 pending arrears. The total arrear amount up to July 2004 was Rs.3,31,994/-

The Licensee had initiated Revenue Recovery Procedures as the regulation 40 of the Kerala Electricity supply code 2019.

40(1) *“ Recovery of arrears relating to the previous consumer:-1)The arrears of electricity charges and other liabilities if any, in the accounts of the previous consumer of any premises shall be recovered from such previous consumer of the premises, with whom the licensee has executed the service connection agreement, and not from the purchaser or lessee or occupier of the premises.”*

40(2) *“The licensee shall, on disconnection of supply and dismantling of the service connection on account of arrears of electricity charges, determine the agreement with such consumer and shall forthwith initiate legal proceedings for recovery of arrears of electricity charges and other liabilities from such consumer and shall obtain necessary interim or final orders from the appropriate legal forum:*

*Provided that the amount of arrears of electricity charges and other liabilities finally recoverable from the consumer and the modes of recovery shall be in accordance with such interim or final orders of the appropriate legal forum.”*

40(3) *“If a purchaser or lessee or occupier of such premises requires a new connection, as the earlier connection given to the previous consumer in that premises has already been disconnected and dismantled on the ground of outstanding dues of the previous consumer, new connection shall not be denied to such purchaser or lessee or occupier of the premises provided he furnishes a deposit which shall be equal to the arrears of electricity charges and other liabilities if any, excluding interest thereon, till the licensee obtains from the appropriate legal forum an order on the recovery of arrears and other liabilities or till the licensee settles the arrears and liabilities with the previous consumer or till completion of three years whichever is less:*

*Provide that on obtaining order from the appropriate legal forum on the recovery of such arrears of electricity charges and other liabilities, or on settlement of the arrears and liabilities by the licensee with previous consumer or on completion of three years as aforesaid, the licensee shall release the entire amount of deposit furnished by such owner or lessee or occupier of the premises, along with interest at bank rate as on the date of furnishing such deposit.”*

The Revenue Authorities have returned the RR proceedings file after the death of the consumer Shri. Narayana Kurup. The property where the industry was functioned was divided among the legal heirs of the consumer and registered the petition. Then the revised PR action was initiated against Shri. K.N.Vijayan , the son of the defaulted consumer. The property was shared to three daughters and one son of Late. Narayana Kurup. Why the RR procedure initiated to only one share holder? Which was not properly explained by the Licensee.

How the power was reconnected on October 2003 without clearing the arrears. As the regulations/conditions of supply prevailing at that time the supply would have been reconnected only on payment of past dues and other arrears. This has not been adhered to..

The details of arrears worked out by the Respondent as below:

Arrears as on 11/1995	70,289/-
Arrears from 11/1995 to 04/2003(Fixed charges to 90 months)	2,19,860/-
Arrears from 10/2003 to 07/2004	43,940/-
Total	3,34,089
Less CD adjusted	2,075
	3,31,994/-

After the re connection the consumer made the regular payments from 04/2003 to 09/2003.

The details of outstanding for the period from 04/1992 to 11/1995 is shown in the statement works out to Rs.67,809/-. The outstanding up to 31/03/1992 is Rs. 2480/- and accordingly the total arrears up to 11/1995 is 70,289.20/-. The major portion of the arrears the fixed charges which is for a period from 03/1994 to 11/1995. This is only because the power supply was not dismantled during the attachment of the property by KFC.

The original consumer expired during 2008, and the property also registered to their legal heirs. There was some oversight from the Licensee in reconnecting the power without clearing the arrears. In view of this it is not justifiable to charge the surcharge /interest for the outstanding since 2004. Then both the parties have been consulted during the hearing to settle the issue. The appellant have agreed to pay the total amount outstanding at the time of dismantling. The Licensee also have been agreed to this proposal.

### **Order**

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 appellant is liable to pay Rs.3,31,994/- as the settlement amount.
2. The Licensee shall accept the above amount and close the case and withdraw the RR actions.
3. No other costs ordered.

**ELECTRICITY OMBUDSMAN**

No. P/035/2024/ \_\_\_\_\_ dated: \_\_\_\_\_

Delivered to:

1. 1.K.N.Vijayan, Manayil House, S.A Road, Vytila P.O, Ernakulam Dist.,
2. Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Pala, Kottayam Dist.,

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, 2 nd Floor, Vydhyuthi Bhavan, KSE Board Limited, Kottarakkara - 691506