

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/049/2024  
(Present A. Chandrakumaran Nair)  
Dated: 14-10-2024**

Appellant : Sri. Roy Joseph, Managing Director  
M/s.Trinity Arcade(P)Ltd, Trinity House,  
Opp.Changapuzha Park, Edappally.P.O  
Ernakulam Dist.

Respondant : The Deputy Chief Engineer, Electrical  
Circle, KSE Board Ltd, Ernakulam Dist.

The Executive Engineer,  
Electrical Division,  
Kerala State Electricity Board Ltd.,  
Thripunithura, Ernakulam Dist.

The Assistant Executive Engineer,  
Electrical Sub Division,  
Kerala State Electricity Board Ltd.,  
Vytila, Ernakulam Dist.

**ORDER**

**Background of the case**

The appellant is a consumer of the Licensee (KSEBL) under electrical section, Thrikkakara in the business of construction of residential apartments. The appellant has approached the licensee for a power requirement with contract demand of 2760 KvA for their project "Trinity world Apartments" at Chittethukara, Kakkanad. The licensee has raised the demand for transmission side development charges Rs. 60,36,120/- towards the proportionate cost incurred for the argumentation of their substation. The appellant has paid Rs. 10 lakh and balance amount of Rs. 50,36,120/- is due to the licensee. The appellant had approached the CGRF and electricity Ombudsman during 2015 and the statutory forums ordered that the appellant is liable to pay the same. Then the appellant filed the petition to Hon'ble High court of Kerala and Hon'ble Court ordered to issue the detailed estimates. Now the petition is pending in Hon'ble Supreme Court of India as the SLP filed against Judgement of Hon'ble High Court of Kerala the

WA/900/2013 and connected cases. The Hon'ble High Court of Kerala issued the order is WP ( c)/36259/2016 stating that the appellant is permitted to approach the statutory authorities if they wish. The proceeding before the statutory agencies is confined to the quantification of the amount and not the legality of the demand. The legality of the demand is subject to the final order of the Hon'ble Supreme Court. Accordingly the applicant filed the petition to the CGRF and CGRF issued order agreeing the quantification. Aggrieved by the order of CGRF, this appeal petition is filed.

## **Arguments of the Appellant**

All installations for providing 2760 KVA power to the building (Common Connection and individual connections) were approved for energization by the Electrical Inspectorate. The 1<sup>st</sup> Respondent, through its Deputy Chief Engineer had also certified the feasibility of giving supply from the existing Thuthiyoor Feeder. At that time there was spare capacity in the feeder as well as the Kakkanad Sub-Station. In addition to meeting the cost of work on the distribution side, and all the other work specifically carried out for giving connection to the Applicant's building, the licensee also demanded a sum of Rs.65,13,600/- computed at the rate of Rs.2360/-per KVA as development charges on the transmission side through a letter dated 20/10/2012 of the Deputy Chief Engineer. The above demand for Rs.65,13,600/- was subsequently reiterated in a subsequent letter dated 04/12/2014.

The applicant had approached the CGRF under Section 42(5) of the Electricity Act, 2003. The said complaint was disposed of through an order 20.07.2015 by CGRF. The Applicant had approached the Ombudsman under the provisions of Section 42(6) of the Electricity Act, 2003. After hearing both sides, the Ombudsman allowed the representation and had passed an order dated 18.12.2015, the Ombudsman had inter alia held that the respondent is required to issue a revised demand in accordance with the order dated 23/05/2011 with proper acknowledgement within a period of 30 days. 1<sup>st</sup> Respondent again sent a letter dated 15.06.2016 demanding an amount of Rs. 60,36,120/-. The Applicant again addressed the 1<sup>st</sup> Respondent through a letter dated 17.06.2016, sought clarification as to whether the demand was calculated as per the directions contained in the order of the KSERC. It is also relevant to submit that any demand raised on the Applicant has to be in compliance with the provisions of the Electricity Act, the applicable regulations, and orders of the Regulatory Commission, order of the Ombudsman. The 1<sup>st</sup> Respondent has merely kept on repeating the impugned demand. There is no case for the 1<sup>st</sup> Respondent that any work on the transmission side was done specifically for giving power to the Applicant. Furthermore, a per KVA charge has not been approved by the KSERC. In fact, the demand for per KVA charge has been deprecated.

Being aggrieved by the Respondents' repeated refusal to abide by the binding and P 6 orders of the Regulatory Commission, and the order of the Ombudsman the Circular of the 1st Respondent, the Applicant had approached Hon'ble High Court of Kerala in WPC No.24088 of 2016, which resulted in a judgment dated 20.07.2016, a true copy of which is produced herewith. The Hon'ble High Court had held as under. The manner in which the computation of the impugned demand is not disclosed. When the Ombudsman had directed the Board to issue a revised demand in accordance with the order dated 23.05.2011 in Petition No. 87/2011, there is an obligation cast on the Board to demand the charges based on an estimate prepared accordingly. There is no material to show that such a demand was made by the Respondents. Fresh demand, specifically showing that such demand has been made as per direction of the Ombudsman and the Regulatory Commission, shall be issued within a period of one month. The impugned demand was kept in abeyance until then.

The Kakkanad Sub Station had sufficient capacity at the relevant time to provide power to the two towers. The said Sub Station has now sufficient capacity to provide power to the 3rd Tower. No work was done in the substation for giving power to the initial two towers and no work is required to be done for giving power to the 3rd Tower also. There is sufficient capacity in the feeder also. It is respectfully submitted that as stated above the appellant had submitted the application for power connection during the November, 2011 and connection was issued on December, 2013, during which period no enhancement was made in concerned sub-station. The enhancement was made as per order dated 30.12.2008 and the same was commissioned during the year 2010.

Respondents 1 to 4 have been attempting to mislead the Applicant and Hon'ble High Court. The Kakkanad 66 KV Sub-Station presently had the following capacity during the subject period 3X10 MVA 66/11 Transformers of total capacity of 30 MVA. This capacity has been in position for long. A true extract from the KSEBL Power Systems Statistics for the year 2012-2013 is produced herewith and this will show that the capacity of Kakkanad Sub Station was 30 MVA during the period 2012-2013. A true extract from KSEB Transmission Asset (Details of Sub- Stations under Transmission Wing) as of 30.06.2016 is produced herewith will also show that the capacity of Kakkanad Sub Station as of 30.06.2015 was 30 MVA. A true extract from the Annual Administrative Report of KSEBL for the year 2009-10 is produced herewith and this will show that there was no upgradation or enhancement of the capacity of Kakkanad Sub Station during 2009-10. A true extract of the Annual Administrative Report of KSEB for the year 2011-12 is produced herewith and this show that there was no upgradation or augmentation of the capacity of the Kakkanad Sub Station during 2011-12.

It is understood that the last enhancement of the capacity of Kakkanad Sub- Station was completed under the Central Government Funded Scheme viz., Accelerated Power Development Reforms Program (APDRP) and the Restructured Accelerated Power Development and Reforms Programme of the Central Government (R- APDRP), under which the Central Government had funded the strengthening of power distribution system (laying of cables and capacity enhancement of sub- stations). The above Schemes involve a combination of Central Government Grant, Central Government soft loans to State Government and funds of the State Government. Under APDRP Scheme a total outlay of 833.62 crores was sanctioned for KSEB for various schemes in Kerala, which included City Scheme in Kochi. Therefore, the capacity enhancement having been undertaken under a sanctioned scheme, cannot be recovered from consumers under the provisions of the Electricity Act, 2003 and the Supply Code, 2014. The enhancement of capacity of Kakkanad Sub Station was commissioned in the year 2010, this was much before the date of application submitted by the appellant.

Furthermore, the impugned demand is bad for the reasons that There is a bar on demanding pro-rata charges on per KVA basis is clearly opposed. The Applicant cannot be burdened with the liability of a sub-station, the capacity of which was expanded under a funded scheme, for an expansion which was completed years before the application was made for electric supply. For a work which was not done specifically for giving connection to the Applicant, but as a part of a general expansion of the transmission system, which the transmission licensee is duty to undertake under the terms of the license and the applicable regulations. For the amounts claimed is not amounts charged to Distribution Profit Centre as stipulated and are denying power connection on a ground that is not justifiable under the Electricity Act 2003, the Supply Code, the applicable regulations, orders of the Hon'ble Kerala State Electricity Regulatory Commission, and the judgment of Hon'ble High Court.

Hence being aggrieved by the illegal act of the respondents, the applicant had filed writ petition before the Hon'ble High Court of Kerala which was numbered as WP (C) No:36259/2016, which was disposed of by the Hon'ble High Court vide judgment dated 20.02.2024. The true copy of the judgment 20.02.2024 in WP(C) No:4600/2012 and connected cases are produced herewith. It is submitted that the appellant had approached the Learned CGRF, Ernakulam upon the directions of the Hon'ble High Court in tune with . After detailed hearing without considering the objections raised by the appellant, the Learned CGRF had disposed of through an order dated 4/6/2024 by CGRF, Ernakulam. The true copy of the order dated 4/6/2024 in OP No. 126/2023-24 on the files of CGRF, Ernakulam is produced herewith. The same was uploaded on the official website pf the CGRF on 11.06.2024.

In similar case, under the same substation the Learned CGRF Ernakulam had found that enhancement of Kakkanad substation was completed in the year 2010 by installing an additional 10 MVA transformer. But it was held that demanding proportionate charges for supply request in 2015 is highly illegal for project which was completed in 2010. The true copy of the order dated 13.06.2023 in OP no:98 of 2022-23 is produced herewith. The forum in its order had found the quantification of the transmission side development charges by the licensee to be correct. But the same was decided without considering the arguments raised by the appellant. It is important to note that neither electricity act or supply code does not provide any guidelines or mention any procedures for demanding or collecting pro-rata development charges, which have been calculated at a rate of Rs. 2360 per KVA. The Learned Forum without applying the proper application of mind decided that the quantification of charges be correct and failed to consider the fact that is silent about how these charges can be collected from the consumers.

It is respectfully submitted that even assumed for argument sake that respondents are entitled to collect transmission development charges, the same can only be collected at the rate of Rs.1350 per KVA, which came to effect from 01.06.2010 as per the direction given by the Deputy Chief Engineer, Transmission Circle vide communication dated 09.07.2010 and the copy of the said communication is produced herewith. The copy of the complaint submitted numbered as OP No. 126/2023-24 on the files of CGRF, Ernakulam is produced herewith. It is under these circumstances, and in the absence of any further statutory remedy against the illegal action by the Respondents 1 to 4, and having exhausted all available statutory remedies, the applicant filed this present complaint before this Hon'ble Ombudsman on the following, among other grounds, that are set out in the alternative and without prejudice to one another.

For these and other grounds to be urged at the time of hearing, it is most humbly prayed that this Honourable forum may be pleased to grant the petitioner the following reliefs in the interest of justice.(1) To pass Ext P23 order setting aside order dated 04/06/2024 in OP No. 126/2023-24 by the Consumer Grievance Redressal Forum, Ernakulam. (2)To issue appropriate order or direction commanding the Respondents to forthwith recall the Exhibits P8, P10, P13, P16, 17 and 25 demands. (3) To issue appropriate order or direction calling for the records of the case up to and including Exhibit P8, P10, P13, P16, 17 and 25 and to set aside the illegal demand made therein. (4) To declare that the licensee is not entitled to make any demand except as stipulated under Exhibit P1, Exihibit P2, Exhibit P6, and Exihibit P7 and in Exhibit P12 judgement. (5) To direct Respondents 1 to 4 to process the Exihibit P 15 application for electricity connection and to provide electric supply without insisting on payment of any amount as per KVA pro- rata development charges as demanded through Exhibits p8, P13, P16, and 25.

## **Arguments of the Respondent**

The appellant herein assails the legality of the order issued by the Consumer Grievance Redressal Forum Central Region dated 11.06.2024 whereby the forum have after a detailed hearing of the facts and law involved have found that the appellant consumer is liable to remunerate the transmission side development charges quantified by the licensee as the same is in order. The appellant have approached the CGRF pursuant to the judgement rendered by the High Court in WPC No. 36259/2016. While disposing WPC No. 36259/2016, the High Court has made it clear the legality of the demand for transmission side development charge shall be subject to the orders to be issued by the Supreme Court in SLPs filed against the judgement in WA No. 900/2013 and connected cases and if the petitioner have a case that, in view of the provisions contained in the Supply Code, 2014, they are not liable to pay the transmission side development charges, the said issue can be raised before the statutory authority in accordance with the law, provided that they have not approached the Consumer Grievance Redressal Forum with their grievances. The High Court also made it clear that the proceedings before the statutory authority will be confined to the quantification of the amount due as transmission side development charges and not the legality of the demand as aforementioned. It is respectfully submitted that, in the case on hand the petitioner had earlier agitated the issue before the Consumer Grievance Redressal Forum vide Complaint No. 33/2015-16 and the CGRF had vide order dated 16.07.2015 adjudicated the dispute and issued orders upholding the claim of the licensee. Aggrieved thereby the appellant herein had preferred Appeal Petition No. P-147/2015 before this authority and this authority had vide order dated 18.12.2015 found that there is no violation in issuing the demand for transmission side development charges. But it was found that the cost estimated is not in accordance with in order dated 23.05.2015 in Petition No. TP 87/2011 issued by the Regulatory Commission and therefore the Board was directed to issue revised demand in accordance with the order dated 23.05.2011 in Petition No. TP-87/2011 to the appellant on proper acknowledgement within a period of 30 days. There was a further direction to remit the same within one month. Consequent to the aforesaid order, the licensee had revised the amount for the transmission charges and raised appropriate demand vide notice dated 15.06.2016 directing the consumer to remit the amount within 15 days of the receipt of the notice. Alleging that while issuing the revised demand, the licensee has not furnished to the consumer, the details as to how the computation has been made and whether it is in accordance with the direction issued by the Ombudsman, the appellant herein had preferred WPC No. 24088/2016 wherein the Hon'ble High Court had directed the licensee to provide the petitioner with a detailed statement as to how they have worked out of an amount of Rs. 60,36,120/- and that estimate direction issued shall indicate whether the assessment has been made as per issued by the Ombudsman and the Kerala State Electricity Regulatory

Commission. The licensee had complied with the direction issued by the Hon'ble High Court of Kerala in WPC No. 24088/2016 and had provided the consumer with the detailed statement enumerating the calculation based on which the quantification of development charges was done. The same was provided on 04.08.2016. It is challenging the same, that the appellant herein preferred WPC No. 36259/2016 before the High Court wherein the High Court has vide judgement dated 20.02.2024 has closed the writ petition making it clear that if the petitioner has have not approached the statutory forum with regard to the dispute relating to the quantification of amount due as transmission side development charges they can avail their statutory remedy except to the extent that there claim would be that no demand for such charges can be raised against them in terms of the provisions contained in the Kerala Electricity Supply Code, 2014. In the aforementioned circumstance, no further complaint is maintainable before the CGRF. However, the CGRF has entertained the complaint and issued its order.

The appellant is a consumer of the Kerala State Electricity Board Limited under Electrical Section, Thrikkakara, engaged in the business of constructing residential apartments. The appellant consumer M/s. Trinity Arcade (P) Ltd, Trinity House, Opp. Changampuzha Park, Edapally P.O, Cochin, applied for power requirement of 2760 KVA to their residential project "Trinity World Apartments" at Chittethukara, Kakkanad under Electrical Section Thrikkakara. The appellant had filed complaint before the Consumer Grievance Redressal Forum (CGRF) vide Complaint No. 33/15-16. The forum disposed the the complaint vide order dated 20/7/2015, and directed the appellant to pay development charges as ordered by the Hon'ble High Court in WA No. 900/2013 The true copy of the order of the Consumer Grievance Redressal Forum in Complaint No. 33/15-16 on 16.07.2015 is produced herewith. Challenging the same the appellant approached this authority with Petition No. P/147/2015 which was disposed by this authority on 18/12/2015 and ordered that KSEB can recover the transmission development charges and directed to issue revised demand in accordance with TP87/2011. The true copy of the order in Appeal Petition No. P-147/2015 is produced herewith. The answering respondents submit that the consumer challenged the same by filing Writ Petition as WP (c) 24088/2016 and Hon'ble High Court vide its judgement dtd 20/07/2016 directed KSEB to issue revised demand as per the direction issued by the Ombudsman and the KSERC and directed the Board to provide the Petitioner with detailed statement as to how they have worked out an amount for Rs. 60,36,120/-. The true copy of the judgement in WPC No. 24088/2016 is produced herewith.

It is submitted that, the KSEBL complied with the direction contained in WPC No. 24088/2016 and issue the consumer with the detailed statement vide letter dated 04.08.2016. The true copy of the detailed statement and the covering letter issued to the appellant consumer is produced herewith.

Contending that the quantification done by the Board is not in consonance with the directions given by the Ombudsman and KSERC, the consumer again approached Hon'ble High Court with WP(c) 36259/2016. Hon'ble High Court in Interim Order in WP(c) 36259/2016 directed the appellant pay Rs. 10 Lakh and directed to retain the balance amount as Bank Guarantee. The appellant remitted Rs. 10 Lakh on 03/12/2016 and produced bank guarantee for balance amount 50,36,120/- The appellant later failed to renew the bank guarantee and the writ petition stands disposed of by the High Court vide its judgement dated 20.02.2024. The true copy of the judgement in WPC No. 36259/2016 is produced herewith.

Transmission side development charges represent the investment made by the KSE Board to develop infrastructure, such as capacity expansion in its sub stations, for the purpose of supplying electricity to the consumers, whose demand is for huge quantity of electricity. Section 43(1) casts a duty on the licensee to provide supply of electricity to such premises, in respect of which the owner or occupier thereof has made an application and ordinarily, such supply is to be made within one month after receipt of the application requiring such supply. Sub Section (2) provides that it shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub section (1). Sub Section (3) provides that if a distribution licensee fails to supply electricity period.

While the distribution licensee has thus been made statutorily duty bound to provide supply of electricity and also to provide electric plant and electric line for providing such supply, the proviso to section 43(2) states that no person shall be entitled to demand, or to continue to receive, from a licensee supply of electricity to any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission, Under Section 46 of the Act, the State Commission constituted under Section 82 has been empowered to frame regulations authorizing distribution licensee to charge from a person requiring supply of electricity in pursuance of Section 43, any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

Clause 7(1) of the Supply Code 2005 states that subject to the conditions specified under clause 8, the Commission authorizes the licensee under Section 46 of the Act to recover from the owner or occupier of any premises requiring supply, the expenses reasonably incurred by the licensee for providing any electric line or electrical plant required specifically for the purpose of giving such supply. However, the first proviso to this clause provides that the licensee shall not be entitled to recover such expenditure if such expenditure is under the scheme approved by the Commission or otherwise charged in the Annual Revenue Requirements of the licensee. Clause 7(3) further provides that the expenditure charged by the licensee



shall be based on the schedule of rates approved by the Commission and published by the licensee annually effective from the every first day of April. Clause 8 of the Code provides for the time frame for providing supply.

The Kerala State Electricity Board Terms and Conditions of Supply 2005 also enables the Board to recover its expenditure. Clause 4 of the Terms and Conditions provides that subject to the conditions under clause 8 of the Code, the Commission authorizes the Board under Section 46 of the Act to recover in advance from the owner or occupier of any premises requiring supply, the expenses reasonably incurred by the Board for providing any electric line or electrical plant required specifically for the purpose of giving such supply. Under clause 4(2), the expenditure to be remitted by the consumer shall be based on the schedule of rates duly approved by the Commission and published by the Board from time to time. Clause 5 prescribes the time frame for providing supply of energy and in clause 6, it is provided that any person after applying for supply of electricity with the Board withdraws his application or refuses to take supply, the amount of security paid shall be refunded to him and that the amount paid for providing electric line or electric plant shall not be refunded if the Board has commenced the work. Thus, the entitlement of the licensee to levy transmission side development charges is well defined under the aforementioned provisions of the statute.

KSER Commission, the authority under the Act to fix the tariff and expenditure of the licensee have authorized licensee to realize transmission side development charges. KSEBL collects charges based on an estimate prepared for each work as per the site conditions and load requirements. The Regulatory Commission have notified Kerala Electricity Supply Code, 2005 w.e.f. 02.03.2005 which was in existence during the alleged period recovery of expenses, which provides for recovery of reasonable expenditure for providing supply from a consumer as under.

Meanwhile several writ petitions viz. WPC 22098/2011, 21882/2012, 27511/2011 were filed against the Board. Based on writ appeal on orders in these writ petitions, the Hon'ble Division Bench of Hon'ble High Court of Kerala while disposing the writ appeals viz. 418, 513, 514, 521 of 2012, 900, 909, 910, 951, 972, 990, 991, 997, 999, 1006, 1035, 1040, 1042, 1044, 1068, 1082 and 1138 of 2013, 280 of 2014 filed by KSEB, finally disposed vide common judgement dated 30.06.2014 in WA 900 OF 2013 Upholding the recovery of development charges by KSEB held that "For all these reasons, we are unable to sustain the conclusion of the learned single judge that the appellants are not entitled to realize transmission side development charges. In that view of the matter we dispose of these appeals setting aside the judgement of the learned single judge to the extent levy and collection of transmission side development charges are held illegal. Those among the appellants, who have not so far paid the amounts demanded by the Board, are allowed two months time from the date of receipt of a copy of this judgement to pay the amounts due from them".

The KSEB have prepared standard estimate rates for works above 11 KV level, which may require construction of substation/ transmission lines or upgradation of existing transmission lines/ sub stations to cater to large capacity load requirements of a prospective consumer. Accordingly, the methodology for estimation was submitted by the Board and after conducting a public hearing, the Commission decided to approve the general guidelines and methodology in preparing and executing transmission works. The Commission have made it clear that a distribution licensee is entitled to charge expenses incurred for providing supply specifically to a consumer as approved by the Commission. Accordingly, in tune with the direction issued by the Regulatory Commission, the licensee has raised the demand against the appellant. It is submitted that the capacity of 66Kv Substation Kakkanad was 20MVA having 2 Nos 66/11Kv, 10MVA Transformers. Due to heavy demand from commercial and domestic consumers the capacity was almost exhausted during 2007. Due to increasing demand for power, KSEB decided to install an additional 10MVA Transformer at 66Kv Substation Kakkanad on Boards own fund and order marked vide Exhibit R1(a) on condition that the cost of installing transformers shall be realized from prospective consumers. Thus a third 10MVA transformers and 4 Nos 11Kv outlet was installed at 66KV Substation and same was commissioned on 21.11.2010. The estimate for enhancing the Substation capacity was prepared using standard rates approved by the Regulatory Commission. The estimate amount was Rs. 2,36,00,000/- (Rupees Two Crore Thirty-Six Lakh only) which was converted to Rs. 2360 per KVA.

The idea behind imposing development charge is that if the appellant is held absolved from this liability of development charge, the ultimate financial burden to bear the development charges incurred by the Board for giving supply to such bulk consumers, the number of which is increasing steadily in this power starved State, will ultimately fall on the ordinary consumers of the Board, in as much as the cost incurred by the Board to develop infrastructure and to supply electricity to bulk consumers will also get loaded into the tariff. In such cases ordinary consumers need to bear the development charges incurred by the Board for giving supply to such business tycons. The licensee is bound to abide by the statutes and is bound to recover the amount and the same amounts to public money. The petitioner is capable of paying the amount demanded and is having sufficient means to satisfy the same. Considering the above facts, I may request this Honourable forum to accept the contentions raised through this statement of facts and direct the appellant to pay the demand issued by the KSEBL, produced herewith and marked as Exhibit R7for an amount of Rs. 12034809, along with statutory interest.

## **Analysis and findings**

The hearing of the appeal petition was conducted on 25/09/2024 at 11:00 a.m and also on 07-10-2024 at 11 a.m. in the O/O The State Electricity Ombudsman, D.H Road & Foreshore Road Jn. Ernakulam Dist. The hearing was attended by the appellant's Adv. Sri. Shiraz Bava and the respondent Sri. Titto William, NOL, Rejithkumar, AEE, Electrical Sub Division, Vyttila and Adv. B.Promod, Standing Council, KSEBL.

The appellant is a builder applied for the power connection from the licensee for their project "Trinity world Apartment" to the Thrikkakara Section, with contract demand of 2760 KvA. The licensee proposed to extend the power from the 11 Kv feeder and the down stream electrical system including transformer, power distribution system and power connectivity to the individual flats, etc.were executed by the builder. The licensee used to charge for the electricity to the individual flat owners in the LT tariff. The licensee has augmented the capacity of the Kakkanad substation from where the 11 Kv feeder is originated. The licensee has demanded transmission development charges for Rs. 65,13,600/-which is the proportionate the expenditure incurred for the enhancement of the capacity for their contract demand. The appellant has objected the claim and filed petitions to CGRF in 2015 and then appeal to the State Electricity Ombudsman. The Ombudsman ordered that the licensee has to raise the demand as per the KSERC order dated 23/05/2011. Then the licensee, then the appellant approached Hon'ble High Court of Kerala. Hon'ble High Court of Kerala by order dated 20/07/2016 against the wp ( c ) 24088/2016 that the licensee has to revise the demand and then issue the detailed estimate. Then the licensee has revise the demand and then issue the detailed estimate and detailed estimate was given. The appellant approached again Hon'ble High Court of Kerala vide wp ( c ) /36259/2016 and as interim order Court directed the appellant to pay Rs.10 lakhs and balance as Bank guarantee. The power has been availed and accordingly the project completed. The Hon'ble High Court of Kerala pronounced the order of WPC/36259/2016 in 20/02/2024 stating that the petitioner can approach the statutory authorities if they want. Mean while there is an [SLP pending in](#) the Hon'ble Supreme Court against the order of the Hon'ble High Court of Kerala in WA/900/2013. The order of High Court of Kerala dated 20/02/2024 states that the statutory authorities will be confined to the quantification of the amount due as Transmission side Development charges only and not the legality of the demand. The legality of the demand is subject to order of SLP pending with the Hon'ble Apex Court.

The quantification could be checked in the following manner.(1).Whether the estimate prepared for the enhancement of the capacity of the substation is with required items only. (2) Whether the estimate have been prepared as per the cost data approved by the KSERC(3)

The diversity factor as required have been considered.(4).The correctness of the calculation.

In connection with the substation capacity augmentation, the detailed estimate have been examined and items included are the required items for this work. The estimate have been prepared as per the Cost data approved by the KSERC and hence this aspect also complied with.

The diversity factor is to be considered if the power requirement is projected based on the connected load. When the power requirement is requested based on the contract demand the diversity factor of the connected load has already been considered by the consumer. Then the diversity factor need not be considered if the connection is requested with contract demand. The copy of the application submitted to the licensee by the appellant for the service connection have been examined and noted that the connection requested is with contract demand. And hence the diversity factor is need not be considered. The calculation is as follows:-

<b>The total estimate cost</b>	-	<b>2,18,74,445/-</b>
<b>Capacity of transformer is 10 MVA</b>	-	<b>10,000 KvA</b>
<b>The pro-rata development charges</b>	-	<b>2,18,74,445 ÷ 10,000</b>
	=	<b>2,187/-</b>
<b>The development charges applicable</b>		
<b>To appellant</b>	=	<b>2,187 x 2,760</b>
	=	<b>60,36,120/-</b>

This quantification is seems to be in order.

Further the appellant had raised certain points regarding the sustainability of the demand and these are objected by the respondents. These points are related to the legality of the demand and hence not been considered here.

## **Decision**

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

1. I here by agree with the decision of CGRF.
2. No other Costs Ordered

**ELECTRICITY OMBUDSMAN**

No. P/049/2024/ dated: 14-10-2024

Delivered to:

1. Sri. Roy Joseph, Managing Director, M/s. Trinity Arcade (P)Ltd, Trinity House,Opp.Changapuzha Park, Edappally.P.O,Ernakulam Dist.
2. The Deputy Chief Engineer, Electrical Circle, KSE Board Ltd, Ernakulam Dist.
3. The Executive Engineer, Electrical Division, Kerala State Electricity Board Ltd., Thripunithura, Ernakulam Dist.
4. The Assistant Executive Engineer, Electrical Sub Division,Kerala State Electricity Board Ltd., Vyttila, Ernakulam 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, Vydhyuthibhavanam, KSE Board Ltd, Kalamasserry, Ernakulam Dist.