

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/075/2024  
(Present A. Chandrakumaran Nair)  
Dated: 14-01-2025**

Appellant : Sri. Viswanathan.G  
Parthamovie Houses,  
Kollam - Shenkottai Rd  
Kallumthazham Junction  
Kollam(DT) - 691004

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSE Board Limited,  
Perinad, Kollam

**ORDER**

**Background of the case**

The appellant Shri. Viswanathan.G is the owner of the Partha Movie House, situated at Kallam thazham Junction and he is a Consumer of the Licensee under Electrical Section, Kilikolloor. The power availed for the Movie House is LT 3 Phase in LT 7C tariff with contract demand of 95KVA and connected load 122.372 KW with Consumer No. 1145645006423. This connection was availed prior to 2005. The consumer had exceeded the maximum demand above 100KVA during 05/2019, 06/2019, 07/2019 and 08/2019 and the Licensee had issued bill for Low voltage surcharge for Rs. 1,36,485/-. The consumer has been remitted this amount. Again the demand had crossed 100KVA during the month 09/2019, 01/2022, 04/2022, 05/2022, 08/2022, 09/2022, 03/2023, 04/2023 & 05/2023, and accordingly a bill for the low voltage surcharge was issued for Rs. 2,59,240/-. The appellant had objected this bill and filed petition to the CGRF. The CGRF issued the order dated 17/11/2023 on completing the procedures. Then the appellant had approached the KSERC for the Redressal of the grievance and the KSERC directed to file appeal petition vide letter dated 01/10/2024. Appellant had filed this appeal as per the direction of the KSERC vide letter dated 01/10/2024.

## **Arguments of the Appellant**

Petitioner is running a Cinema Theatre at Kallumthazham Kollam under the name Partha Movie Houses with a contract demand of 95 kVA and a connected load of 123 kW, under optional demand tariff. On 23-05-2023 a bill for Rs 259240/-.- was issued by AEE ESD Perinad towards Low Voltage Surcharge for 9 months from 9/19 to 5/23. As our contract demand is only 95 kVA, which is continuing as such till date Low Voltage Surcharge is not applicable as per regulations 8,9 and 11(2), and the tariff order. Hence we filed appeal against this low voltage surcharge bill before the CGRF. However CGRF did not accept our argument, stating that LV surcharge is not for contract demand but for Recorded Maximum Demand.

Subsequent to this illegal order by CGRF we approached the Regulatory Commission, as there is a violation of rules and non-compliance of regulations by KSEBL. Unfortunately KSEBL officials threatened to disconnect the service if the amount is not paid immediately. They didn't consider that the case of non-compliance is pending with the Commission, even after our humble request to postpone disconnection till a decision is taken by the commission. In this situation we had to remit the amount to avoid disconnection as installments. Now the commission has directed to approach the Ombudsman for Redressal of our complaint. Hence we humbly submit this complaint before the ombudsman for a final decision in this matter.

## **Arguments of the Respondent**

The appellant came before this Hon'ble Forum with suppressing material facts of the case .The Hon'ble CGRF (South), Kottarakkara after hearing both the parties and judiciously pronounced an order in OP No.35/2023 dated 17.11.2023.The appellant didn't prefer an appeal within 30 days from the date of receipt of order and hence the appeal is time barred by limitations. Therefore the petition is not maintainable either under law or on facts. Hence the appeal Petition is liable to be dismissed without entering into the merits of issue. However the following facts are submitted for the kind considerations and favourable orders of this Hon'ble Forum.

The appellant is an LT 3 phase demand based Billing Consumer with a contract demand of 95 KVA and a sanctioned Connected Load of 122372 Watts (123kW) under LT-7C Tariff, registered under Electrical Section Kilikolloor, vide Consumer Number 1145645006423 and this connection had been effected prior to 2005. The consumer demand had exceeded during the months of May 2019, June 2019, July 2019 and August 2019, and the consumer has been charged Low Voltage surcharge accordingly for an amount of Rs.136485/- vide Letter No. Contract Demand/2019-

20/dtd.07.8.2019 and the same had remitted by the appellant. Since the demand has exceeded over 100 kVA the consumer had been formally communicated the same, and directed to upgrade to HT at the earliest. Consequent to the issuance of the above letter, the appellant had submitted a request on 13.08.2019 for permitting him to continue on LT.

It is further submitted that the actual demand of the appellant has again crossed 100 KVA for the months 09/2019, 01/2022, 04/2022, 05/2022, 08/2022, 09/2022, 03/2023, 04/2023 and 05/2023 respectively. The registered demands for the above months by the consumer are 101 KVA, 276 KVA, 112 KVA, 109 KVA, 104 KVA, 104 KVA, 112 KVA, 104 KVA and 108 KVA respectively. It is further submitted that consequent to the notice of the over drawl of power over and above the maximum available limit for LT consumers, of 100 KVA, the consumer was finally served the low voltage surcharge bill vide No. 4564230544037 along with a Notice No. BB / ES-KLR/ 6423/ HT Notice / 2023- 24/10/dtd.23.05.2023, and a detailed calculation sheet, directing him to remit an amount of Rs.259240/- towards Low Voltage surcharge as per the Regulation(9) of KESC 2014, for the period the consumer has crossed the demand limit for LT consumers.

Challenging the issuance of the bill, the appellant filed a petition vide OP No.35/2023 before the Hon'ble Consumer Grievance Redressal Forum, Southern Region, Kottarakkara arguing that a low voltage surcharge is applicable for those consumers whose contract demand is above 100 KVA and the appellant's contract demand is only 95 KVA. It may hereby submitted that, the consumer has failed to confine his demand not only within the limits according to his contract demand, but also within the limits of as stipulated as per regulation 8 of the KESC 2014. Hence his contention on the basis of the literal interpretation does not hold good in the strict sense by which regulation 101, 8, 9 and other relevant regulations of the KESC 2014 are framed. Instead comprehensive reading of the above regulations and relevant paragraphs of the Tariff order shall be considered for upholding and safeguarding the provisions and intention of the regulations which is aimed at levying of Low Voltage surcharge whenever RMD of the consumer under LT service connection is registered over 100 KVA, of which legislative intention is in order to minimize the distribution loss. Hence the contention of the appellant that being a demand based tariff consumer and having a Contract Demand of 95 KVA, Low Voltage surcharge is not applicable to him will not sustain and hence shall be denied.

After a detailed hearing of both parties, the Hon'ble CGRF vide Order dtd.17th November, 2023 found that there is no ground seen for exempting Low voltage surcharge for the months demanded by the licensee except January 2022 due to technical reasons. In compliance of the Order of Hon'ble CGRF, the above said demand amounting Rs.2,59,240/- had been revised to Rs.1,98,520 issued to the consumer on 27.06. 2024. Later, as per the request of the consumer, Executive Engineer, Electrical Division, Kollam

sanctioned six monthly installments for the revised bill as per proceedings vide EDK/RB/Installment/24-25/760 Dt.07.09.2024 and he remitted three installments till date.

As regards paragraph-6 of complaint of the appellant, it is hereby submitted that, the consumer requested for a final decision in the Order of Hon'ble CGRF It is further submitted that, the Low Voltage surcharge bill issued to the consumer, is based on actual consumption. Furthermore, the consumer is not authorized to avail supply at Low Tension voltage, since September 2019, since his demand exceeded 100 KVA during the month of September 2019. Exceptions as contained in the above Regulation are not at all applicable to the appellant, since he does not either have any approval from the Regulatory Commission, or there is no deficiency of the supply system to provide the supply at the voltage level as specified in the Regulation 8 of KESC-2014. Moreover, the appellant is not authorized to continue as LT consumer, as per the provisions contained in Regln.11 of KESC- 2023, since the consumer does not falls under the category of consumers, having a sanctioned load exceeding 100 KVA, as on the date of implementation of KESC- 2005. Hence according to the provisions of the Regulation.9 for the month September 2019. The Kerala State Electricity Regulatory Commission issued an order OA26/2019 dated 03-12-2019, which states as follows:-

*The Commission, in compliance of the judgment of the Hon'ble High Court dated 24th June 2019 in WP(C) No. 39396 of 2015, and after examining the issues raised by the petitioner as per the provisions of the Electricity Act, 2003 and the Regulations notified by the Commission, hereby issues following orders for the compliance of the petitioner and the respondent KSEB Ltd.*

*"The petitioner as a consumer having connected load and recorded maximum demand more than 100 kVA, has to pay low voltage surcharge as determined by the Commission as per the Regulation 9 of the Kerala Electricity Supply Code, 2014, to continue availing supply at LT."*

Hence it is further submitted that there is no question of law or facts involved in the appeal petition and could not find any error committed by the Hon'ble CGRF (South) below in arriving at the conclusion in the order No. OP 35/2023 dated 17th November, 2023

For the reason stated above and other reasons to be urged at the time of the hearing, the Hon'ble Forum may be pleased to dismiss the petition with cost to these respondent.

## **Counter Arguments of the appellant**

As per regulation (9) Low Voltage Surcharge is for contract demand, which exceeds the limit in our case there is no change in contract demand. If the defendant's aim was to safe guard the interest of the organization, he could have enhanced our contract demand unilaterally using enabling provisions in Regulation 101, and LT surcharge could have be charged legally. It's only

an error happened to the CGRF in our case, which they have corrected in the next case OP No. 43/2024. The amount was remitted only to avoid disconnection as KSEBL employees threatened to disconnect even during pendency of the case before authorities. It is further submitted that, the Low Voltage Surcharge bill issued to the consumer, is based on actual consumption". Kindly note that Low Voltage Surcharge is not for any consumption. All the above facts are true to the best of my knowledge, information and belief.

## **Analysis and findings**

The hearing of this appeal petition was conducted on 21/12/2024 at 03:30 p.m. in the KSEBL IB, Paruthippara, Thiruvananthapuram. The hearing was attended by the appellant's representative Sri.Atul Kumar.S and the respondent,Sri. Manoj.R, Assistant Executive Engineer, Electrical Sub Division, Perinad, Kollam(Dist.)

The appellant is an LT 3 phase consumer of the Licensee with contract demand 95KVA and connected load 123 KW. This service connection is availed for a Movie theatre named Partha Movie House. The tariff of this service connection is LT 7C. The recorded demand of the consumer exceeds 100KVA during the months 05/2019, 06/2019, 07/2019 and 08/2019 and then the Licensee has charged Low voltage surcharge amounting to Rs.1,36,485/- and the appellant has remitted this amount. The Licensee had directed the appellant to avail the power in HT and the appellant had requested to allow him to continue in LT. The regulation 8 of the Kerala State Electricity Supply Code 2014 states that the Maximum Contract demand for those with demand based metering of 415 V, 3 phase connection is 100KVA. Then **the regulation (9) of the Supply Code States as**

**9. Low voltage supply surcharge.-** *Consumers availing supply at voltage lower than the one specified in regulation 8 for the respective limits of connected load or contract demand shall pay the low voltage supply surcharge to the licensee at the rates as approved by the Commission from time to time in the tariff order.*

The Licensee had issued another bill for Rs. 2,59,240/- as the low voltage surcharge on the recorded demand exceeds 100KVA for the months 09/2019, 01/2022, 04/2022,05/2022, 08/2022, 09/2022, 03/2023, 04/2023, and 05/2023. The appellant has challenged this bill and filed the petition to the CGRF. CGRF issued order stating that the appellant is liable to pay the bill except that of for the month 01/2022. The recorded maximum demand for the month of 01/2022 was 276 KVA which is not be justifiable reading for a connected load of 123KW. The argument of the appellant is that the Supply Code 2014 and the tariff order states that the low voltage surcharge is applicable only if the contract demand exceeds 100KVA. **The tariff order General conditions Clause states as**

*“ The Consumer who are required to avail supply at HT and above as the regulation 8 of the Kerala State Electricity Supply Code 2014 but availing supply of LT shall pay the low voltage surcharge at the following rates. Low voltage supply surcharge for consumer having connected load/ contract demand above 100KVA and availing supply at LT level  
Consumers listed under LT.VIIC category --- Rs. 326/KVA/month.”*

Here the tariff is contract demand based tariff and hence contract demand is only applicable. Neither supply code regulations nor the tariff orders specify about the recorded demand.

The respondent has argued in line with the order of KSERC dated 03/12/2019 which states as

*The Commission, in compliance of the judgment of the Hon'ble High Court dated 24th June 2019 in WP(C) No. 39396 of 2015, and after examining the issues raised by the petitioner as per the provisions of the Electricity Act, 2003 and the Regulations notified by the Commission, hereby issues following orders for the compliance of the petitioner and the respondent KSEB Ltd. "The petitioner as a consumer having connected load and recorded maximum demand more than 100 kVA, has to pay low voltage surcharge as determined by the Commission as per the Regulation 9 of the Kerala Electricity Supply Code, 2014, to continue availing supply at LT."*

The order issued was applicable only to that particular situation. Then latest tariff order issued by KSERC also states that the low voltage surcharge is applicable only if the contract demand exceeds 100 KVA. This is the latest regulation in this subject. As such the argument of the respondent is not applicable in this case.

**The Regulation 101 of the Supply Code 2014 describes about the annual review of the contract demand.**

***101. Annual review of contract demand.-***

*(1) In the case of HT and EHT connections, if the maximum demand recorded exceeds the contract demand in three billing periods during the previous financial year, the licensee shall issue a notice of thirty days to the consumer directing him to submit within the notice period, an application for enhancement of contract demand.*

*(2) If there is no response from the consumer by the end of the notice period, the licensee shall enhance the contract demand of the consumer to the average of the top three readings of maximum demand shown by the maximum demand indicator (MDI) meter of the consumer during the previous financial year, if the additional load can be sanctioned without augmentation or upgradation or uprating of the distribution system.*

*(3) In the case of LT consumers under demand based tariff, similar review and consequential process shall be carried out.*

*(4) Consequent to enhancing the contract demand, applicable charges shall be collected from the consumer and the consumer shall be directed to execute supplementary agreement if required.*

Here in this case the Licensee had failed to apply the provisions of the regulation 101 and hence the contract demand has not been revised. The Licensee would have exercised the provisions of this regulation and contract demand would have enhanced. Then the Licensee could have charged the low voltage surcharge on to the appellant. As per the regulation and tariff order the low voltage surcharge would have not been levied to the appellant as the contract was not exceeded 100KVA.

## **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 bill issued by the Licensee to the appellant towards low voltage surcharge is quashed herewith. The appellant is not liable to pay the low voltage surcharge.
2. No order on cost.

## **ELECTRICITY OMBUDSMAN**

No. P/075/2024/\_\_\_\_\_ dated: 14-01-2025 .

### Delivered to:

1. Sri. Viswanathan. G, Parthamovie House, Kollam Shenkotai Rd, Kallumthazham Junction, Kollam (dt)- 691004
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Perinad, Kollam.

### 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, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.