

**STATE ELECTRICITY OMBUDSMAN**

THANATH BUILDING, CLUB JUNCTION, POOKKATTUPADY ROAD, EDAPPALY TOLL, KOCHI-682024

[www.keralaeo.org](http://www.keralaeo.org), E-mail:ombudsman.electricity@gmail.comPHONE-0484 -2575488 MOB: +91 9567414885

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**REPRESENTATION NO: P/179/2010.**

(Present: T.P. Vivekanandan)

**Appellant** : Sri.P.Sreedharan Nair, P.C.House,  
Kallachi (P.O.), KOZHIKODE-673 506.

**Respondent** : The Assistant Executive Engineer, Electrical SubDivision,  
KSEBoard, Nadapuram, KOZHIKODE. (DT.)

**ORDER****Background of the Case:-**

The Appellant is an Industrial Consumer with consumer No.1715 under LT IV Tariff of Electrical Section, Nadapuram. While being so, the KSEB introduced power restriction to all HT/EHT/LT consumers (except for domestic, Agriculture consumers etc) of the state with effect from 1<sup>st</sup> April 2010, after getting the approval of Kerala State Electricity Regulatory Commission ( KSERC ) , so as to mitigate the power shortage loomed over the state. The KSERC's approval is dated 05-04-2010 and accordingly the KSEB issued the Order imposing Power restriction to consumers, and is dated 06-04-2010 with back effect from 01-04-2010. The petitioner's main contention is that, no notice of Power restriction or Quota fixing intimation was issued to him by the Respondent for his information, resulting in a state that he couldn't take appropriate steps to curtail his energy usage in the month of April 2010 with in the Quota limit and escape from the penal bill for excess consumption over Quota. This is the main cause of this case, among other things, filed before this Authority.

**Argument of the Appellant:**

He runs an industrial unit with SSI registration from 1982 onwards and is now a sick unit. His consumption for the month of April 2011 was 518 units and got a bill for Rs.3485/- for the same. He complained to the Assistant Engineer and got the clarification that, the rate for the units consumed over the Quota will be charged @Rs.7.25 per unit. But he has not received any intimation from KSEB regarding the fixation of quota for him. If intimation had been given to him in time, he would not have used energy beyond Quota or could have charged extra from his customers for the excess consumption as he is running a saw mill. The reply that, information regarding Power Quota fixation, has been published in News papers is not correct as the Quota for each and every consumer cannot be published through Dailies. Hence he is not bound to remit the bill dated 06-05-2010 for April 2010. In previous occasions, he used to get the power quota fixation intimation from section offices and he acted accordingly. It is gathered that quota intimation has been issued to consumers from other section offices of Vadamakkal Taluk.

Secondly, the power quota has been lifted with effect from 01-06-2010. But the Meter reading was not taken on 31<sup>st</sup> May 2010 and instead the reading was taken only on 07-06-2010. Hence the bill for 5/2010 contained the energy usage up to 7.6.2010 and therefore KSEB is bound to reduce the

prorate consumption for the 7 days of June included in the bill. His consumption for May 2010 is 632 units and the bill dated 08-06-2010 amounts to Rs.4347/-.

Hence I request to refund the excess amount paid for the consumption of April 2010, for the reason that power quota was not intimated to me in time and secondly the bill for the month of May 2010, may be reduced for the 7 days consumption included of June 2010.

**Argument of the Respondent:-**

The consumer is running a saw mill. Due to the shortage of power in the state in the month of April & May 2010, the Government decided to fix quota for LT industrial consumers. KSEB fixed quota and charged extra for over consumption for all Industrial consumers from 01-04-2010 onwards. If quota limit exceeded, excess units will be charged @ Rs.7.25/ unit. This information was passed on to consumers through public media. Individual intimation was not given to any one under this section as there was no direction from higher ups to do so. Moreover, there was no specific instruction contained in the KSEB Order to issue notices to Consumers regarding their Power quota. Further the Industrial meter readings are taken on 5<sup>th</sup> /6<sup>th</sup>/7<sup>th</sup> day of every month. Hence monthly consumption days will not differ. KSEB stopped the power restriction on June 1<sup>st</sup> 2010.

Quota is calculated by taking 90% of the base average consumption from May 2009 to February 2010. There was no time to issue separate intimation of quota fixation to consumers as the Board Order dated 06-04-2010 reached the office only on 16-04-2010. No specific instruction to the same effect contained in the Board Order dated 6.4.2010. His contention that, had he known the quota earlier, he would have restricted his usage is not correct. This is because his consumption for the month of May 2010 is also higher as he was fully aware of the quota once he received the bill of April 2010. The argument of the petitioner is baseless and prays to dismiss it.

**Findings:-**

The petition was heard on 30-03-2011 at KSEB IB, Kozhikode. Both parties presented their arguments on the lines listed above and submitted their argument notes thereafter. On perusal of Petition, the statement of facts, Argument notes etc and analyzing the case, I come to the following conclusions.

The appellant has no complaint on the Quantum of Power quota fixed by the respondent. The main contention of the Appellant is that, no Notice of Power restriction or Power Quota Intimation letter was served on him, as was done during earlier times of Power restriction. It is noticed that, KSEB introduced Power restriction to consumers except domestic, Agricultural etc, for the month of April and May 2010, in the wake of Power shortage in the state. It is also noted that, KSEB made a representation before the KSERC as per Law for power restriction, and this Body after taking views of General Public, Consumer's Organizations etc, approved this proposal and gave effect from 01-04-2010. This approval was issued by KSERC on 05-04-2010 and thereafter KSEB issued the Board order (BO) dated 06-04-2010 detailing the imposition of power restriction to its consumers throughout the state. This BO contained the details and further course of action to be taken by its people at the Electrical Section offices level. But it is noted that there was no specific direction to issue notice to consumers regarding the Power Quota in this Board Order.

It is stated that the usual practice in KSEB is to fix the Power Quota of consumers, as per the norms fixed by the Board, and inform the consumers accordingly. The Appellant has also produced a Power Quota fixation slip issued by KSEB during an earlier period (of 10/2008), to substantiate this

statement. But the Respondent, on the other hand argues that the Hon: KSERC has given approval to the Power restriction proposal of KSEB only on 05-04-2010, and gave the effect of the Order from 1st April 2010. That is to say, KSERC/ BO has set a retrospective effect from 1.4.2010, and on that basis they asks, how the Respondent could give Power Quota notice earlier (before 1.4.2010), when the KSEB itself had issued the order on 06-04-2010 and reached its offices at a later date? They further point out that, the News of Power Restriction imposition in the State has been fairly reported in the Media for the information of Public as the Power Restriction is applicable to a large section of consumers throughout the state.

**Decisions:-**

It is true that the KSERC's approval to the KSEB's proposal for the imposition of Power Restriction to all its Consumers was issued only on 05-04-2010 (except for domestic, agriculture & LT VI-D) and has given its effect from 1<sup>st</sup> April 2010. Naturally, the KSEB officials are not in a position to intimate the eligible Power Quota in advance, to its consumers as was done earlier. The document, submitted by the appellant of an earlier notice received from KSEB, indicate that the Board order has been issued on 07-10-2008 imposing power restriction with effect from 15-10-2008, and hence there was time to issue notice in advance in this case. In the present case it is not like that as the Order has a retrospective effect.

In the case of emergent situations, it is quite natural to publish the information and other salient features, through News papers or Electronic Media, for the general information of Public and others affected by the new Order. It is clear that Power restriction has been imposed on the consumers (except a few) through out the State. Moreover, usually KSERC, before taking a decision on the proposal of Distribution Licensees regarding Power cut etc, it hold 'Meetings' with General Public and Consumer Organizations to seek views and opinions on the issue, before reaching a considered conclusion and decision.

Further, I feel that there was no deliberate attempt from the side of respondent to misguide the consumer or willful act of hiding the facts from the consumer in this case. The requirement of notice will not be insisted upon, as a mere technical formality, in certain situations like insufficient notice period, if general information on the matter is propagated through News papers, Electronic media etc for information of the concerned. For more details of News or specific information like 'his own power quota' he could have approached the concerned Office. There is Court Ruling that in emergent situations or in cases when notice is to be given for a large number of people, it is sufficient if it is published in News paper. Hence for the reasons stated above, I find the argument of the consumer that, since Power Quota notice was not served on him, he is not liable to pay the extra charges for the excess consumption over quota, is not maintainable before law. Therefore he is liable to pay the electricity charges bill (including the excess charges for exceeding the Quota) for the month of 4/10 and hence reject the relief sought on the same.

The second relief sought by the appellant is that, since the power restriction was with drawn with effect from 01-06-2010 and the monthly meter reading was taken only on 7<sup>th</sup> June 2010, corresponding seven days prorata charges may be with drawn. The respondent argues that, meter readings are usually taken on 5/6/7<sup>th</sup> day of every month and therefore monthly consumption will contain almost 30 days of energy in every bill and hence there is no excess charges there of, for the month of May 2010 as well.

It is not practically possible to take the meter reading of all consumers on a single day, say, the last day of every month, due to large number of consumers and vast area. Hence it is usual to spread the 'taking of Meter readings' in 3 or 4 days, and each day ear marked for a particular location, set of consumers etc which is convenient and practical to the License and also not prejudicial to consumers. Here, the monthly bills are issued, for the period starting from a date of a month to the corresponding date of next month, which is technically 30/31 days and hence termed as monthly bill. In such a case, if there is to be 7 days (of June 2010) prorate reduction for the bill of May 2010, as argued by the consumer, then there should be a corresponding addition of 7 days (of 5/10) consumption for it to become a monthly bill. The net monthly bill will be almost same as the days compensate each other. Since all these past years, the normal monthly bills were prepared, based on energy used from a certain date of a month to the corresponding date of next month, and the same was accepted and paid by the consumer, I feel the monthly bill of May 2010 of the consumer is also in order.

For the reasons stated above, I don't find any merit in the Appeal petition filed by the appellant and dismiss it accordingly. No order on costs. Dated the 31st of May 2011, this Order is delivered.

**ELECTRICITY OMBUDSMAN.**

**No:P/179/2010/879 /Dated 02.06.2011.**

**Forwarded to:**

- 1). Sri.P.Sreedharan Nair, PC House, Kallachi (P.O), KOZHIKODE-673 506.
- 2). The Assistant Executive Engineer, Electrical Sub Division, KSEBoard, Nadapuram PO, Kozhikode.

**Copy to:**

- 1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2). The Secretary, KSEBoard, Vaidyuthibhavanam, Pattom, Thiruvananthapuram-695 004.
- 4). The Chairperson, Consumer Grievance Redressal Forum, Vaidyuthibhavanam, Gandhi Road, Kozhikode 32.