

**STATE ELECTRICITY OMBUDSMAN**

Pallikavil Buildings, Mamangalam – Anjumana Temple Road,  
Opp: Kochin Corporation Regional Office, Edappally, Kochi -682024  
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**REPRESENTATION No: P/191/2011.**

(Present: T P Vivekanandan)

Appellant: T N Bhaskaran Nair, SreeLakshmi  
Thevally P O. Kollam -9.  
Respondent: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer,  
Electrical Sub Division, KSEB, Kollam.

**ORDER**

**Back ground of the case:-**

Sri T N Bhaskaran Nair, the appellant in this case has submitted earlier, i.e. during 12/2010, a Representation before this Forum and admitted into file as P/177/2010, seeking the relief: 'Restore the original domestic tariff which has been changed to a higher tariff consequent to a surprise inspection conducted by KSEB officials on 15/10/2008 at his residence, alleging misuse of energy'. The petitioner did not attend the hearing as he was unable due to old age but has submitted his detailed argument note. The said Appeal was dismissed as it was found not maintainable before this Forum as per Law, since the Petitioner was moving parrellely with the same issue (cause of action) by filing petitions before various Courts of Law, namely, at Munsiff court Kollam and also at Consumer Disputes Redressal Forum, Kollam and its Appeal Courts, other than this Forum of Electricity Ombudsman. The present Petition vide No: P/191/2011 is in succession to the above one and deals with the issues of disconnection (D/C) and reconnection (R/C) of the same service connection No: 5422 under Olayil Electric Section and the allegation of undue payments made for the same at KSEB office and seek its refund as relief among other things.

**Argument of the Appellant:-**

On 15-10-2008 the opposite party conducted a surprise inspection on his premises and identified 3 students as paying guests and prepared a site mahazar and issued a copy and changed the tariff from domestic to commercial. Aggrieved by the above action, the appellant filed petition before CDRF, Kollam, for deficiency of service and got favorable orders. The State Commission reversed the order in the Appeal and the matter is pending before the Hon: Consumer Disputes National Commission, at New Delhi

The payment of energy charges was stayed by the CDRF, Kollam until the disposal of dispute and the Respondent continued to issue bills at commercial rate. When the State Commission disposed the case, he remitted the entire arrears under protest. He also remitted reconnection charge, surcharge, and interest, on demand by the opposite party, when there were no disconnection and reconnection of service at all. This appeal is against the order of CGRF, Kottarakara in OP No. 583/2010 for the following reasons.

1). The complaint is not against the same matter previously filed. This case is filed for illegally collecting surcharge, interest for belated payment of arrears and reconnection charge with out a disconnection. The Assistant Engineer, Olayil is the opposite party and not the Executive Engineer, as alleged.

- 2). The allegation "It was understood that the students were being accommodated there on Paying Guest basis" is not correct. No evidence was adduced or detected that the inmates are paying guests.
- 3). When the CDRF, Kollam, order was reversed on Appeal, the amount was remitted and the interest portion and reconnection charges were remitted under protest. If there was any chance to levy surcharge it would have been included in the periodical bills issued by the respondent. For belated payment of arrears interest need not and could not be collected as it was stayed by the CDRF. Surcharge can be levied and collected only for one specific purpose and not as and when required by the service provider.
- 4). The energy charges for two years could not be remitted due to stay order of CDRF, Kollam and he is not responsible for the default. It is his right to get stay order from unscrupulous service providers. He is not responsible for payment of interest for belated payment.
- 5). His service connection was not disconnected and hence there is no scope for reconnection and is producing document Ext.P4 for reference.

His prayers are;

- a). to depute a subordinate to verify disconnection and reconnection as alleged,
- b). whether he accommodated paying guests in 2008, and
- c). to consider contents of records produced.
- d). to order refund of the excess amount realized from him by way of R/C charge (for reconnection when there was no disconnection) and also the surcharge for the bill amounts which was stayed by CDRF, Kollam. Also surcharge was not shown in the bills issued.

The argument note dated 6.5.2011 of the petitioner, mainly contains averments against the findings of the Local Electrical Section Officials during the site inspection. He opposes recordings in the site mahazar and the statement of detection of Paying Guests staying in the premises and related matters. He further request to 1) revert his tariff to the old stage, 2) an amount of Rs 4062/- +100 realized from him to be adjusted in his future payments as the CDRF, Kollam has stayed the payment of electricity charges till the disposal of the Petition.

In the letter dated 5.5.2011 of the appellant, he requests to dispense with his personal appearance for the hearing as he is a very senior citizen and argues that the complaint that he accommodated paying guests is not true to facts. He further submits some documents along with it which mainly contains the correspondences made with KSEB and its replies regarding the case under dispute.

**Argument of the Respondent:-**

The petitioner is consumer No 5422 of Olayil Section and on a surprise inspection done at his premises, it is found that he is accommodating students as paying guests on the upper floor of his building. A separate meter was also seen provided unauthorisely to student's floor. The tariff was changed to LTVI B as per rules and bills issued accordingly. The consumer approached CDRF, Kollam and got a favourable order which was reversed by the State Commission on Appeal. There was stay order from the District Forum on the bills issued. The Hon: Commission does not bar the KSEB from collecting the surcharge due and hence collected 18% per annum as per rules in force for belated payments.

The State Consumer Redressal Commission has arrived at the conclusion that the appellant provided Paying guest facility. The surcharge is the interest levied on the bills for belated payment only. The electric supply to the premises was disconnected on 15.10.2010 for not remitting the demanded amount. The supply was restored immediately after collecting the bill amount with surcharge and reconnection charge. The complainant is repeatedly filing complaints in various Forums. It is prayed that he Forum may dismiss the appeal as KSEB has acted only as per rules and regulations in force.

**Findings:-**

The Hearing was conducted at Trivandrum on 10.5.2011 and the Petitioner was not present as he was unable to travel due to old age and his request to the same effect was granted. On a perusal of the Appeal Petition filed, the counter statement submitted by the respondent, the argument notes

submitted by the appellant and the documents submitted by both parties, I come to the following conclusions and decisions thereof.

This is a case related to the Appeal Petition No P/177/2010 filed by the same Appellant before this Forum and stands disposed of, as it was found not maintainable before this Forum due to reasons stated above in the first paragraph. Some of the prayers in this Appeal Petition No 191/2011, [marked as (a), (b), (c) above], is closely linked to the earlier Appeal Petition No P/177/2010 and hence this Forum is not considering them. This Forum is analyzing only the fourth item to decide, namely;

- 1) Whether there was any disconnection and reconnection of the electric service connection of the consumer during 10/2010 and
- 2) Whether the amount collected as charge for the reconnection and the surcharge for the arrear bill of the appellant is justifiable?
- 3) Whether surcharge is to be shown in bills?

**Decision:-**

On verifying the documents submitted by the respondent, it is seen that they have issued the arrear notice dated 5.10.2010 for an amount of Rs 23575/- + S/C (surcharge). In it the arrears are shown as pending from 12/2008 to 8/2010 and the due date for remittance as 'before 14<sup>th</sup> October 2010'. They have also produced copies of D/C Register's concerned pages as documents, for showing the consumer No 5422 of the appellant as having been disconnected on 15.10.2010 and being reconnected on the same day.

The origin of the dispute is consequent to the changing of the tariff of the consumer upon the allegation of using energy for a different purpose than assigned by KSEB. Aggrieved by this action of KSEB, the consumer filed Petition before the Hon: CDRF, Kollam and obtained stay order from the Forum and hence the consumer did not remit the regular electricity charges from 12/2008 onwards. The Hon: Kerala State Consumer Dispute Redressal Commission has pronounced the judgment on 11.8.2010, in favor of KSEB on the Appeal filed by it against the verdict of Hon: CDRF, Kollam. Once the verdict was issued, the consumer should have cleared the arrears, in that month (8/2010) or next month itself unless there is a stay order against it. But no action was seen taken by the consumer till the issue of arrear notice dated 5.10.2010 by KSEB. The last date of the arrear notice was dated 14.10.2010. It is seen that the consumer did not remit the amount by that date. Hence there is every probability that KSEB might have disconnected the electric connection, as per notice, for non payment of dues and that may be the reason for the consumer to remit the amount on the same day, to get reconnection. This circumstantial evidence as well as the documents like the copies of the pages of D/C and R/C register sheets, produced before me, suggests that there was a disconnection and reconnection of the electric service of the consumer. Hence the reconnection fee collected by the Licensee for giving reconnection of a D/C service for non payment of arrears is found to be in order.

Regarding the second point, it is noted that the consumer has not raised any doubts over the correctness of the quantum of energy he consumed or the accuracy of his Meter. He has serious objection only on the tariff assigned to his Electric connection. He is legally bound to pay the electricity charges for the energy he has consumed. If there is any dispute in the categorization of tariff or otherwise, and once the Court pronounces its verdict, he has to abide it and remit the amount with interest unless there is a superior court's intervention. He is found to have defaulted in the payment of his regular electricity charges from 12/2008 to 08/2010. Hence he is bound to pay the interest for the belated payments of his arrears. It is not correct to say that he was unable to pay the charges due to Hon: CDRF's stay order and hence not liable to pay interest there of. The Court has issued the stay order as per his request and once the 'stay granted' is vacated, he has to pay the full amount with interest, as per rules. That is what the KSEB has done in this case i.e. they have collected the arrears with surcharge (interest). It is noted that KSEB used the term 'surcharge' instead of 'interest' in the calculation of late fees. Hence the action of the respondent is found to be in order in collecting the surcharge (interest) for the arrear bill for late payment.

It is learnt from the Respondent that as per rules, the 'interest portion' for belated payments depends upon the number of days of default made by the consumer i.e. from the bill payment due date

to the day of actual remittance. It can be calculated only when the party approaches for making payment. Hence it is not possible to show the interest amount in the bills issued to the consumer. This statement seems to me as acceptable.

For the reasons stated above, I find no merit in the Appeal Petition No P/191/ 2011, filed by the consumer and hence reject his plea to set aside the order in OP No: 583/2010 of CGRF, Kottarakkara,

No order on costs. Having concluded and decided to confirm the order of CGRF, Kottarakkara as above, the Appeal Petition No 191/2011, stands disposed of accordingly.

Dated the 3<sup>rd</sup> August, 2011,

Electricity Ombudsman.

No P/ 191/ 2011/940 / dated 05.08.2011

Forwarded to: 1) T N Bhaskaran Nair,  
Sree Lakshmi, Thevally P.O.  
Kollam-9.  
2) Assistant Executive Engineer,  
Electrical Sub Division, KSEB, Kollam.

Copy to:

1. The Secretary,  
Kerala State Electricity Regulatory Commission, KPFC Bhavanam,  
Vellayambalam, Thiruvananthapuram – Pin: 695010
2. The Secretary,  
KSE Board, Vaidyuthi Bhavanam, Pattom, Thiruvananthapuram- Pin: 695004.
3. The Chairperson,  
CGRF, Vidyuthi Bhavanam, Kottarakkara.

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