

STATE ELECTRICITY OMBUDSMAN

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Review Petition on the Representation No: P/ 173/2010.

Review Petitioner/ Original Respondent : The Assistant Executive Engineer
Electrical Sub Division, Kattoor, Thrissur (DT).
(Via) Irinjalakuda.

Counter Petitioner/ Original Appellant : Smt.T.M.Bindhu,
Centre Head & Director, NIIT, Irinjalakuda Centre,
Blaze Court, Irinjalakuda-680 121.

ORDER**Background of the Case:-**

The NIIT, a global standard Computer Education Institution, which basically imparts Computer oriented Training and Education has a Branch at Irinjalakuda and is a consumer of Irinjalakuda Electrical Section No. I with LT VI B Tariff assigned originally, being considered as a Computer Institute. While being so, the Audit wing of KSEB noticed that the NIIT Institution's activities are diversified and therefore belongs to the group of Self Financing Educational Institution (SFEI) category and decided that the applicable tariff for the same shall be LT VII A-Commercial. Hence the tariff was changed to LT VII A -Commercial with retrospective effect from 12/07, the new Tariff implementation date, and issued a short assessment bill for Rs.1,41,488/= during 2/2010. This was challenged by the consumer before CGRF, Ernakulum and still not satisfied with its Order, filed Appeal petition before this Authority. This Forum after hearing both sides pronounced the order on 23rd June 2011, confirming the tariff as LT VI B itself, as it is found the consumer as running a Computer Institute basically and further ordered to set aside the bill issued under LT VIIA- Commercial Tariff. The licensee, KSEB now has approached this Forum with a Petition dated 09.08.2011 and filed on 12.8.2011, with a plea to Review the said Judgment issued on the Appeal Petition filed by the counter petitioner Smt T M Bindhu, Centre Head and Director, NIIT, Irinjalakuda Branch, on the following grounds.

Arguments of the Review Petitioner:-

In the Tariff Orders approved by KSERC, consumers are classified into different tariff categories according to their activity carried out in their premises. As per schedule of tariff and Terms and Conditions for Retail Supply by KSEB with effect from 01.12.2007, computer training institutes were categorized under LT VI- B tariff. The NIIT and such other institutions are imparting computer education with global standards and functions like Self Financing Educational Institutions. Therefore such Educational institutions can not be treated on a par with ordinary computer training institutes. The Review Petitioner argues that such classification as a Computer Training Institute is irrational and opposed to the principles of tariff fixation. Section 62 of the Electricity Act, 2003, is the enabling provision for determination of tariff by the Hon: KSERC. Here the purpose is highly profit motive and commercial. A purpose interpretation is most appropriate while fixing the tariff as provided under sub clause (3) of section (62) of the Electricity Act. Hence it is contented that for the above reasons, the NIIT and such other Self financial educational institutions are not entitled to a lesser tariff of VI B but for commercial tariff only.

Decision:-

Even though the Review Petition was filed late, on 12.8.2011 by the Licensee, than within the specified 15 days time, it was decided to accept the Petition into File. The Review Petitioner was heard on 04.10.2011 in my chamber at Edappally Office, Ernakulum. They were not able to produce any fresh evidence or documents to prove the fact that the NIIT, a Computer Training Institution, belongs to a category under Self Financing Educational Institution or carries out any commercial activity attracting the commercial tariff as alleged by them. The arguments now adduced by the Review Petitioner were already discussed and analyzed in detail in this Forum's order dated 24.06. 2011.

There is no dispute that the NIIT is a Computer Training Institution and as per schedule of tariff approved by the Hon: Commission, the computer training institutions or Institutes comes under the LTVI- B tariff category. There is nowhere it is specified that, if the activity done at the premises (which is taken as the basic norm or criteria for fixing the appropriate Tariff) is carried out on a large scale or in a big way, it will change over to SFEI or a commercial activity. Similarly, even if the computer Education is imparted to students on payment of higher fees or not, it will not alter the activity carried out at the consumer's premises, but remains the same. There is no specific case for the Review Petitioner that the Opposite Party (consumer) is giving training or conducting various other courses or education programmes (other than Computer Education) like Arts and Sciences Degree or Masters level courses, MBA or BBA courses, or any type of Technical or Para medical courses etc. affiliated to

a University or Technical Board of Examinations, which makes it to label as a Self Financial Educational Institution. It is established beyond doubt that the consumer is conducting a Computer Training institution alone but may be in a big way or collecting higher fees. Whether working or doing the same activity in a big way or collecting high fees will attract a different Tariff? I am not inclined to accept that contention. As there is specific provision to assign LTVI-B tariff for computer Institutes in the Tariff rules in force and further as long as the consumer is doing or imparting training only in Computer Education, I believe that the consumer is eligible for LT VI B- tariff, as it belong to a computer training institution or institute. Working in a Grand scale or collecting huge fees, even if true, does not warrant for changing the specified Tariff to a different category.

There exist no case of discovery of a new and important matter or evidence which was left out even after the exercise of due diligence from the side of the Review Petitioner to be produced before this Forum, during the last trial or any mistake or error apparent on the face of the record to be pointed out before this Authority, as per Clause 27 A of the Regulations for Review, under the KSERC (CGRF and Electricity Ombudsman) Regulations, 2005, to file a Review Petition. Moreover, since there is no sufficient ground for the Review of its Order dated 24.06.2011 and also the fact that the impugned Order does not suffer any illegality or irregularity, the Review Petition filed against the Order in the Representation No: P/ 173/ 2010 dated 24.6.2011, stands dismissed and is ordered accordingly. Dated the 30th January, 2012,

ELECTRICITY OMBUDSMAN.

P.173/2010/1101 Dated 30.01.2012.

To

The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard, Kattoor P O,
(Via) Irinjalakuda, Thrissur Dt.

Copy to: - The Secretary, KSER Commission, KPFC Bhavan,

C V Raman Pillai Road, Vellayambalam, Thiruvananthapuram-10.