

## THE STATE ELECTRICITY OMBUDSMAN

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Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024

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### Appeal Petition No: P/206/2011.

(Present Sri.T.P.Vivekanandan)

Appellant : The Divisional Engineer,  
East Division, BSNL, Keston Road, Thiruvananthapuram-3.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSEB, Vellayambalam,  
Thiruvananthapuram- 695010.

### ORDER.

#### Background of the Case: -

The Divisional Engineer, BSNL, East Division, Thiruvananthapuram-3, has filed an Appeal Petition dated 28-2-2011 before this Forum on 7.3.2011 and stands numbered as P/206/2011. The appeal is against the order dated 19-5-2009 of CGRF (south), Kottarakkara in the Petition OP No. 331/2009 filed before it by the consumer BSNL. The appellant is still aggrieved by the order in not awarding the interest for the huge excess amount collected from them and for the delay in refunding the said amount.

The case is about the actual Multiplication Factor (MF) of the Energy Meter in use at the consumer's (BSNL) premises, (MF depends on the ratings of the CT used for feeding current to the Energy Meter) and therefore its ratio is important for arriving at the actual energy consumption of the consumer. The appellant argues that the CT's used were of the ratio 100/5 (MF=20) from 26.02.2002 onwards itself while the Respondent, the KSEB states that the Metering equipments were changed on 13.9.2005 and thereafter only the ratio changed to 100/5 (MF=20) and prior to that period it was 200/5 (MF=40) only. The CGRF has ordered in favour of the consumer and the Respondent filed Petition against it in the Hon: High Court and is pending for decision. Meanwhile, the consumer also filed an Appeal Petition before this Forum aggrieved against the CGRF order in not awarding the interest for the amount ordered for refund.

The case was posted for Hearing on 16-6-2010 at Thiruvananthapuram and the appellant was absent and the Respondent reported that they have filed a Writ Petition, WP(C) 18727/2010, before the

Hon: High Court of Kerala against the CGRF Order, which is lying under its consideration and hence they requested to keep pending the case till its disposal. At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that “ Maintainability of the Complaint- (1) no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”. Since a Writ Petition, against the order of the CGRF, Kottarakara, has already been filed by the Respondent before the Hon’ble High Court of Kerala, and is pending for decision for the same cause of action and related grievances, I feel that the Appeal Petition is not maintainable before this Forum and hence the same stands rejected.

Decision.

The provisions made under Clause 22(d) of KSERC (CGRF and Electricity Ombudsman) Regulations, 2005, restricts the maintainability of the Petition before this Forum, when a similar nature Petition filed for the same cause of action and its related grievances, is pending before any other Court, Tribunal, Arbitrator or Authority. Here in this case, a writ Petition is seen filed by the Respondent KSEB before the Hon: High Court of Kerala vide WP (C) No 18727/2010, and is pending for its decision. Hence the Appeal Petition No P/ 206/ 2011, filed by The Divisional Engineer, BSNL, Vellayambalam Division, before this Forum is not maintainable for the reason stated above and therefore the said Petition stands dismissed and is ordered accordingly. Dated the 10<sup>th</sup> February, 2012,

**ELECTRICITY OMBUDSMAN**

No.P/206/2011 /1129/ Dated 10.02.2012.

Forwarded to: (1). The Divisional Engineer, BSNL, East Division, Keston Road, Thiruvananthapuram-3.

(2) The Assistant executive Engineer, Electrical Sub Division, KSEBoard, Vellayambalam, Thiruvananthapuram-10.

Copy to: (1). The Secretary, Kerala state Electricity Regulatory Commission,

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

(2). The Secretary, KSEB, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram-4

(3). The Chairperson, Consumer Grievance Redressal Forum, KSEBoard,

Vudyuthi Bhavanam, Kottarakkara.