

STATE ELECTRICITY OMBUDSMAN
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Appeal Petition No:P/ 245/ 2011.
(Present-T.P. Vivekanandan)

APPELLANT : Sri. C.M. Shajahan
Shanu Manzil, Pazhakulam P.O, Adoor.

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, KSEB, Adoor. Pin – 691523.

ORDER.

Background of the case: -

The appellant has two electrical connections (1) Consumer No.12945 under LT I A domestic tariff for his house and (2) Con. No. 16413, for a shop in the same building, in front of his house where a Cable TV network office is functioning, under LT VII A-commercial tariff, obtained from Electrical Section, Adoor. The KSEB Squad inspected the premises on 4.8.2009 and detected unauthorized use of electricity by diverting the supply from the domestic connection to commercial connection, using Change over switches on either side of a wall. On 15.9.2009, the consumer was issued a penal bill amounting to Rs. 28,757/- for the said alleged irregularity. Aggrieved by the action of KSEB and the Bill, the consumer filed objection before the AE and the AE confirmed the provisional bill after conducting a personal hearing. Still not satisfied, the consumer then filed an Appeal Petition before the Deputy Chief Engineer, Electrical Circle, Pathanamthitta, challenging the bill issued by the AE, by paying the stipulated half of the disputed amount. The Deputy CE upheld the decision of the Assessing Officer vide his order dated 5.5.2011. The consumer then approached the CGRF with a petition dated 6.6.2011, requesting to set aside the bill. The CGRF also dismissed the Petition on the ground that the bill issued by the respondent is in order and the petition is devoid of any merits and with a direction to remove the changeover switches installed in the premises in view of safety aspects. Against the decision of CGRF, the appellant has submitted the Appeal petition before this Authority on 14.9.2011.

Arguments of the Appellant: -

The arguments of the appellant are based on the brief facts and circumstances of the case that is narrated above. Further, the appellant has adduced the following arguments.

The consumer has denied the charges of misuse of energy in his premises. According to him, if there was any misuse as alleged, his energy consumption under domestic tariff might have been increased during the period in question. There was no any such notable increase in the consumption when compared to the previous years. The mahazar report has not pointed out any defects in the meters and as per the report it is functioning in good condition. One change over switch is fixed for extending the supply from the Inverter to the house for his children study and not for taking supply from house to shop. It was a misunderstanding that caused unnecessary penalization. The Appeal filed with Deputy CE was not properly analyzed or verified his contentions and has accepted the

arguments of the respondents fully and confirmed the penalty on an innocent consumer.

Another contention of the appellant is that, in the Cable TV shop, there are equipments with a total capacity of below 500 watts only. It is true that I have installed Change over switches near the main switch of the house and in the shop. The same were fitted for the continued electric supply i.e. whenever there is failure of supply; the electricity is availed from an inverter for which one Change over switch is used and when long delay in resumption of electric supply is experienced, the service of Generator is utilized through this switch. The other switch in the wall is meant for utilizing when an inverter is fitted for the house also and will be used either for line supply or that from inverter. This switch is not connected with shop's supply and the switches were not fitted for tapping supply from one consumer to another.

He argues that the site inspection and the hearing were prejudiced. It is prayed to set aside the penal bill and refund the amount deposited.

Arguments of Respondent: -

The respondent has filed the statement of facts against the averments raised in the Appeal petition. The main contentions of the respondent are the following.

The Adoor Electrical Division Squad conducted an inspection in the premises of the consumer and Tariff misuse was seen done there, by using the LT IA domestic supply line to LT VIIA shop purpose. Two numbers of Change over switches were seen fixed on either side of the wall and the wiring of this portion was concealed. The mahazar prepared confirm these anomalies being done there. This action of the consumer was intended for misusing the electric supply other than for the purpose and the tariff assigned to it. The respondent does not agree to the version of the appellant that the wires interconnecting the electric supply between the domestic and commercial service connection is for extending the supply to the domestic portion from the inverter installed at the cable network portion. The action was taken against the consumer by following the existing rules and procedures.

Analysis and Findings: -

A hearing of the Case was conducted in KSEB, Paruthipara IB, on 25.04.2012. The appellant, Sri. C.M.Shajahan and Sri. R. Prasad, the Asst Exe. Engineer, Electrical sub division, Adoor, for the opposite side were present and argued the case on the lines stated above.

The respondent has submitted the energy consumption details of the consumer for the period from 01/ 2008 to 11/2009 and the calculation statement of penal bill issued, as directed during the hearing. On perusing the Appeal Petition, the statement of facts filed by the Respondent, the arguments of both sides in the Hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

It is true that, if the consumer uses energy supplied for a specific purpose under a particular tariff, for a different purpose not contemplated in the agreement for supply and for which a higher tariff is applicable, without the Board's knowledge and approval, the same will be treated as unauthorized use of energy within the meaning of Section 126 of the Electricity Act, 2003.

In this case, the action against the consumer was seen taken under the provisions of Section 126 of IE Act, 2003, by the Assessing officer on the basis of a Mahazar report. The Assessing Officer and the Appellate Authority heard the petitions of the consumer and disposed the same declining his request to set aside the penal bill. *The KSERC (CGRF & Electricity Ombudsman) Regulations, 2005, Section 2 sub clause (vii) prevents CGRF and Electricity Ombudsman from considering grievances connected with Sections 126, 135 to 139 and 161 of the Act.* But here the appellant challenges the proceedings initiated against him under section 126 of the Act. According to him

there was no misuse of energy in his premises. Both the meters are reported to be functioning properly. The only reason for initiating action and raising a penal bill is the presence of two nos. of 'Change over switches' seen in the premises and connected in the supply line. The appellant's contention is that one of the changeover switches were used, to provide electricity from either from the Inverter or the Generator to the cable TV network system, whenever there is any interruption of supply /power failure, for which he has fixed change over switches. The other is fitted in advance for taking supply from an inverter proposed for the house.

I have gone through the mahazar prepared by the Sub Engineer. The report indicates that electric supply between the two connections could be interchanged as and when the consumer desires to do so. It is recorded that supply from one connection is extended to the shop connection. The mahazar did not clearly detail out the interconnection done in the premises, with sketch and other tests done to establish the Findings. However, the mahazar is seen witnessed by the representative of the shop.

The appellant argues that the Change over switch is fitted for availing supply from the Generator or Inverter. The cable Network needs uninterrupted supply for which usually a low size Generator will be installed and once it is fitted, a Change over switch is a must as otherwise there is the possibility of back feeding of the Supply to the KSEB line, which is a risk to the people working on the Line. So I think there is logic in the argument of the petitioner for the fitting of Change over switches. For safety reasons, it is reasonable to provide the Change over switches, whenever a new Generator is connected to the Supply system.

In such a situation, in order to verify whether there was any misuse of tariff, i.e. using low rate tariff of Domestic service, for a higher rate tariff of Cable TV Network, I have checked the energy consumption details of both connections, for the period from 1/08 to 11/09.

The energy consumption details of both the electric connections, for the last one and half year, prior to the alleged unauthorized use of electricity, were reported by the respondent, was as follows;

<u>Billing bi-month</u> <u>and the year</u>	<u>Energy Consumption</u> <u>Con. No.12945 (domestic).</u>	<u>Con.No. 16413, LT VIIA-commercial</u>
01/2008	371 units	380 units
03/2008	416 units	398 units
05/2008	302 units	497 units
07/2008	393 units	487 units
09/2008	400 units	397 units
11/2008	442 units	400 units
01/2009	395 units	415 units
03/2009	267 units	208 units
05/2009	282 units	231 units
07/2009	274 units	250 units
09/2009	266 units	216 units
11/2009	300 units	300 units

Decision : -

The KSEB inspected the consumer's premises in 8/2009. Both the energy meters are reported to be working in good condition. In case of misuse of tariff, surely the consumer will try to lower the energy consumption of the higher rate tariff, by suitably diverting it and using energy from a lower rate tariff connection. Hence the decision to verify the consumption details of both connections.

The verification of the energy consumption pattern, listed above, does not reveal any abnormality

ie. does not show any rise in domestic consumption with corresponding decrease in the commercial (cable network) connection, during the disputed period of 7/08 to 7/09. It is seen that for the period 1/08 to 1/09, both Electric connections have an almost consistent energy use (between 300 & 500 units) and in the next spell of 3/09 to 11/09 also, the average consumption is maintained, though there is a reduction in energy usage in both electric connections. The reason for sudden substantial reduction in energy consumption, in both electric connections after the month of 01/2009, is not seen explained by the consumer. Hence, if at all there is any abnormality, it is from 02/09 only.

The main allegation is that the consumer has utilized his domestic connection (a low tariff) for running his Cable network usage (higher tariff), thus getting benefitted from a lower tariff domestic connection and will fall under misuse of tariff. But I do not find any considerable variation in the energy consumption pattern in domestic connection with corresponding use in commercial tariff connection for the same period. That is to say, there is no notable increase in the consumption of domestic connection with corresponding reduction in the other connection, so as to corroborate the alleged misuse of tariff, done by the consumer. Hence I do not find any merit in the allegation of misuse of tariff.

But the consumer is found to have made alterations in the wiring, fitted Change over switches and installed an inverter with out the sanction of the Licensee. Thus there is extension in wiring and connection of an unauthorized additional load (UAL) of 1 KW (rounded), connected to KSEB system. This fact is evident from the mahazar and is not disputed by the consumer. This is against clause 26 of the KSEB Terms and Conditions of Supply, 2005 and will fall under unauthorized use of electricity under Section 126 of the Act.

Hence, it is decided that the disputed bill for Rs. 28757/-, raised for allegation of misuse of tariff shall be set aside. The respondent shall revise the bill for availing 1KW (one KW) UAL under the commercial service, Con. No. 16413-LT VII A, for a period of six months i.e. from 02/09 to 7/09, for the reason cited above. There is no need to continue with the penal bill for the UAL of 1 KW, after 7/2009, as the party should be given an opportunity either to remove the UAL or regularize the same, as per rules. Hence the consumer is directed to either remove the UAL or shall regularize the same, if there is any change in his sanctioned connected load, with in 60 days of this order.

The consumer is said to have remitted half of the disputed bill amount. Hence by revising the bill, as per this order, the excess amount remitted by the consumer, if any, shall be adjusted in his future bills and the details of such refund amount shall be communicated to the consumer.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the Consumer stands disposed of with the directions to the extent ordered. No order on costs.

Dated the 9th of January, 2012.

Electricity Ombudsman.

Ref. No. P/ 245/ 2011/1523/ Dated 09.01-2013.

Forwarded to 1). Sri. C.M. Shajahan, Shanu Manzil,
Pazhakulam P.O., Adoor, Pathanamthitta Dt.
2). The Assistant Executive Engineer,
Electrical Sub Division, KSEB, Adoor.

Copy to: - (1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
(2). The Secretary, KSEBoard, Vidyuthibhavanam,
Pattom, Thiruvananthapura-4
(3). The Chairperson, Consumer Grievance Redressal Forum,
KSEBoard, Vidyuthibhavanam, Kottarakkara.