

STATE ELECTRICITY OUDSMBMAN

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APPEAL PETITION NO. P/335/2013.

(Present: T.P. Vivekanandan)

APPELLANT : The Assistant Executive Engineer,  
Minor Irrigation Sub Division, Thottakkattukara,  
Aluva -8, Ernakulam.

RESPONDENT : The Assistant Executive Engineer,  
Electrical Sub Division, KSEB,  
Kuruppampady, Ernakulum Dt.

ORDER.

Background of the case:-

The appellant in this case is the Assistant Executive Engineer of the Aluva Minor Irrigation Sub Division, a department under the Kerala Government. The appellant is running a pump house, availing electric supply from KSEB (Electrical Section, Vengoor), with Consumer No. 3017 under LT-V agricultural tariff and having a registered connected load of 68 KW (1 x 90 HP motor pump set) up to 5/1998. During 6/1998, it is reliably learnt that the Dept. has added one pump set of 90 HP and two priming pumps of 10 HP each, thus enhancing the total connected load to 139 KW. This excess load was detected on an inspection done by KSEB in 6/1998 and decided to bill the consumer, at the new load of 139 KW from 6/1998 onwards. It is also stated that no formal Power allocation request or Wiring completion certificate, schedule to Agreement etc. were done by the Irrigation Dept at that time, but KSEB allowed the unauthorized addition of load, the consumer being a Govt. Dept.

While being so, in 5/2011 the consumer was issued a short assessment bill amounting to Rs. 23, 30, 037/- based on an audit report of the Accountant General, Kerala. The audit team has raised the main objections of, as the connected load of the consumer premises is above the permissible limit of 150 KVA (maximum limit for LT service connections), the party has to be billed under HT category. Accordingly, the short assessment bill for the period from 3/2005 to 11/2010, being the difference in tariff rates between the applicable HT tariff and the existing LT billed rates was issued with direction to remit the amount on or before 29-6-2011. In 6/2012 respondent had issued another revised invoice amounting to Rs. 27,84,400/- which included the surcharge and the supply was disconnected in 7/2012 due to non payment of bill amount. Aggrieved by this action, the consumer filed a petition before the CGRF, Ernakulam, seeking

cancellation of the short assessment bill issued. The CGRF disposed of the petition by limiting the short assessment period to 2 years from 5 years, vide Order No. CGRF-CR/Comp.80/2012-13 dated 3-12-2012. Still not satisfied with this decision, the appellant has filed this appeal dated 6-1-2013 before this Forum.

**Arguments of the Appellant:**

The following are the main contentions raised by the appellant in his appeal petition.

- 1). The sanctioned load of the service connection was 139 KW which includes two numbers of 90 HP motors and two nos. of 10 HP vacuum pumps, out of which one 90 HP motor and one 10 HP vacuum pump are kept as spare in case of breakdown of the other set. The motors are not intended to operate simultaneously at any time, because this would lead to over-flow of canal. The total water discharged by the pumps when operated simultaneously is about 500000 cm<sup>3</sup> whereas the total volume of fluid the canal can hold is only 4440000 cm<sup>3</sup> (100cm/s x 4400 cm<sup>2</sup>). This proves that the canal would overflow when both motors are operated simultaneously.
- 2). The defendant did not serve a notice to bring about the necessary changes in the premises as required by the revision of the Supply Code. The respondent claims that it is no need to operate both pumps simultaneously, the conversion to HT category is not desirable. The connected load does not exceed the approved limit of 150 KVA merely due to the absence of an interlock facility.
- 3). Lack of interlock facility is merely a technical matter which will not cause loss to the defendant as it is clearly stated that simultaneous operation of both pumps is not possible.
- 4). The defendant has already stated that interlock facility is allowed for Kerala Water Authority only. Hence it is impossible for the side of the appellant to rectify this issue until a government decision is brought forth in this matter. The only unjust option left with the appellant is to dismantle the second pump and re-install whenever required. Considering the state of affairs of the system, it is very well known to everyone that is practically a near to impossible thing.
- 5). The electricity connection to the Paniyely L I Scheme was disconnected and due to the public uproar it was reconnected within a week. The public is never bothered about any technical issue. They just demand the service. In this case, the defendant was compelled to resume power supply immediately. This is the same situation the appellant has been trying to avoid keeping a 90 HP motor as stand by. It is a fact well known to the defendant that drinking water is very much an inevitable utility whose disruption of supply would cause public agitation. This is precisely the reason why the stand by motor of 90 HP was installed.
- 6). Another fact to be recognized is that, every motor was purchased considering the capacity of the canal. In this case, a 90 HP motor was purchased and installed. If the intention of the appellant was to supply more water to the public by running both motors simultaneously, the purchase of another 90 HP motor was unnecessary as a 20-30 HP motor would provide the additional water, if required. The fact that the second motor also is 90 HP clearly points to the fact it was installed as a stand by.

7). The appellant is a government body set up statutorily for public service. There is no willful infringement of any kind involved in this case. When an unjust bill was served, alleging the appellant of circumventing the existing norms of the defendant, the appellant felt that the issue must be confronted as it would cause loss to the exchequer if left unquestioned, which is why the defendants claim is being challenged in the relevant forums.

8). Although the Accountant General happened to raise an audit objection, it must not become a stumbling block. It should rather be seen as a directive to rectify technical trivia. Again, it should be seen from other perspectives too. The Accountant General is not infallible. It is also a body constituted by individuals capable of making mistakes.

9). The defendant served a short assessment bill for a period from 3/05 to 11/2010 as audited by the AG. In fact, the bill should have been limited to 2 years according to Section 56 (2) of Act 2003. The defendant itself is not aware of its own regulations. As a public servant, it is the duty of the appellant to be vigilant and scrupulous while expending the exchequer's money.

The appellant prays that the short assessment bill be waived and the appellant be allowed to maintain the status quo.

Arguments of the Respondent: -

The respondent has raised the following contentions against the arguments of the appellant.

1). By conducting a physical verification in the premises of the consumer, it is found that both pumps are connected independently and no electrical inter locking arrangement was provided. Moreover the stand by facility is only allowed to Kerala Water Authority where electrical inter-locking facility is provided.

2). The statement of the appellant that 'simultaneous pumping of the motor would lead to over flow of canal is factually incorrect. The respondent argues that the total volume of fluid the canal can hold will be  $100\text{cm}/\text{sec} \times 5280 \text{ cm}^2 = 528000 \text{ cm}^3$ . So the discharge water by the simultaneous pumping can easily be hold by the canal. Moreover, the lowering of the water level during summer season which also adversely affects the discharge.

3). The Minor Irrigation Department is having an effective electrical wing and they can easily manage the conversion of the existing LT connection to HT. The present connected load at the premises is as follows;

Two 90 HP pump sets –  $2 \times 90 \times 0.746 = 134.28 \text{ KW}$

Two 5 HP priming pumps –  $2 \times 5 \times 0.746 = 7.46 \text{ KW}$

Total connected load  $(134.28 \text{ KW} + 7.46 \text{ KW}) = 141.74 \text{ KW}$

Which is equal to  $141.74 \text{ KW} / 0.9$  (power factor) = 157.48 KVA.

The allowable maximum load of a LT connection will be 150 KVA only. So the consumer ought to have availed HT connection.

4. The electrical interlocking facility is a technical matter and the consumer is not provided this facility at the premises. The consumer can avail the HT supply without dismantling any pump set and as far as the electrical wing of the MID is concerned, it is simple and possible.
5. The electric supply was restored only on considering the humanitarian grounds.
6. The appellant has not disputed the existence of additional load. Once the connected load had got exceeded the stipulated limit, it should not be remained in the LT category. They are statutorily bound to convert to HT category.
7. The respondent contents that the short assessment bill demands only the eligible current charges. The appellant by virtue of the provisions of the service connection agreement is bound to remit the same. The KSEB may not be made to suffer due to the lapse/laxity on the part of the appellant. Notwithstanding the above facts, the Hon. CGRF while disposing the petition has granted the appellant ineligible relief by erroneously interpreting Section 56 (2) of Electricity Act 2003. It has been ordered to limit the short assessment to two years. The interpretation of Section 56 (2) by the CGRF is against the spirit of the said section. The amount of charges would become due and payable only with the submission of bill and not earlier. In the case at hand, the short assessment bill became first due only on 29-6-2011 and two years has not been elapsed since then. Hence the demand is not at all time barred.

Analysis and Findings: -

The hearing of the case was done on 04.7.2013 and 24.7.2013, in my Chamber at Edappally, Kochi, and the appellant was represented by Sri T.P. Abdul Shukoor, AEE, MI Sub Division, Aluva and Sri. Satheesh Kumar, Asst. Engineer, Electrical Wing ( I ) Section, Kalady and for the respondent's side, Sri. M.P. Poulouse, the Asst. Executive Engineer, Electrical Sub Division, Kuruppampady have appeared and both parties have argued the case, mainly on the lines stated above.

On examining the Appeal Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing all the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

As per Electricity Supply Code, 2005, under Reg. 5(a), the maximum Connected Load (total electrical equipment capacity) allowable for a LT 3-phase Supply (415 Volts) is 100 KVA. But for those consumers in service as on the date of implementation of the said Electricity Supply Code 2005, it shall be permitted up to a load of 150 KVA. Being so, the appellant is eligible to connect an electrical Load of up to 150 KVA only. In this case, if the consumer requires some additional load to be connected, he has to change over to HT category, as his existing connected Load is already reached the maximum limit of the LT service connection, now enjoyed by the party. This rule is provided, to keep quality and the reliability of electric supply at the Distribution System of KSEB, on higher Power demands from the consumers. When there is a specific rule, it has to be abided by every body including Govt. Departments. The arguments like; "the appellant felt that the issue must be confronted as it would cause loss to the exchequer" etc. is

not maintainable, as any attempt to circumvent the rules in force, under any pretext, will lead to disorder.

In this case, the appellant does not dispute the fact that the total connected load at the consumer premises (Irrigation Pump house) has exceeded the maximum limit of 150 KVA. His only contention is that the pumps will work only one at a time etc. necessitating only half of the connected load, cannot be accepted because in such a case, the consumer has to get it sanctioned from KSEB. If such a scheme is allowed, the consumer has to wire the equipments accordingly and should submit papers to KSEB. No such procedures have been done by the Irrigation Dept. so far. Otherwise any consumer can raise such a contention of not using the electrical devices connected at his premises and demand a rebate on a latter date.

The present connected load is calculated as 157.48 KVA (rounded to 158 KVA) by the KSEB and is not disputed by the appellant. Presently the consumer was being billed for 139 KW i.e.  $139/0.9 \text{ (pf)} = 155 \text{ KVA}$ , (which itself is above the maximum limit of 150 KVA), for the last few years. Hence, the consumer is not eligible to continue to avail a LT electric service connection having this much connected load. The respondent has the right to demand the consumer to change over to HT category and has to carry out the Electrical modification work at the consumer end to avail the HT supply. Otherwise he has to remove the excess load connected to KSEB system and regularize it limiting to 150 KVA, so as to continue to avail the LT connection.

The contention of the audit party that the consumer has to be billed under HT tariff since 3/2005 to 11/2010 is found without any basis. If any unauthorized additional load is found, the consumer has to be proceeded against under Sec. 126 of the Electricity Act, 2003, read with Regulation 51 of the KSEB Terms and Conditions of Supply, 2005. If the extra load connected unauthorisely, is found to be detrimental to KSEB system, then the Board can issue notice to the consumer and direct the consumer to remove the unauthorized additional load (UAL) immediately. The consumer is also liable to pay the penal charges for the action of, availing the extra load, without sanction of the Distribution Licensee.

#### Decision: -

From the analysis done and the Findings and conclusions arrived at, I take the following decision.

- (i). Accordingly, the disputed short assessment bill dated 20.5.2011 issued to the appellant (Con No. 3017, Paniyeli Lift Irrigation), raised under HT tariff, amounting to Rs. 23, 30, 037/-, based on the audit report of the Accountant General, Kerala, stands quashed, as it is not sustainable.
- (ii). The consumer is found to have connected 8 KVA [158 KVA – 150 KVA (maximum allowed under LT)] load as unauthorized additional load (UAL). Hence the appellant is liable to be penalized for this much load under LT-V agricultural tariff, as per Reg. 50(5) & (6) of the KSEB Terms and Conditions of Supply, 2005, for the period since 3/2005 (the date as fixed by KSEB in the disputed bill). The respondent is directed to proceed as per Regulation 50 and 51 of KSEB Terms and Conditions of Supply, 2005, in claiming the bill for the irregularity of UAL availed.

(iii). The consumer may either change over to HT category, if he requires above 150 KVA load or may remove the excess load and regularize the LT electric connection, by filing a 'completion report of the present load through an approved wiring contractor' to KSEB, who shall verify the same and shall accept it, if it is correct and collect the required fees. The consumer is allowed three months time to carry out the said direction. But the penalty for connecting and using the Unauthorized Additional Load (UAL) shall continue till the UAL is removed or regularized.

Having decided as above, it is ordered accordingly. The appeal Petition filed by the appellant vide Appeal petition No. P/335/2013 is disposed of with the said directions issued.

No order on costs. Dated the 16<sup>th</sup> of August 2013.

Electricity Ombudsman.

Ref. No. NO. P / 335 / 2013/ 1910 / Dated 16.08.2013.

Forwarded to 1). The Assistant Executive Engineer,  
Minor Irrigation Sub Division, Thottakkattukara,  
Aluva -8, Ernakulam Dt.

2). The Assistant Executive Engineer.  
Electrical Sub Division, KSE Board,  
Kuruppampady P O, Ernakulam Dt .

Copy to: - (1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.

(2). The Secretary, KSEBoard,  
Vydyuthibhavanam, Pattom, Thiruvananthapura-4

(3). The Chairperson, Consumer Grievance Redressal Forum,  
KSEBoard, Power House Buildings, Kombara, Ernakulam.