

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/318/2012.

(Present: T.P. Vivekanandan)

APPELLANT : The Secretary & the President,
Manamboor GramaPanchayath,
Kavalayoor P.O, (Near) Kadakkavoor, Pin – 695144.
Thiruvanathapuram.

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board, Kadakavoor,
Thiruvanathapuram.

ORDER.

Background of the case: -

The appellants in this Case are the Secretary and President of the Manamboor Grama Panchayath. The Electric service connection for the Street Lights with consumer No.29, under Electrical section, Vakkom, stands in the name of the Secretary. While being so, the appellant was aggrieved with the short assessment bill dated 21.03.2012 for Rs.94714/-, issued for the period from 12/2002 to 7/2006. The appellant has lodged complaint before the CGRF,(South), vide OP. No. 779/2012 and had disposed the Petition with a direction to take up the issue with the Executive Engineer, Electrical Division, Attingal for carrying out a review of the disputed bill and stayed the recovery of the bill till disposal of the petition. It was requested to set aside the impugned bill of Rs. 94714/- and to accept the regular current charge bills of the Panchayath. Aggrieved by this, the appellant has submitted this Appeal petition before this Authority.

Arguments of the Appellant: -

The appellant has adduced the following arguments in his appeal petition.
(1). The Panchayath regularly paid the current charge bills of street lights without any default as per the invoices received from the respondent. The appellant was served an arrear bill for Rs. 94714/- dated 21/3/2012, informing it as the short assessment of street light charges from 2002 to 2006, occurred due to the wrong calculation of burning hours as 6 instead of 12 hours, which was found out during the audit inspection of the KSEB audit team. The bills were raised by the KSEB and those bills were paid without any dues. The Panchayath is not responsible for the wrong calculation, if any, as burning hours of street lights as 6 hours instead of 12 hours. The arrear bill relates to a back period of 10 years old and claim based on the calculation of 12

hours burning of the bulbs can not be admitted at this stage, because there are no records or concrete evidence to prove this. The Panchayath is not in a position to pay this huge amount as there is shortage of funds.

(2). The appellant has produced a copy of the invoice issued by the respondent and claims that the burning hours of the bulbs during that period was only 6 hours. The audit observation regarding the burning hours is not based on any records and it is only a wrong presumption. The appellant is not liable to pay the arrears to 10 years old.

(3). The respondent has rejected the acceptance of the regular current charge bills due to the non-remittance of the arrear amount. The Executive Engineer, Electrical Division, Attingal, has not taken any action on the direction issued by the CGRF, (South).

(4). As the Panchayath is facing financial problems in its day today functioning, it is not possible to remit this huge amount of arrears. Moreover, it will become a liability of the concerned officer to remit the amount which was occurred due to the lapses of the KSEB officials. Hence it is prayed to waive the arrear amount.

Arguments of the Respondent: -

In the statement of facts furnished by the respondent he has put forward the following contentions.

(1). The burning hours of 456 Nos of 40 Watts and 47 Nos of 60 watts ordinary bulbs were wrongly calculated as 6 hours, which were actually burnt for 12 hours. The bills prepared were originally calculated for 6 hours each during the period from 12/2002 to 7/2006, due to oversight. The calculation is as follows:

The difference of amount charged for 456 bulbs is (Rs. 12312- Rs.10488) = Rs. 1824/-

The difference of amount charged for 47 bulbs is (Rs. 1598 - Rs.1363) = Rs.235

Total = 1824+235 = 2059 X 46 months = Rs. 94714/-

(2). The amount billed was actually consumed by the appellant and it was approved by the appellant as evident from the decision of the Panchayath meeting. The calculation error happened due to a clerical mistake.

(3). The appellant had request for installment facility [Ext. (D3)] due to lack of appropriate funds and the same was allowed to remit along with the monthly current charge of Rs. 31150/-

(4). The respondent deny the allegation of non-acceptance of monthly current charges.

(5). The appellant has not submitted their grievance before the Executive Engineer, Attingal, as ordered by the CGRF.

Analysis and Findings: -

The Hearing of the case was conducted in my chamber at Edappally, Kochi on 10.5.2013. Sri. P. Suresh Kumar, the President and Sri. Ansari, Asst.Secretary, of Manaboor Panchayath represented the appellant's side and Sri. A. Titus, the Asst. Exe. Engineer, KSEB, Kadakavoor represented for the respondent's side. On perusing the Petition, the counter statement of the Respondent, the documents submitted and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The appellants have stated in the Hearing that they have gone for installments to pay the bill, fearing the disconnection of Street Lights, in the event of non payment of the disputed Bill. The

Asst. Engineer has also hinted that KSEB has to resort to disconnection if the dues are not cleared by the due date, say the appellants. They also argue that the arrear bill pertains to the period of 2002 to 2006 which is old and it is not possible to verify the accuracy of the burning of Lights occurred at that point of time. They have produced the Provisional Invoice Card issued in the year 2001 by KSEB, showing the burning hours of the street lights of the Panchayath and requested the cancellation of the arrear bill issued.

An examination of the provisional invoice card issued on 23.11.2001, shows the burning hours of 456 Nos. of 40 watts and 47 Nos. of 60 watts ordinary bulbs as 6 hours each. But the respondent states that the Board has issued order in 7/2006, raising the burning hours of all lamps from 6 to 12 hours. They also point out that, due to a clerical error, the revision of bill was omitted in the case of Panchayath and adduces the argument that the consumption was for 12 hours itself during the period in dispute. The Panchayath does not completely deny this. They only argue that there is no evidence to prove the burning hours and when it was changed to 12 hours. Similarly the KSEB also states that the burning time were 12 hours from 7/2006, without any documental evidence. As mentioned in the CGRF's order, it is obligatory that the Panchayath and the Board has to enter into an agreement wherein, the burning hours are to be specifically mentioned as 6 hours, 8 hours, 12 hours etc. and the billing has to be preferred as per the new schedule to the agreement.

As per the Resolution No I (VIII) of the Panchayath meeting held on 29/5/2012, they have not disputed the arrear amount, but only decided to request installment facility for remitting the amount considering the shortage of fund in the budget provision. Even though the CGRF had directed the complainant to take up the issue with the concerned Executive Engineer, they did not approach him, instead filed appeal before this Authority.

DECISION :-

As per Regulation 24(5) of Kerala Electricity Supply Code, 2005, if the Licensee (KSEB) was able to establish that it has undercharged the consumer, either by review or otherwise, the Licensee can recover the amount so undercharged from the consumer by issuing a bill.

The Respondent was bound to revise the schedule to the Agreement for Street Lights as and when changes are made in the Agreement conditions, like Burning Hours of Bulbs and have failed to do so. The appellants has also the liability of paying the charges for Electricity, they have consumed. Here, it is also a fact that no street lights are switched off after midnight, i.e. after 6 hours of operation, under any Panchayath at least for the last few years. Hence I am sure that the consumer is bound to pay the electricity charges for 12 hours of burning of Lights. But the consumer should not be put to undue hardship in the form of long pending arrears and the new Electricity Act, 2003, has laid clear provisions to restrict the same. Hence, I am of the view that the disputed short assessment bill prepared for the period of 12/2002 to 7/2006 shall be limited to two years prior to 07/2006 i.e for the period of 8/2004 to 7/2006 (both inclusive).

The respondent is directed to revise the disputed bill, limiting the same to the last two years prior to 07/2006 with 30 days time given (due date) for making the payment. No interest is payable up to the due date of the revised bill ordered now. The consumer shall also be given

suitable installments (say up to 20 installments), if requested by the party. The consumer may opt to pay the full amount of the bill or the 1st installment before the due date of the revised bill. But the consumer needs to pay the applicable interest for the subsequent installments, as per Reg. 22(8) of Electricity Supply Code, 2005, from the due date of the revised bill, to the date of actual payment of installments, if he opts for installments.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition No. P/328/2012, filed by the appellants is disposed of, with the said decision to be implemented by the respondent. No order on costs.

Dated the 12th September, 2013.

Electricity Ombudsman.

Ref. No. P/ 318/ 2012/ 1971/ Dated 12.09.2013.

Forwarded to: - (1). The Secretary & the President
ManaboorGramapanchayath,
Kavalayoor,P.O. Pin-695144
Thiruvananthapuram Dt.

(2). The Assistant Executive Engineer,
Electrical Sub Division, KSE Board, Kadakavoor,
Thiruvananthapuram Dt.

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

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

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