

## STATE ELECTRICITY OMBUDSMAN

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### APPEAL PETITION NO. P/354/2013

(Present: T.P. VIVEKANANDAN)

APPELLANT : Sri. P.A. Viswambaran,  
Secretary,  
Viswapadmam Educational & Charitable Society,  
Thammanam, Kochi. Pin - 682032.

RESPONDENT : The Assistant Executive Engineer,  
Electrical Sub Division, KSE Board,  
Vytila P O, Ernakulam. Pin- 682019

### ORDER.

#### **Background of the case:**

The appellant's organization named, 'The Viswapadmam Educational and Charitable Society', is registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955 and is mainly running a Computer institute. This institution is having an electric connection with non-domestic tariff LT VI-A earlier with Consumer No. 3572 under Electrical Section, Vytila. Based on an inspection conducted by KSEB, the tariff was changed by the respondent from LT- VI A to LT VII A-commercial in 11/2011 and a notice was issued demanding Rs. 15,888/- as penal charges since the consumer has exceeded his connected load. The sanctioned connected load of the consumer was 1000 watts, but during inspection, it was found as 2037 watts. The Consumer filed objection before the respondent against the change of tariff and the penal bill. After hearing his objections, the tariff was later revised to LT VI B in 12/2011 and a short assessment bill for Rs. 2950/- was also issued, cancelling the penal bill. The consumer then lodged a complaint to the Dy. Chief Engineer, Electrical Circle, Ernakulam against tariff change and the short assessment bill, which was rejected by the Deputy CE. Being aggrieved, he filed petition before the CGRF, Ernakulam and not satisfied

by its decision vide order no. CGRF-CR/Comp. 116/12-13 dated 29.01.2013; the appellant has filed the Appeal petition before this Forum.

**Arguments of the Appellant: -**

- (1). The appellant's organization established under Travancore-Kochi Literary, Scientific and Charitable Societies Act, 1955, is now running a computer institute under Educational partnership programme of IT department, Govt. of Kerala since 2007. At that time it was having Electricity connection under LT VI-A tariff, which was later changed to LT- VI B.
- (2). As per the tariff announced in the Electricity Act, there is no mention about tariff applicable to Educational Institutions running on non-profit basis for charitable societies registered under the Educational partnership programme with Govt. of Kerala. There is also no clear cut mention in the Tariff for Educational institutions engaged in providing help to socially and economically backward sections of society to bring them to the main stream by providing activities, like career guidance, computer Education etc. on non-profit making mode. Similarly is the case of institutions running under Educational partnership with Govt., like C-DIT under Govt. of Kerala.
- (3). The fees of Computer courses offered by C-DIT are very low and thus Govt. is really helping the poor students to get computer education at lower cost. But charitable institution like us find it difficult to run these institution by paying salary to teachers besides rent and other establishment costs at a time when price of all commodities and services reached high. So principle of natural justice, say that those who take more load and suffering should be compensated with low tariffs. In the case of Aided School, Govt. is providing salaries to teachers and staff and also provide maintenance grant every year and these institution come under LT -VI A tariff.
- (4). As per the MOU signed between Govt. and the CEP, the fees for the course are the same as in Govt. institutions. Besides C-DIT, the Govt. Firm with Chief Minister as Chairman and IT Minister as Vice chairman, take 25% of the fees collected by the CEP as franchisee fee. No grant is given to the CEP by the Govt. by way of maintenance or salary of the staff, as is given in the case of Govt. aided institutions. In fact the Govt. is profited by conducting examinations and supervising the computer institute under CEP programme. If Govt. runs the computer institute, huge amount will have to be spent for the building, salary of the staff and other expenses. That means, by the CEP programme, Govt. is able to provide computer education to thousands of students at nominal rates at the expenses of the CEP's. Besides, CEPs also provide 25% fee concessions to students belonging to SC/ST and BPL category. Thus the computer institutes under CEP programme serve the cause of computer education. In return Govt. is charging higher tariff LT VI B to these institutes. This is against principles of natural justice.

(5). The CGRF, Ernakulum agrees with his argument and says that the Forum is helpless because Electricity tariff is decided by KSERC.

(6). The appellant requests relief on the basis of MOU signed by a charitable institution with Govt. The LT VIB tariff is not justifiable for institutions registered under Literary Scientific and Charitable Societies Act, 1955, because it deserves a Power tariff of LT VI-A at least, because the LT VI-B tariff is applicable to computer institute for commercial purpose. So, the institute working for charitable purpose should be cheaper i.e. at least LT VI A tariff, the benefit which the appellant have been enjoying since 2007 as per the instruction of Govt. at that time.

(7). The appellant belong to a community which is very backward in education. Similarly, there are several other backward sections in the society who need help. These backward castes do not own any educational institutions. Most of the educational institutions are run by Minority communities and they have already made advance in the field of education. Unless the Govt. takes a favorable stance, appellant will have to close down the computer institute and other services. It will affect adversely the cause of the marginalized section of the society. After all the purpose of the Govt. is to help the poor and interpretation of the statues should also be in accordance with this principle.

**Relief sought: -**

- (1). Restore the LT VI-A tariff to Viswapadmam Academy.
- (2) Adjust the overcharged amount under LT VI-B in future bills.

**Arguments of the Respondent:-**

(1). The Electric connection, Consumer No. 3572, is registered in LT VI-A tariff and connected load was 1000 watts. On 11.11.2011, an inspection was conducted by KSEB on the consumer premises and found that the said premise is being used for conducting classes for IAS, Engineering /Medical entrance coaching and counseling centre, in addition to a Computer training institute. It was also noticed that the institution is purely a self financing institution. The connected load detected was 2037 watts and accordingly a notice was issued to the petitioner demanding Rs.15888/- as penal charges and the tariff was changed to LT- VIIA.

(2). Then the Petitioner filed objection against the penal bill on 25.11.2011 and submitted that the above institution was a registered as a charitable society. Hearing was conducted on 12.01.2012 and on the basis of the production of certificates proving that it is a registered society and the main activity was of running a computer training institute, the penal bill was cancelled and the tariff was changed to LT VI-B, the tariff applicable to the computer training institutes. And also a short assessment bill for Rs.2950/- was issued revising the tariff to LT VI-B.

(3). Against this, the petitioner has approached, the Hon Minister for Electricity and the complaint was forwarded to the Deputy Chief Engineer (DCE), Electrical Circle, Ernakulum. The DCE declined the request of the petitioner for LT VI-A tariff. In the last tariff revision order also, no change was made in the tariff category list.

(4). The petitioner has admitted that they are running a computer training institute. The tariff applicable to the Computer Training Institute is LT VI B. The computer training institute, whether Govt. aided or any other means, comes under LT VI B tariff. During the public hearings of KSERC regarding revision of tariff, the petitioner will get a chance to submit his arguments before it.

(5). The Electricity Regulatory Commission has clearly stated that concessions and subsidies are to be allowed by the Govt., and not by KSEB.

(6). Almost all the self-financing institutions are run by the Charitable Societies and they are also exempted from paying income tax by the Central Govt. The electricity tariff allotted to these institutions is the LT VIIA-commercial. The petitioner can approach the Govt. for getting aid for his activities mentioned in the appeal, if eligible.

#### **Analysis and Findings: -**

The Hearing of the case was conducted on 24.09.2013, in my chamber at Edappally, and Mr. P.A. Viswambaran represented the appellant's side and Mr. P.R.Biju, Assistant Engineer, Electrical Sub Division, Vyttila, represented the respondent's side. On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

**1.0.** The Section 62 of the Electricity Act, 2003, is the enabling provision for determination of tariff which is as follows;

*62. Determination of tariff.- The appropriate Commission shall determine the tariff in accordance with the provisions of this Act.*

**1.1.** Accordingly for this state, the Kerala State Electricity Regulatory Commission (KSERC) is the empowered statutory body to frame the Power tariff rules and rates of electricity consumers and do so after conducting Public Hearings of the general People and the versions of all interested stakeholders in the field. It is also noted that, no specific direction, under Section 108 of the Act, 2003, was seen issued by the State Govt. to the Hon Commission, before the notification of Power tariff categorization and rules in 11/2007, on the tariff applicable for the CEP (C-DIT Educational

Partner) Institutions exclusively. A purposive interpretation is most appropriate while fixing the tariff as provided under sub clause (3) of section (62) of the Electricity Act.

**1.2.** The appellant has requested to allot him, LT VI-A tariff so as to get the benefits given to those institutions that are registered under cultural, scientific and charitable societies Act and exempted from payment of income tax. As per the Tariff notification, the LT VI-A tariff is available to Private Hospitals that are registered under the charitable societies Act. Further, only the Govt. or aided private educational institutions come under the category of LT VI-A (non-domestic). Also those Hostels, run by Institutions that are registered under cultural, scientific and charitable societies Act and exempted from payment of income tax, are seen included under LT VI-B category (along with Computer Institutes) and not under LT VI-A tariff category, which means the Registration under the charitable societies Act, does not automatically qualify for a LT VI-A tariff.

**1.3.** In the Tariff Orders issued by KSERC, consumers are usually classified into different tariff categories, according to the purpose or activity carried out, using the electrical energy. As per schedule of tariff and Terms and Conditions for Retail Supply by KSEB with effect from 01.12.2007, computer training institutes were seen categorized under LT VI- B tariff. The appellant's institution is imparting computer education and it is not disputed by him.

**1.4.** The Forums can decide on the issues presented before it by the Petitioners, based on the provisions under the existing Electricity Act, Rules and Regulations issued by the Hon KSERC and the Judgments delivered by the Superior Courts of Law only. The Forum cannot award a tariff considering the backwardness or social status of the Public. Such type of requests/pleas has to be placed before the Hon Regulatory Commission while conducting the Public hearings or the Govt. for their considerations and appropriate orders.

**DECISION: -**

From the analysis done and the Findings and conclusions arrived at, which are detailed above, I take the following decision.

There is no dispute that the appellant's institution is a Computer Training Institute and as per the schedule of tariff notified by the Hon: Commission, the said institutions are placed under the LTVI- B tariff category. When there is a specific rule, i.e. specific tariff assigned for a particular category, it has to be followed by the Distribution Licensee, KSEB. That is to say, the Commission has specified LTVI-B, as the applicable tariff for computer training institutes, then the consumers falling under this category has to accept that particular tariff, till it is reversed by the Commission or by any Superior Courts of Law.

The action of the respondent to change the tariff of the petitioner to LT VI-B category, after inspection done in 11/2011, is found to be in order since he is running a Computer institute.

The consumer has not challenged the short assessment bill for Rs. 2950/- issued to him by the respondent consequent to tariff change and hence it is found payable by the consumer. The party may be allowed three instalments, if requested by the consumer, to pay the bill. The respondent shall not levy any interest for the Petition pending period before the CGRF and this Forum, for the said bill amount till 30<sup>th</sup> day of this order.

The appellant may remit the whole amount or the 1<sup>st</sup> instalment with in 30 days of the date of this order. Please note that the instalments will carry interest, as per clause 22(8) of the Electricity Supply Code, 2005, at a rate as applicable in KSEB, for the period from the 30<sup>th</sup> day of this order to the date of actual payment of instalment or full amount, as the case may be.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant is found devoid of merits and stands dismissed. The related CGRF order no. CGRF-CR/Comp. 116/12-13 dated 29.01.2013 of CGRF, Ernakulam is set aside. No order on costs. Dated the 26<sup>th</sup> November, 2013.

Electricity Ombudsman.

Ref. No. P / 354 / 2013/ 2060 / Dated 26.11.2013.

Forwarded to: (1). Sri. P.A. Viswambaran,  
Secretary, Viswapadmam Educational & Charitable Society,  
Thammanam, Kochi-32.

(2). The Assistant Executive Engineer,  
Electrical Sub Division, KSEB,  
Vytila, Ernakulam-19.

Copy to: - 1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFChavanam, Vellayambalam, Thiruvananthapuram-10.  
2). The Secretary, KSEB,  
Vydyuthi Bhavanam, Pattom, Thiruvananthapuram - 4.  
3). The Chairperson, CGRF,  
KSEB, Power House Buildings, Ernakulam, Cochin -18.