

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/132/2015

(Present: V.V. Sathyarajan)

Dated: 12th November 2015

Appellant : Sri Cholakkal Moidutty
Cholakkal House,
Kachinikkad, Makkarapparamba,
Malappuram Dist.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Pulamanhole, KSE Board Ltd,
Malappuram.

ORDER**Background of the case:**

The appellant is an agricultural consumer with consumer number 17457 under Electrical Section, Makkarapparamba. The connection was effected on 01-10-2001 and the appellant had remitted only first two bills. Thereafter no electricity bills were issued by the respondent to the appellant till December 2014. Arrear bills amounting to Rs. 21,555.00 were issued to the appellant during the months of October and December 2014. Due to non remittance of above bills, the service was disconnected on 26-12-2014. Aggrieved by this, the appellant had filed a petition before CGRF Kozhikode in OP No. 102/2014-15 requesting to cancel the arrear bills and to re-effect the service. The CGRF dismissed the petition vide order dated 03-03-2015 by directing the respondent to collect the dues without any surcharge and to effect the service connection as per existing rules. Still aggrieved with the above decisions of CGRF, the appellant has approached this Authority with this appeal.

Arguments of the appellant:

The appellant has made the following submissions.

The appellant is absolute owner of agricultural service connection with consumer No: 17457 under Electrical Section, Makkarapparamba. This service connection availed during the year 2000 was utilized for agricultural purpose. After receiving the connection, first two bimonthly invoices were served to the appellant and he remitted the amount in time. Meanwhile the then KSEB Official informed the appellant that further electricity charges will be paid by the Agricultural Department. No invoice was raised by KSEB from that month onwards. Neither KSEB had served any invoice nor issued any notice for disconnection till December 2014.

The respondent had issued an arrear bill for Rs. 21,639.00 vide bill No. B23263 and directed to remit the amount at the Section Office since the Krishi Bhavan has not made any remittance. Due to financial crisis the appellant could not remit such a huge amount all of a sudden but only gave him much mental agony. In the meantime, the respondent issued another bill dated 16-10-2014 for an amount of Rs. 1,351.00 and issued another bill for Rs. 18,860.00. On 06-01-2015 the supply was disconnected by the respondent. Due to the disconnection much hardship has been affected to his agricultural crops.

The payment of electricity charges of agricultural consumers are effected by Government of Kerala through Krishi Bhavan as a policy matter and the procedure of any application by the consumer is not mandatory for availing a service from Government. The contention of the appellant is that there had been any instruction to submit any application before the authorities in this regard. If such a practice would have been in force, the KSEB or Government of Kerala would have notified this. The allegation that the appellant had not applied for concession in 2001 to substantiate lump sum billing made for 10 years now can never be justified.

The respondent has to submit the list of agricultural consumers along with the amount due to the Krishi Bhavan and Krishi Bhavan used to remit these amounts in by way of cheque in favour of the Assistant Engineer of concerned. According to the appellant, the respondent had issued an invoice for the entire period of more than 10 years in lump. It is the duty of the respondent to take bimonthly readings of agricultural consumers and to issue invoices directly to those consumers who are not included in Krishi Bhavan paying groups. Further, no disconnection notice was issued to the appellant during this period. As such the respondent had only committed the mistake and the appellant is not responsible for the above mistake.

The appellant filed petition before the Consumer Grievance Redressal Forum at Kozhikode. On 05-03-2015, the appellant had received an order from CGRF with instruction to remit the full amount as served in the arrear notice

by Assistant Engineer, Electrical Section, Makkarapparamba. As ordered by CGRF, appellant had remitted Rs 22,544.00 on 16-03-2015 and the agricultural connection reconnected on 16-03-2015.

The CGRF had neither considered the appeal or grievances. The Forum had acted only as licensee's redressal forum. According to the appellant, the only redressal for him is that delay for two months made by CGRF causing full damage to the crops resulting a loss of Rs 1,40,000.00 (One Lakh and Forty Thousand only). If CGRF has rejected the petition then and there appellant could have minimized his loss to few extend. The Forum has willfully protected the official of KSEB Ltd who had failed to issue invoices to Krishi Bhavan.

It is not the responsibility of the consumer but the section office staff to communicate the matter to Krishi Bhavan and to ensure remittance of agricultural consumers. The CGRF had acted as a protective body for licensee's staff. Hence it is prayed to get the amount refunded with compensation.

Arguments of respondent:

The appellant, Sri Cholakkal Moidutty, with consumer number 17457 has availed for an agriculture connection under Electrical Section Makkarapparamba on 01-10-2001. After effecting service connection the appellant has remitted current charges for initial two bills. Appellant continued the usage of electric connection without remitting any charges to KSEB. Further the appellant did not inform KSEB regarding non receipt of electricity bills after the payment of two initial bills. The appellant's statement that after payment of two initial bills by him, electricity bill payments were taken over by Krishi Bhavan and remitted by Krishi Bhavan is the matter of dispute.

The appellant has not submitted till date any evidence to KSEB to substantiate his statement that the Krishi Bhavan has taken over remittance of his electricity charges after payment of two initial bills. As per KSEB service connection agreement conditions and notifications Clause 5 on electricity bills states that if due to any reasons meter reading is not taken or non receipt of electricity bill, consumer has to contact section office for bill details and remittance. Non receipt of bill is not a reason for default in electricity bill payments. Based on the above, the appellant cannot relieve from his responsibility for remittance for electricity charges for the connection availed, on the grounds that electricity bills were not issued by KSEB.

Non remittance of electricity charges up to 10/2014 was noticed and bill, were issued by KSEB on 16-10-2014 and 11-12-2014 for a total amount of Rs 21,554/- vide bills nos. 797107, 798617 and 23263 including energy charges up to 10/2014 and fixed charge, duty and meter rent charges for the period

from 1/2007 to 10/2014. Surcharge will be extra depending upon date of remittances of electricity bills issued. Electricity bills, for fixed charge, duty and meter rent charges for the period up to 1/2007 are yet to be issued. In continuation with non remittance of electricity charges, disconnection notice (No. 2/1-2014) was issued on 16-11-2014 and connection was disconnected on 26-12-2014.

The appellant approached the Hon'ble CGRF Kozhikode. The Chair Person of CGRF on 08-01-2015 intimated that the appellant's agriculture crops are getting destroyed and hence ordered to collect all the dues without surcharge and effect service connection as per existing rules and also instructed to maintain good relation with consumers. Accordingly the appellant remitted the arrear amount on 16-03-2015 and connection effected as directed by CGRF Kozhikode.

Analysis and findings

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 13-10-2015. Sri Koya. C, brother of appellant represented for the appellant's side and Sri M. Kunhimohammed, Assistant Executive Engineer, Electrical Sub Division, Pulamanthole represented the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision.

According to the appellant, bimonthly invoices for his agricultural connection were not issued by the respondent after payment of first two bills. So he presumed that further payments were taken over by Krishi Bhavan. The appellant neither approached the Krishi Bhavan nor the respondent for the remittance of current charges. Further the appellant has not produced any documents to prove that his agricultural connection is exempted from payment of current charges.

As per Regulation 18(1) of Supply Code, 2005, the licensee is entitled to recover from a consumer on the basis of a bill, the following:

- (a) Charges of electricity supplied based on the approved tariff in force;
- (b) Wheeling charges, surcharges, additional charges applicable as approved by the commission;
- (c) Any miscellaneous charges applicable as approved by the Commission;

(d) Any tax or duty as notified by the government.

As per Regulation 18 (4) of Supply Code, 2005 “after effecting supply to any premises, the Licensee shall inform the consumer on the billing period, date of meter reading, and due date of payment. The Licensee shall adhere to the schedule of prescribed meter reading date and bill date. Any subsequent change in the schedule shall be brought to the notice of the consumer sufficiently in advance”. Here in this case the licensee has not issued bimonthly invoices to the appellant even after the remittance of the initial two invoices. For arguments sake, if the appellant is exempted for payment of current charges, it is the duty of the respondent to take the bimonthly readings of such consumer. This was not seen done by the respondent in this case which shows clear negligence on their part.

It has been found that the respondent issued bills nos. 797107, 798617 and 23263 for the amounts Rs. 1,351.00 dated 16-10-2014, Rs. 18,860.00 dated 16-10-2014 and Rs. 1,343.00 dated 11-12-2014 to the appellant, to remit, being the arrears of electricity charges for the old months from 1/2007 to 10/2014, without furnishing the details of consumption. It is strange to note that the Licensee has taken more than 13 years to claim the bimonthly current charges from an agricultural consumer. It is pertinent to note that that the respondent has not taken the bimonthly readings of the appellant and any action to recover the electricity charges, either through Krishi Bhavan or from the appellant. The respondent failed to issue notice for disconnection of supply, for the default of bills for the last so many years.

Moreover, on verifying the bill now issued, dated 16-10-2014, it is seen that no interest is levied for the belated period as the same is payable by the consumer, if he has defaulted payment of bimonthly bills. As per Regulation 23 of Supply Code, 2005, authorizes the licensee to levy interest on the consumer for late payments, based on actual number of days of delay from due date of the bill. It is also noted that the licensee has not taken any action to collect the arrears up to 1/2007 and without issuing any notice for collection of arrears up to 1/2007 the respondent issued bills for the period from 1/2007 to 10-10-2014 and for the current periods. These bills are seen prepared based on an average consumption of 1000 units and not based on actual consumption. This reveals that the respondent has not taken the meter reading of the consumer during the last 13 years. From the above, I feel that the notice issued by the Licensee even at this stage, is not a fool proof one, showing the lapses and negligence of its staff.

If the officers of the KSEB were negligent in the matter of issuing electricity bills of the consumer in time, it is totally unjust to saddle the consumer with the liability to pay huge amount all of a sudden in a lump sum.

It is not justifiable to penalize a consumer for the lapses of the officers of the licensee.

As per KSEB Service Connection Agreement Conditions and Notifications Clause 5 on Electricity Bills states that if due to any reasons meter reading is not taken or non receipt of electricity bills the consumer has to contact Section Office for bill details and remittance. **Non receipt of bills is not a reason for default in electricity bill payments.** Even though the consumer is responsible for payment of electricity bills periodically, this case differs on the following grounds. Here the consumer is an agriculturist. As per records he was issued with initial two bills. Thereafter the reading was not taken by the respondent and no bills were issued. The consumer was under the bonafide belief that the agriculture consumer is exempted from the payment of current charges. It is pertinent to note that the respondent issued bills in 2014 without taking periodical readings. The period stated in the bills is 1/ 2007 to 10/2014 and the consumption mentioned 20000 (average). There is no present reading and previous readings in the bills issued by the respondent.

As per regulation 136 (3) of Supply Code, 2014, “No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied”. Normally amount of charges become due and payable only with the submission of the bill and the word ‘due’ in this context must mean due and payable after a valid bill has been sent to the consumer. But in this case, the respondent failed to issue periodical electricity bills to the appellant in time and issued a lump sum bill after a period of 13 years. In the bill dated 16-10-2014 and in the bill dated 11-12-2014, the arrear amount payable shown was Rs. 21,554.00. This shows all the bills were prepared only on the same date i.e. 11-12-2014 and the respondent failed to issue a valid bill in conformity with the provisions in regulation 136 of Supply Code 2014 supra. So the demand raised in the arrear bill is not based on the actual consumption and found not in order.

In this case if at all any loss sustained to the licensee it is because of the malfunctioning of the responsible officers of the licensee. Hence it is advisable to conduct an enquiry to find out the reason and the persons responsible for the issue. There is no justifiable reason for issuing such a huge arrear all of a sudden in lump to an agricultural consumer.

Decision

In view of the above discussions it is decided to quash the arrear bill issued for Rs. 21,554.00 to the appellant. The respondent is directed to issue fresh bill for two years from 01-10-2012 to 31-10-2014. The appellant has to

pay the regular monthly bills from 01-11-2014 onwards. The respondent is also directed to refund or adjust the excess amount remitted by the appellant in the future bills.

Having concluded and decided as above it is ordered accordingly. The appeal petition filed by the appellant is found having merits and is allowed to the extent as ordered and is disposed of accordingly. The related CGRF order in OP No. 102/2014-15 dated 03-03-2015 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/132/2015/_____ /Dated:_____

Forwarded to:

1. Sri Cholakkal Moidutty, Cholakkal House, Kachinikkad, Makkarapparamba, Malappuram Dist.
2. The Assistant Executive Engineer, Electrical Sub Division, Pulamanthole, KSE Board Ltd, Malappuram. He shall submit a report on compliance of this order within 30 days from the date of receipt of the order.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSEBoard Ltd, Gandhi Road, Kozhikode.