

**THE STATE ELECTRICITY OMBUDSMAN**

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**APPEAL PETITION NO. P/137/2015**

(Present: V.V. Sathyarajan)

Dated: 13<sup>th</sup> November 2015

Appellant : Sri Sajan Varghese,  
Managing Director,  
Mangalam Publications (I) Pvt. Ltd.,  
S.H. Mount P.O.  
Kottayam – 686 006

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd.,  
Kottayam Central

**ORDER****Background of the case:**

The appellant, Sri Sajan Varghese, the Managing Director of Mangalam Publications (I) Pvt. Ltd., Kottayam had availed HT connection with Consumer Code HT-28/22/2255 under Electrical Section, Kottayam East. An inspection was conducted in the appellant's premises and a site mahazar was prepared alleging connected load as 510.851 kW. Based on the above findings, a penalty of Rs. 36,39,604.00 was issued to the appellant. Aggrieved by this, the appellant approached Hon'ble High Court of Kerala for redressal of grievance. The Hon'ble High Court ordered remittance of 50% of the disputed amount and stayed further proceedings still disposal of petition.

Meanwhile, the appellant made an application for enhancement of contract demand to 320 kVA from 206 kVA and remitted application fee, processing fee etc. Since the existing CT/PT unit with CT ratio 15/5 was a new one, the appellant decided to replace the same with a 20/5 A after getting necessary modification by the manufacturer. So the appellant requested 25 days time for submitting the scheme approval and the same was sanctioned by the Deputy Chief Engineer, Electrical Circle, Kottayam. The time extension sanctioned was further extended for a period of two months from 19-02-2014.

On 27-03-2014 the appellant submitted HT agreement for enhancing the contract demand to 320 kVA along with connected documents. The test report of CT/PT unit with CT ratio 20/5 dated 18-03-2014 was also submitted along with the application. It is alleged that the respondent has not taken any action on that application for enhancing the contract demand till 12-12-2014. Instead, issued a penal

bill for Rs. 33,11,236.00 towards the 50% extra charges over the prevailing rates on both demand and energy charges for the period from 05/2014 to 12/2014 for not providing the CT/PT unit before the sanctioned period i.e. 18-04-2014. The CT/PT unit was tested at TMR Division, Pallom and the test report dated 18-03-2014 was submitted along with the HT agreement. But the CT/PT unit and the meter were not commissioned and HT agreement was also not executed for the reasons that the penalty for unauthorized load was pending.

Aggrieved against the bill the appellant approached the Hon'ble CGRF, Kottarakkara and the Forum on 30-06-2015 disposed the petition on the finding that the appellant is solely responsible for the delay in reinstating the CT/PT unit. Not satisfied with the above order, the appellant submitted this appeal petition.

### **Argument of the appellant**

The appellant has made the following submission.

The appellant submitted an application for enhancement of contract demand from 206 kVA to 320 kVA and remitted required fees. Since the existing CT/PT unit with CT ratio 15/5 A was a new one the appellant decided to modify the same to 20/5 A for the enhancement of contract demand. Accordingly, appellant requested 25 days time extension for submitting the scheme approval and the Deputy Chief Engineer, Electrical Circle, Kottayam has accorded sanction for the same. As per the request of appellant time extension up to 18-04-2014 was accorded to install the 20/5 A CT/PT unit by the Deputy Chief Engineer.

According to the appellant the test report of the CT/PT unit with a CT ratio 20/5 A dated 18-03-2014 was submitted along with the HT agreement. But the respondent has not taken any action. The appellant is not empowered to connect the CT/PT and the meter to the system of respondent. The appellant's contention is that for enhancing the contract demand, the appellant submitted the test report much ahead of time extension sanction which is up to 18-04-2014. But the Deputy Chief Engineer has not taken any action on the test certificate submitted by the appellant. The averment that the appellant has not approached the respondent for replacing the CT/PT unit is misleading and incorrect.

The time extension sanction was further extended for two months from 19-02-2014 by the Deputy Chief Engineer and direct connection was accorded up to 18-04-2014. The appellant submitted completion report, HT agreement along with test report of new CT/PT unit with CT ratio 20/5 A dated 18-03-2014 for enhancing the contract demand to 320 kVA. But the Deputy Chief Engineer intimated the imposition of penalty for not providing the metering equipment beyond the sanctioned period. On receipt of the above intimation the appellant submitted an explanation why CT/PT unit and meter was not installed by the KSEB. The CT/PT unit and metering equipment will be commissioned by the KSEB only after signing the HT agreement. Hence Deputy Chief Engineer instructed to install CT/PT with CT ratio 20/5 and to produce the test report.

The existing CT/PT unit with CT ratio 15/5 A was removed and direct supply was availed by the appellant as per the approval of Deputy Chief Engineer. The

appellant modified the CT/PT unit and tested at TMR Division, Pallom who issued a test report dated 18-03-2014. The appellant submitted the application for enhancing the contract demand to 320 kVA, along with HT agreement and test report of new CT/PT with necessary fee to the Assistant Engineer, Electrical Section, Kottayam on 27-03-2014. Since the agreement was not executed the CT/PT and the meter was not commissioned by the KSEB. The agreement was not executed since the penalty for unauthorized load was pending.

The appellant stated that penalty demanded by the KSEB was not paid since the matter was pending with the Hon'ble High Court of Kerala. The delay in power allocation and signing of the HT agreement delayed the commissioning of CT/PT unit. Finally the CT/PT unit with CT ratio 20/5 A and ToD meter was installed on 19-01-2015. The appellant argued that they have tested the CT/PT unit and submitted test report on 27-03-2014 and the delay in commissioning the CT/PT unit and the meter was only due to delay of KSEB for enhancing the contract demand and signing the HT agreement. The appellant produced the test report of new CT/PT with CT ratio 20/5 A well ahead the time allowed by the Deputy Chief Engineer. Hence the appellant requested to quash the order of CGRF confirming the penalty for meter fault and not to disconnect the appellant's supply.

The replacement of CT ratio 20/5 A was necessitated due to the enhancement of contract demand and normally the respondent is connecting CT/PT unit after execution of HT agreement. The appellant's contention is that the installation of metering equipment rests with the respondent and any delay in this regard the appellant is not responsible. Further, the appellant invited to the attention of Section 55 of the Electricity Act, 2003, which is produced as follows: **Use, etc. of meters - (1) "No licensee shall supply electricity, after the expiry of 2 years from the appointed date, except through installation of a correct meter in accordance with the Regulation to be made in this behalf by the Authority. The Kerala Electricity Supply Code, 2014 in provision 117.2 (c) clearly states that if the consumer fails to replace the meter and associate equipment, the licensee that install a correct meter and require the consumer to furnish security and start charging meter rent as per the relevant provision in the Code.**

All the above clearly indicate that the responsibility of providing metering equipment is the responsibility of the licensee and not the consumer. Hence the appellant is not at all responsible for the delay in installing the enhanced CT/PT unit. The appellant has produced CT/PT unit with CT ratio 20/5 A along with test report well ahead the time allowed by the Deputy Chief Engineer for its installation, it is humbly requested to quash the order issued by the CGRF confirming the penalty for the delay in commissioning the CT/PT unit and meter by the respondent.

### **Argument of the respondent**

The respondent stated that the KSEB Division Squad inspected in the appellant's premises on 12-11-2012 and detected additional load and subsequently issued a penal bill. Instead of regularizing the additional load, the appellant remitted the penal charges for the unauthorized load till December 2013. Meanwhile, the appellant challenged the penal bill in various Forums and is now under the consideration of Hon'ble High Court

of Kerala. During December 2013 the appellant filed an application for regularizing the additional load and the Assistant Engineer, Electrical Section, Kottayam East forwarded the connected documents to the Deputy Chief Engineer for approval. The appellant was also asked to replace the CT/PT unit 15/5 A with a 20/5 A CT for enhancing the contract demand from 206 to 320 kVA.

It is admitted that the appellant was allowed 25 days time for availing direct supply based on the request of appellant on 19-02-2014. This was further extended for a period of 2 months up to 18-04-2014. While issuing sanction it was clearly mentioned that *“if you fail to replace and test the metering equipments within 2 months, penalty will be imposed as per the existing Rules and Provisions of HT agreement without further notice”*. But the appellant approached the respondent for reconnecting the CT/PT unit only on 19-01-2015 that too after receipt of reminder from Deputy Chief Engineer.

The respondent argued that the regularization of additional load and availing unmetered supply are two different issues. The appellant has neglected the directions issued by the Assistant Engineer, Electrical Section, Kottayam East for reinstating CT/PT unit and used unmetered supply. The contention of the respondent is that the test report of CT/PT unit with CT ratio 20/5 A dated 18-03-2014 was attached along with the documents which required for regularization of unauthorized load.

The respondent also stated that there exists a penal bill under consideration of the Hon'ble High Court of Kerala and the execution of HT agreement can only be made based on the undertaking to remit the penal bill in accordance with the final judgment of the Hon'ble High Court. The respondent submitted the undertaking only on 09-10-2014. Hence the delay in getting the regularization of additional load is on the part of appellant and the respondent cannot be blamed.

The respondent contented that even after repeated instructions the appellant installed the CT/PT unit of required capacity only on 19-01-2015. While issuing unmetered supply to the appellant it was clearly mentioned that *“if you fail to replace and test the metering equipments within 2 months, penalty will be imposed as per the existing Rules and Provisions of the HT agreement without further notice”*. Further, in the schedule of tariff and terms and conditions for retail supply of electricity for High Tension and Extra High Tension it is specifically mentioned that *“if any existing consumer, having elected to purchase and supply the meter for replacement of the defective meter in his premises, fails to do so within 2 months, such consumer will be charged 50% excess extra over the prevailing rates applicable to him for both demand and energy, from the date of expiry of the 2 months period fixed for purchase and supply of meter, till the date on which meter is supplied by the consumer to the licensee”*. Hence the contention of the respondent that the penal bill served for the extended period is in order and the appellant is liable for payment.

### **Analysis and findings**

A hearing of the case was conducted on 09-10-2015 in my chamber at Edappally and Sri Anoop K.S. and Sri Rajan Babu P.C. represented for the appellant's side and Sri G. Prabhakaran, Assistant Executive Engineer, Electrical Sub Division, Kottayam Central

for 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 decisions.

The appellant submitted his application for enhancing the contract demand to 320 kVA from 206 kVA. Considering the dire need of the appellant the Deputy Chief Engineer sanctioned 25 days time for submitting the scheme approval and accorded sanction for direct connection. It is seen from the records that a special sanction for further period of 2 months was given by the Deputy Chief Engineer and that period ends on 18-04-2014. At the very outset it is clear that this sanction is a special one taking into consideration of the need of the appellant so as to avoid unnecessary wastage of resources and money. Since it is a special sanction the licensee / respondent must be vigilant enough to see that the direct connection must be stopped on or before 18-04-2014.

It is submitted by the appellant that he had submitted the application for enhancement of contract demand, HT agreement along with test report of CT/PT unit with CT ratio 20/5 A on 27-03-2014. This fact was not disputed by the respondent. The only contention raised by the respondent is that in spite of repeated demands from the respondent the appellant approached the licensee with new CT/PT unit with CT ratio 20/5 A on 16-01-2015. This argument cannot be pressed into in view of the fact that the appellant submitted the test report on 27-03-2014. If the appellant's contention that the test report submitted on 27-03-2014, it is the duty of the respondent to put back the CT/PT unit into service to avoid direct connection given as a special case. The carelessness shown by the officers of the licensee in this regard is very clear that the sanction expired on 18-04-2014 is not revived thereafter. This shows that the officers of the licensee never paid any attention in the matter after giving a special sanction to a consumer for direct connection which may lead to loss to the licensee.

The explanation given by the respondent for not entering into an HT agreement is the pendency of Writ Petition No. 13583/2013 dated 29-05-2014 before Hon'ble High Court of Kerala. From the records it is seen that the Hon'ble High Court of Kerala stayed the demand for penalty on condition of payment 50% of the amount and the appellant had remitted that amount. In the above circumstances there is no justification for the contention raised by the respondent.

In the above facts and circumstances of the case there is no evidence to show that there is any delay on the part of appellant in installing the CT/PT unit before the extended time granted by the Deputy Chief Engineer. The delay caused is only on the lethargy on the side of the respondent for which the appellant cannot be penalized. It has been found that the appellant has submitted the test report of new CT/PT unit with CT ratio 20/5 A well before the extended time granted by the respondent. Therefore, the contention raised by the respondent that the appellant delayed the commissioning of CT/PT unit is contrary and lacks fairness in action.

**Decision**

In view of the above discussions it is concluded that the penal bill issued for Rs. 33,11,236.00 is found not in order and hence quashed. The appeal filed by the appellant is found having some merits and is allowed. The CGRF order No. 1420 dated 27-06-2015 is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/137/2015/\_\_\_\_\_ /Dated:\_\_\_\_\_

Forwarded to:

1. Sri Sajan Varghese, Managing Director, Mangalam Publications (I) Pvt. Ltd., S.H. Mount P.O., Kottayam – 686 006
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kottayam Central

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, KSE Board Ltd, Kottarakkara - 691 506.