

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/097/2017
(Present: A.S. Dasappan)
Dated: 29th December 2017

Appellant : Sri. Abdulla Chemmanam Kudil
Naikkaravallappil House,
Kanhananad, Kasaragod

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Kanhangad,
Kasaragod

ORDER

Background of the case:

The appellant's three phase electric service connection, consumer No.11115, under Chittari Electrical Section, is under LT VIIA Commercial tariff and the connected load is 7510 watts. A short assessment bill for Rs.82152/- was issued to the appellant on 09-12-2016, reassessing her, for the door locked period of 12/2015 to 12/2016. Aggrieved against the impugned bill, the appellant filed a complaint before the CGRF, Kozhikode on 16-02-2017. The Forum allowed the petition in part and quashed the bill for Rs.82152/- and also directed the respondent to revise the bill at Rs.6/- per unit for 7814 units. Not satisfied with the decision of CGRF, vide OP No. 183/2016-17 dated 22/07/2017; the appellant has submitted the Appeal petition before this Authority.

Arguments of the appellant:

The Appellant is Consumer 1166950011115/Chittari, Kasaragod. The Appellant obtained the single phase connection for his Hotel and thereafter it was converted to three phase connection with effect from 16-6-2015. During November 2015 the appellant hospitalized and he was constrained

to close the Hotel and even now it is closed. The Appellant further submits that the Hotel is on the vicinity of the respondent's office.

The Appellant further submits that he regularly remitted the bimonthly bill issued by the K.S.E.B. for the last one year towards the closed establishment. Hence the Appellant requested the respondent to convert the three phase connection in to single phase. The Sub Engineer inspected the premises and the Electric meter but he could not take the reading and thereafter the lineman took the meter reading and directed the appellant to pay Rs. 81,905/-towards the bill.

The Appellant submits that on verifying the documents of the respondent it was revealed that for the last one year the officials of K.S.E.B. recorded that meter reading as "not available".

The Appellant did not get any bill from the respondent stating that the meter reading could not be obtained due to premises locked or meter default or for any other reasons. It is a fact that the main switch and meter were installed outside the premises and there was no difficulty in taking the meter reading.

The Appellant further submits that the Sub Engineer and lineman inspected the premises on the basis of the appellants request to reduce the tariff from three phases to single phase. The respondent, Sub Engineer or lineman did not notice anything unnatural. They did not prepare any mahazar of the meter or main switch or the wiring and other Electrical apparatus in the premises. They did not notice any tampering leakage or other damages and they have no such case also. The petitioner did not get any notice from the KSEBL to rectify any defects in the wiring, main switch, Electrical meter or other Electrical apparatus. The main switch and other Electrical apparatus are even now in the premises without any tampering.

The Appellant further submits that on receiving the notice dated 9.12.2016 Appellant filed an application to test the meter and the respondent regularly tested the meter from 13.12.2016 to 23.12.2016 by running the pump set all the Tube light, bulbs and other apparatus and it is confirmed that there was no abnormalities with any of the Electricity apparatus. Hence there was no justification at all in issuing a demand notice under appeal.

The respondent could not give any reasoning for the arrival of the meter reading of 7814 units for locked premises. It is admitted case of the respondent that the Hotel is closed and no tampering made by the consumer.

The appellant filed objection and the respondent blindly dismissed the same without assigning any reasons. Hence the appellants filed an appeal

before the Consumer Grievance Redressal Forum, Kozhikode and after hearing the Consumer Grievance Redressal Forum allowed the appeal in part. The finding of the Consumer Grievance Redressal Forum is wrong and appeal for the reason given was below:-

a) The findings of the lower Forum that the premises were locked during 10-10-2015 onwards till 09-12-2016 is false and without any basis.

b) The findings of the lower forum that spot bill fixed charge {FC} only given to the Appellant during door lock period as the Hotel was not functioning is false and denied herewith. No evidence adduced or produced by respondent that they have issued spot bill for F C.

c) The lower Forum correctly concluded that no door lock notice was issued as per regulation 111 of Kerala Electricity Supply Code 2014 during the door lock period to the appellant. If the respondent acted as per regulation No.111 of Kerala Electricity Supply Code. The abnormality if any could have been notice earlier.

d) The lower Forum failed to see the fact that till the date of argument before the forum the respondent did not have a case that leakage occurred in the main switch.

e) The lower forum did not conclude that there was earth leakage from the main switch.

f) Even though the lower forum concluded that lapses occurred on the part of the respondent in issuing door lock notice and to take meter reading the lower forum cannot put the burden done up on the appellant. The conclusion of the lower Court that the appellant did not consume the energy for his purpose and the finding that the both appellant and respondent shall bear the cost of unused energy is against natural justice, for these findings the lower forum did not found any fault on the part of this appellant.

g) The decision No.2 and the finding that both petitioner and respondent shall bear the cost of unused energy are contrary to each other.

h) The lower forum ought to have held that the issue of the bill for Rs. 82,152/- was issued without any basis and main switch and meter were intact and there was no tampering as alleged.

i) Without prejudice the appellant further submit that on the basis of the order of the Consumer Grievance Redressal Forum the respondent issued revised invoice claiming fixed charges and meter rent which already paid by the appellant as per order of the lower forum the respondent was directed to issue revised bill only for 7814 units at the rate of Rs.6/-per unit and

not asked them to collect Electricity duty. The respondent exceeded his power in issuing such a bill.

j) Being highly aggrieved by the order of the Consumer Grievance Redressal Forum Kozhikode the appellant begs to prefer this appeal and the Electricity Ombudsmen may be pleased to allow this appeal by revising the order of the Consumer Grievance Redressal Forum Kozhikode dated 22-07-2017 and set aside the order of the respondent dated 02-02-2017 and bill dated 26-12-2016 and granting such other and appropriate reliefs.

Arguments of the respondent:

1. The respondent submits the following facts about service connection. Residence of the consumer is about 1 Km away and the hotel is about 5 Km away in town from the KSEB office. Meter reading and billing is done using employees under contract basis. . They are not likely to know the consumer in person. The consumer didn't register any complaint regarding bills till the abnormal bill occurs.

2. The last bimonthly reading recorded was 1143 kWh on 10-12-2015. Since February 2016, the premises was locked and meter reading was not available. As the premises was locked and the hotel found stopped functioning, the meter reader issued bill for minimum charges of Rs 1950/- bimonthly during February, April, June , August and October 2016. (FC Rs 120 X 8 KW = 1920 and Rs 30 as Meter rent). The billing is done in spot billing method. At present there is no system in any supply utility to register or certify the delivery of current bills. How ever complete details are made available online.

3. Sub Engineer found the reading abnormal while verifying the bill history and deputed another field staff to check the reading once again. Each time the consumer was present to open the grill where meter is located. The status 'Not available is recorded normally when the display of meter is damaged or premises is locked by the consumer. The bill was not issued by line man. It was regular bill issued by the Meter Reader.

4. About five times the meter reader reached the premises. Up to the day of taking back the test meter the metering point was in locked condition. The denial statement of consumer is not truthful. Hence to process the load changing application, help of the consumer had to be sought to take the readings.

5. Finding that the meter reading is very high after taking the reading for second time also, the Sub Engineer and a line man inspected the premises in detail in presence of the consumer to find the cause. Finally the main switch was found defective and the meter was showing instantaneous current about two amperes in one phase due to earth leak. It was brought to the consumers attention on the spot and instructed to replace the main

switch. To avoid further earth leak and fire, the Sub Engineer disconnected the fuse immediately and opened the main switch. No misuse or theft found at the premise. Only a serious damage in a very important circuit component in consumers area i.e., main switch is found in the building. Hence preparing site mahazar, serving notice etc, are irrelevant in this case. No conversion process is carried out so far. The existing service connection is three phase under LT 7 A tariff with same metering equipment under dispute.

The appellant replaced the main switch as instructed by the Sub Engineer to ensure safety and avoid fire. He hides this fact and states that there was no problem with the wiring.

6. Photograph of the insulation damaged main switch was presented before the CGRF. The consumer replaced the main switch with a new one and applied for meter testing. Only the metering equipment was under test and there was no errors.

7. The consumer states that he was under treatment and frequently out of station. Without the help of the consumer meter reading was not possible because grill was locked. The Deputy Chief Engineer, Electrical Circle Kasaragod has visited as per the consumer's complaint and at that time also the site condition was the same. The consumer resides at about six kilo meters away from the hotel. Phone number was given only at the time of submitting application for changing connected load...

8. Before installing the test meter the consumer replaced the faulty main switch. The high bill amount is not because of any fault from KSEB side. From the main switch onwards, the consumer is responsible for any abnormality in the wiring or apparatus. The consumer has no complaints against equipments or materials at the KSEB side. The meter records current passed through consumers circuit as electricity used. The supply utility is not responsible for loss occurred due to consumer's fault. Hence he is liable to pay the bill amount.

The meter was tested in approved lab as per order of the CGRF. The appellant is silent about this action by the CGRF. It is evident from the test certificate that the earth leakage started during 08/2016 and continued till the date of inspection by the Sub Engineer inside the premises.

The CGRF ordered to pay the bill at the base rate of energy recorded by the meter as used. The additional rates liable due to tariff structure applicable was burdened up on the staff responsible. The utility could not bear loss occurred due to electricity wasted by the consumer by using defective apparatus. Only consumer is responsible for the loss.

Analysis and Findings: -

The Hearing of the Case was conducted on 14.12.2017 in my office at Edappally and Sri C.H.Abdulla and Sri Jason Vengattu Johny, advocate appeared for the appellant, and Sri. Jayachandran, Asst. Executive Engineer, Electrical Sub Division, Kanhangad, represented for the respondent. On examining the Appeal Petition, the counter statement of the Respondent, perusing the documents attached and 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 thereof.

The appellant's contention is that he has not consumed the electricity of 7814 units calculated by the respondent on 9-12-2016 and he has also challenged the version of the respondent that the appellant's premise was in door locked condition for quite some time, i.e. from 10/2015 onwards. The respondent has admitted that the reading in the premises were not taken during the period from 10/2015 to 09/12/2016 i.e. exceeding one year, citing the reason as 'door locked' condition and the display of the meter is damaged.

The Regulation 111 of Electricity Supply Code, 2014, deals with the meter reading in the locked up premises. It reads as; '111. Consequence of making the meter inaccessible for reading.

(1) If the meter is rendered inaccessible on two consecutive meter reading dates of two billing cycles, a notice shall be issued to the consumer to keep the meter accessible for reading and to get the meter read by the licensee after payment of a penal charge as approved by the Commission, on a date which shall be at least seven days after the date of notice and at the time specified in the notice.

(2) If meter is not made accessible even on the date specified in the notice, a disconnection notice shall be served on the consumer or affixed near the main entrance of the premises, if the consumer is not available.

(3) If the consumer fails to comply with the notice, the supply shall be disconnected and reconnection of supply shall be effected only after the reading is taken and all the dues are realised.

(4) The provisions of the above sub regulations shall not apply in the case of a domestic consumer who has given advance intimation to the licensee of the inaccessibility of his meter for reading due to the consumer being out of station and has also deposited an amount in accordance with regulation 129 of the Code.

(5) When a domestic consumer, who has paid entire dues up to date, gives prior information in writing to the licensee about inaccessibility of the

meter due to continued absence from residence, the licensee shall not send any notice or provisional bill to the consumer if the consumer pays the fixed charge or minimum charge for such period in advance.

(6) Whenever the meter is made accessible by the consumer for taking the meter reading, the entire consumption shall be taken as if the consumption was for the period excluding the intimated period of inaccessibility.”

The non-compliance of the above provisions by the respondent has created a situation of uncertainty in deciding the actual date of leakage as alleged by the respondent and the previous readings correctly.

It seems the Board has not taken proper action in time or was negligent in its duties. The Board has failed in detecting the damage of meter display and rectifying defects in the display of the meter in a reasonable time and reassessing the consumer, after a period of one year is not fair.

The allegation is that earth leakage occurred in the consumer's main switch during the door lock period and hence needs reassessment as per subsequent reading taken on 26-12-2016. Accordingly the consumer was issued a short assessment bill for Rs. 82152/-. The Respondent also states that the consumer premises was in locked up condition from 10/2015 onwards and hence was not able to take the meter readings regularly. The Respondent did not take any action, as contemplated under Reg. 111 of Electricity Supply Code, 2014, in such a situation of Door Locked condition in a consumer premise. The appellant denies the all the charges of door locked position since the main switch and meter are installed outside the premises and there is no difficulty in taking the meter reading and he also denies replacing the main switch as alleged by the respondent.

In this case the cause of the leakage has not been established particularly by conducting a test as per the procedure laid down in the Regulations. The damage occurred to the electrical appliances of the consumer due to the reason beyond his control such as natural calamity, leakage etc the consumer shall not be liable to pay charges to the licensee on account of such failures. The argument of the respondent that he inspected the premises and detected that the excess consumption was due to the earth leakage occurred in the premises is merely on the basis of assumption and without any evidence. The argument of the respondent that the excess consumption due to earth leakage rests with the appellant alone is not correct and hence cannot be admitted.

Regulation 138(j) of the Supply Code, 2014 grants the licensee to disconnect the supply of electricity” if the wiring, apparatus, equipment or

installation at the premises of the consumer is found to be defective or unsafe or there is leakage of electricity.”

The CGRF has quashed the assessment bill for Rs.82152/- and directed to revise the bill for entire units at Rs. 6/ per unit based on the observation that earth leakage occurred in the main switch and accordingly the revised bill comes to Rs.53522/-.

The CGRF has arrived the following conclusions;

1)“The earth leakage occurred during the door lock period i.e. on a date after 10-10-2015. The earth leakage could have been arrested if meter reading was taken during the door lock period.

2) Lapses occurred on the part of the respondent in issuing door lock notice and to take meter reading. The petitioner also did not provide facility to the respondent to take meter reading.

3) The petitioner had not consumed the energy for his purpose.

4) The dispute will not come under Section 126 of Electricity Act 2003.”

Since the respondent alleges earth leakage, he is bound to act as per the provisions of Regulations 110(7 to 13) of the Supply Code, 2014 which reads as follows:

“(7) It shall be the duty of the employee of the licensee or the person duly authorised by the licensee for reading the meter, to check the condition of light emitting devices (LED) on electronic meters.

(8) In case the LED indicator for earth leakage provided in the electronic meters is found to be ‘ON’, he shall inform the consumer that there is leakage in the premises and advise the consumer to get the wiring checked and leakage removed.

(9) The employee of the licensee or the person duly authorised by the licensee for reading the meter shall also inform the concerned officials of the licensee about the leakage.

(10) Status of the meter or its seal or both along with the meter reading details for the last six billing cycles of each consumer shall be made available on the website of the licensee.

(11) In case, for any reason, the meter is not read during a billing cycle, the licensee shall prepare a provisional bill based on the average consumption of previous three billing cycles when readings were taken.

(12) Such provisional billing shall not continue for more than two billing cycles at a stretch, and the licensee shall not generate more than two provisional bills for a consumer during one financial year.

(13) The amount paid as per the provisional bill shall be adjusted against the bill raised on the basis of actual meter reading during subsequent billing cycles.”

I find total negligence from the side of the KSEB in all the said dealings with the consumer. There is no dispute that the appellants' firm was closed during these periods and he was issued only bills for fixed charge. The respondent's lapse or omission should not cause a burden on the Consumer. Hence it is decided that no reassessment is needed in the present case for the reasons stated above. The bill dated 26-12-2016 for Rs.82152 and revised bill for Rs.53522/- is found as not payable by the consumer and is set aside. The loss if any, occurred may be realized from the concerned officers of the licensee after fixing responsibility, if the licensee desires so.

Decision:

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

The respondent has failed to take timely action as specified in the Kerala Electricity Supply Code, 2014, Regulations 111, by which it was required to issue notice and make the door to the meter premises got opened, for taking the meter readings. The Board has not taken the meter readings of the consumer for 12 consecutive months, nor given any notice to that effect, itself shows that there was gross negligence and lapse on the side of Respondent.

Similarly the consumer was paying only the minimum charges (Fixed charges) for the whole disputed period of months and has not paid any energy charges, as the respondent has not taken the meter readings, complaining that the Meter premises was under Locked condition.

During the period the consumer did not raise any dispute on the bills received from KSEB, perhaps it may be beneficial to him. But the consumer is bound to pay the charges for the electricity he has actually consumed.

Since, there was negligence on the side of KSEBoard in taking the meter readings and issuing the bills in time, I am of the view that the assessment for two billing cycles is more reasonable.

Accordingly, I decide that the consumer shall be billed for two spot bills, 2604 units (7814/6 x 2) @ Rs. 6 per unit and to issue the revised bill within 30 days of this order. The respondent is directed to revise the bill as

ordered above, giving credit to the amount already remitted by the consumer and raise the bill for the balance amount only. The bill dated 26-12-2016 for Rs.82152 and revised bill 27-08-2017 for Rs.53522/- are quashed.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having some merits and is allowed to the extent ordered. The order of CGRF, Northern , Kozhikode in Petition No. OP/183/2016-17/dated 22-07-2017 is modified to this extent. No order on Costs.

ELECTRICITY OMBUDSMAN

Ref. No. P / 097 / 2017 / _____ Dated

Forwarded to

- 1) Sri. Abdulla Chemmanam Kudil, Naikkaravallappil House, Kanhananad, Kasaragod
- 2) The Assistant Executive Engineer, Electrical Sub Division, KSE Board, Kanhangad, Kasargod.

Copy to: -

- 1). The Secretary, Kerala State Electricity Regulatory Commission, KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2). The Secretary, KSEB, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
- 3). The Chairperson, Consumer Grievance Redressal Forum, Kozhikode, Vydhyuthibhavan, Gandhi Road, Kozhikode 673011.