

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/070/2018  
(Present: A.S. Dasappan)  
Dated: 17<sup>th</sup> October 2018

Appellant : Sri. K.P. Davis  
Kanjirathingal House,  
Venkidangu P.O., Thrissur.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd., Kandassankadavu,  
Thrissur

### **ORDER**

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

The appellant is a commercial consumer under the jurisdiction of Electrical Section Venkidangu having Consumer No B.438 and B.402. The service connection having Consumer No B.402 was dismantled years back. The appellant was given an additional bill of excess consumption for Rs.2335 for the year pertains 1998-99. Another complaint of the appellant is that the respondent has not paid the refund of security deposit on dismantling the connection no. B402. The appellant approached the Consumer Grievance Redressal Forum with a prayer to refund of the excess amount collected on Consumer No B.438 and security deposit on the dismantled con No B.402 with interest and compensation. The Forum dismissed the petition due to lack of jurisdiction, vide order dated 30-06-2018. Aggrieved against this, the appellant has submitted this appeal petition before this Authority.

#### **Arguments of the appellant:**

The appellant is a commercial consumer under the jurisdiction of Electrical Section Venkidangu having Consumer No B.438 and B.402. The service connection having Consumer No B.402 was dismantled years back. The allegations pertain to the period of 1998 - 1999. The appellant was also a part time journalist for some Malayalam dailies. He has given some news about some malpractices done by the KSEB staff in the dailies and the same aroused

wrath among KSEB. As a result he was given an additional bill of excess consumption 1260 for the year. On the above set of facts, the appellant approached the Consumer Grievance Redressal Forum with a prayer to refund of the excess amount collected on Consumer No B.438 and security deposit on the dismantled con No B.432 with interest and compensation.

The order passed by the Consumer Grievance Redressal Forum is illegal, improper and irregular, warrants the interference of this Ombudsman.

The approach of the forum not to interfere in the matter on the reason that the subject matter was already decided by other authority is illegal and improper.

Adjudication before the other authority will not be a bar for the petitioner to approach the Forum substantiating his grievances.

The Forum ought to have found that the appellant was also a part time journalist for some Malayalam dailies; He has given some news about some malpractices done by the KSEB staff in the dailies and the same aroused wrath among KSEB. As a result he was given an additional bill of excess consumption 1260 for the year.

One of the reasons mentioned in the order of dismissal is that this was a case pertains to a period of long years back and the same is illegal. The forum cannot dismiss the genuine grievances of a common man on a vague reason that the matter pertains to a period of long years back.

No documents have been produced by the respondents to ascertain the fact that how the respondents reach to the conclusion that the appellant had additionally consumed 1260 units warrants the interference of this Ombudsman.

The meter reading has to be taken within a period of 6 months. But herein in the present case the meter reading has been taken after a period of 12 months and the same is per se illegal. At this juncture it is respectfully submitted that the excess of units as allegedly noted by the respondent is without any basis.

It is relevant to point out that the appellant has specifically required the respondent to furnish copies of the office records of the following items in regard to his consumer No. B438, namely the connected load of consumer No. B438 as VIIB during 1998, copy of site inspection report of Consumer No. B438 (site Mahazar), copy of documents to prove the connected load of consumer No.438 when it was change to LT VIIA tariff and other related documents. In fact the Deputy Chief Engineer and appellate authority have as per letter NO.GB2 Right to Information Act/08-09/776 dtd. 30.05.2008 has

specifically directed the Assistant Engineer, Electrical Section, Venkidangu to furnish the appellant with the copies of the document. Despite this specific order, the said documents after not produced. In fact if the said document as required by the appellant is produced it could be seen that the respondents had illegally issued an additional bill alleging excess consumption of 1260 units during the period 1998-1999.

Even though the appellant approached various authorities pointing out his grievances, but no authority will properly adjudicate the issue and the forum ought to have meritoriously interfered in the matter.

Reliefs sought for by the appellant are:

Set aside the order dated 30.06.2018 passed by the Consumer Grievance Redressal Forum and direct the respondents to refund of the excess amount collected on Consumer No B.438 and security deposit on the dismantled consumer No. B.432 with interest and compensation.

Direct the Consumer Grievance Redressal Forum to consider and dispose the complaint filed by the appellant on merits.

**Arguments of the respondent:**

The subject matter of the original petition has been already decided by various Forums and Authorities long years back. It is submitted that this complaint amounts to sheer abuse of the process of law, misusing the public mechanisms for providing justice to the common public existing in the country. It is being continued for the last 20 years raising the same unsuccessful complaint before various Forums, Adalaths, Vigilance Court etc. only intended for the harassment of the Respondents acted legally all this period of time. The appellant could not succeed in proving his case in any of these Fora and now approached with this appeal suppressing the real facts and conveniently disclosing the partial facts so as to mislead the Ombudsman.

The main dispute as per the original petition is regarding the additional invoice dated 31/05/1999 issued to the consumer for the excess consumption of electricity as per the meter reading than permitted units as per the provisional invoice card for the period 3/1998 - 3/1999. The dispute regarding the invoice for excess demand pertains to the period 1998-1999 which is a dispute before the enactment of Electricity Act, 2003. It was raised before Hon'ble CDRF, Thrissur and decided on merit against the appellant holding that the demand raised by K.S.E.B. is in order. Any appeal if aggrieved by this order, has not been preferred by the appellant. This dispute had been decided earlier by a Legal forum and subsequently raised complaints before various Forums, Adalaths, Vigilance Court etc. were also dismissed due to lack of merit. The original petition, from which this appeal is preferred, filed after

completion of nearly 20 years from the date of alleged cause of action is bad in law and as such is not maintainable.

Another dispute raised in the original petition is regarding the non refund of the security deposit of electric connection with consumer No. B-402, which was dismantled as per request of the consumer on 16/06/2005. This claim was also raised before the authorities and reason has been sufficiently explained to the appellant during that period itself. The complaint in this regard is also bad in law after a period of nearly 13 years and is not maintainable as it is barred by limitation.

The consumer No. B-438 (presently renumbered as consumer No 8938) under Electrical Section, Venkidangu, is a commercial connection in LT VII A tariff with a connected load of 2840 watts at present in the name of Sri. K.P Davis.

The date of connection is 25.10.1990. This connection, at the time of this dispute, was under Electrical Section, Manalur under Electrical Major Section, Pavaratty. The consumers in this area were later attached to newly formed Electrical Section, Venkidangu under Electrical Sub Division Kandassamkadavu from 2002 onwards. Consumer No B - 438 was billed under LT VII B tariff allocated with 100 units/ month in the provisional invoice card system at that time. As per the meter reading register, the consumption for the period from 03/98 to 03/99 was recorded as 1260 units for 12 months (635 units from 03/98 to 09/98 and 625 units from 09/98 to 03/99). Since the average monthly consumption exceeded the allocated 100 units/ month as per the provisional invoice card, additional invoice for Rs.2335/- was served as per the existed tariff in accordance with the rules in vogue at that time. As per the circular No. plg.corn. 3524 dated. 01.04.1998 Board Secretary, VB, Tvm, for LT VII B tariff, up to 100 Units the energy charges was Rs. 1.32 per unit and above 100 Units it was Rs. 3.135.

Since the average consumption of the consumer for 3/98 to 9/98 was more than 100 units, an inspection was conducted by the Asst. Engineer and Sub Engineer of the section at the premises of B-438 and found that the shop was functioning as bakery and using a connected load of 2 KW. The tariff of Consumer No. B -438 is changed to VII A from 02/99 onwards. After the reading of 3/1999, an additional invoice of Rs. 2,335/- was given as per the rules in force at that time based on the recorded consumption for the period. The consumer had remitted the amount without any complaint. The reading of this consumer was taken in every 6 months and there is no lapses happened from the part of KSE Board as alleged in the complaint.

The appellant filed a petition, challenging the additional invoice of Rs. 2,335/- and changing of tariff of Consumer No B - 438 to VII A, before the Hon'ble CDRF, Thrissur on 26.06.2000 with O.P. No. 645/2000. The Hon'ble

CDRF had examined the petition in detail and dismissed the petition vide order dated. 20.06.2001. The Hon'ble CDRF rejected all the arguments made by the petitioner and held that adjustment invoice of Rs. 2335/- issued to the consumer is perfectly legal and there is no deficiency of service from the part of KSE Board.

In 2002 the appellant again submitted a complaint in the same matter in the revenue Adalath conducted by KSE Board in the presence of the then Manalur constituency MLA Sri. M.K Paulson master, stating the same facts submitted before CDRF. The grievances of the appellant were examined and rejected in the Adalath.

Later a complaint regarding the same subject was filed by the appellant before the Deputy Superintendent of Police, Thrissur Vigilance and Anti-Corruption Bureau. Vigilance has collected all the relevant documents connected with this complaint from KSE Board and conducted enquiry in detail. The vigilance wing also reached to the conclusion that the additional invoice of Rs. 2335/- and the tariff change from LT VII B to LT VII A are in order and closed the file which was intimated the appellant vide letter dated 14.06.2004.

Mean while, on 14.12.2004, as per the application of Sri. K.P Davis, the connected load of Consumer No. B- 438 had been enhanced to 2840 watts after collecting additional cash deposit and executing an indemnity bond as per rules, since the connection was existed not in the name of the appellant in the records.

Subsequently the appellant had filed a series of petitions and complaints before various authorities in the same matter. On 08.04.2005, the consumer had complained in Chief Minister's "Janasambarka paripadi" stating the same issues. Thahasildar, Chavakkad conducted an enquiry in detail and dismissed the complaint of the consumer. The consumer had raised a complaint against the above decision of the Thahasildar stating that necessary documents are not verified by the Thahasildar. Based on this, Thahasildar, Chavakkad conducted a hearing on 29.03.2007 and reached to the same conclusion that the adjustment invoice issued by KSE Board is perfectly legal. The Thahasildar had conveyed these things to the appellant at that time.

On 18.01.2007, the complainant had requested the Office documents regarding the Consumer No. B - 438 as per RTI Act and the available documents were given to the appellant except item No 1 & 2 in the application. Aggrieved by this, the complainant had given a complaint in State Information Commission and a detailed enquiry was conducted. The Electrical Section Office, Venkidangu has started functioning in the year 2001-2002. Till that time the Venkidangu area was under Electrical Section, Manalur under Electrical Major Section, Pavaratty. The item (1) & (2) requested by the

complainant on 18.01.2007 could not be retrieved even after repeated search in the above offices. The State Information Commission conducted a hearing and the appellant Sri. K.P Davis did not attend the hearing. The State Information Commission had realized the facts and informed the appellant that the item (1) & (2) cannot be retrieved as per the order dated. 29.2.2008.

Again, the appellant has filed a complaint before the Hon'ble Human Rights Commission and the Commission directed the District Collector, Thrissur to submit the report on this issue. A report was given by KSE Board to the District Collector on 24.11.2007 stating the actual facts. After that on 07.02.2008, the appellant has given a complaint to the Hon'ble Chief Minister stating that KSE Board has submitted wrong information to the District Collector. Based on the complaint given to the Hon'ble Chief Minister, State Public Information Office (KSEB) directed the Deputy Chief Engineer, Thrissur to conduct a hearing with the appellant. A hearing was conducted on 27.05.2008 which was attended by the appellant and he could not submit anything to establish his complaints. A detailed reply was given to the appellant by the Deputy Chief Engineer vide letter No. GB 2/RIA/08-09/3227/dated. 04/12/2008.

Regarding the complaint in respect of the Consumer No. B-402, the connection was dismantled on 16/06/2005 as per the request of the appellant Sri. K.P Davis. In connection with the request for refund of the security deposit, since the details of the security deposit of this Consumer Number was not available at the office, the consumer was informed to produce any documents regarding the deposit vide letter dated 24.11.2005. But he could not produce any proof of such deposit. It was also intimated by the Executive Engineer to the consumer vide letter dated 11.08.2008. As the details are not received, the application for refund of the deposit could not be processed and the appellant is very well aware of these facts.

Later, the appellant again filed complaint before vigilance raising allegations against the K.S.E.B. officials and a crime was registered as V.C. 2/2010. The related documents available in the office were collected by the vigilance officers vide Receipt dated 04.07.2012. The case was closed by the Vigilance as per order dated 27/06/2013 since they could not find any substance in the allegations in the complaint.

After a period of nearly five years from the above order, the appellant had filed a petition before the CGRF with OP. No.146/2017-18 on 06.03.2018. KSE Board has acted in accordance with laws in force at that time and issued the additional invoice as per rules for the electricity actually consumed by the appellant as per the prevailed tariff.

The appellant is unnecessarily raising false allegations against KSE Board hiding his mistakes and continuously trying to mislead various

authorities and legal forum by submitting distorted facts and misleading information so as to abuse the whole legal mechanism existing in the country. As a public man the appellant is liable to obey the rules and regulations and general laws existing in the country time to time. The appellant by misusing the public mechanisms instituted for getting justice to the common public in the country for his illegal gain against KSE Board which has acted legally at this period of time, is causing wastage of valuable time of public servants and in-turn resulting in the wastage of public money.

There is no merit in any of the grounds raised in the appeal and it is liable to be dismissed as such. There is no deficiency on the part of these respondents and the appellant is not eligible for any of the reliefs sought for.

**Analysis and findings:**

The hearing of the case was conducted on 04-10-2018 in the Office of the State Electricity Ombudsman, Edappally, Kochi, and Sri. K.P. Davis and Sri. V.V. Joy, advocate represented for the appellant's side and Sri. James T. Paul, Officer (Litigation) and Sri. Santhosh P.K., Assistant Executive Engineer of Electrical Sub Division, Kandassamkadavu, appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

The disputes raised by the appellant is that he was issued an adjustment invoice amounting to Rs. 2,335/- for excess consumption of electricity during the period from 03/98 to 03/99 and requested to refund the excess amount collected on consumer number B438. The appellant had approached the CDRF, Thrissur aggrieved by the invoice, in OP No.645/2000 which was decided against the appellant holding that the demand raised by KSEB is in order.

The Respondent informed in its statement of facts that Consumer No B - 438 was billed under LT VII B tariff allocated with 100 units/ month in the provisional invoice card system prevailed at that time. As per the meter reading register, the consumption for the period from 03/98 to 03/99 was recorded as 1260 units for 12 months and hence an additional invoice for Rs. 2,335/- was given as per the rules in force at that time based on the recorded consumption for the period, connected load and change of tariff. The consumer had remitted the amount without any complaint. The reading of this consumer was taken in every 6 months and there is no lapses happened from the part of KSE Board as alleged in the complaint. Though the dispute in energy charge was decided by the CDRF, Thrissur, the appellant had not filed an appeal before the State Commission against the order of CDRF. It is also found that the dispute had been decided earlier by the CDRF and subsequently raised complaints before

various Authorities, Adalaths, Vigilance Court etc. were also dismissed due to lack of merit.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that “no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”.

In the light by the above provision under 22(d) of KSERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by Sri. Davis, the appellant, need no further action at this Authority and hence stands rejected.

Another dispute raised by the appellant is regarding the non-refund of the security deposit with electric connection No. B402 which was dismantled as per the request of the appellant on 16-06-2005. The respondent has stated that In connection with the request for refund of the security deposit, since the details of the security deposit of the consumer number was not available at the office, the consumer was informed to produce any documents regarding the deposit vide letter dated 24.11.2005. But he could not produce any proof of such deposit. The failure to produce the receipt of security deposit of a period back to a distant year cannot be considered as a liability or fault of the consumer. In such cases, failure of the consumer to produce receipt is not a sufficient reason for denial of the claim of the consumer. The regulation 17 of the Supply Code, 2005 existed at that time clearly stipulates the provision for Refund of Security Deposit as follows: “Where an agreement for supply of electricity is terminated as per the Terms and Conditions of supply, the Licensee shall be required to refund the security deposit if any, after making adjustments for the amounts outstanding from the consumer to the Licensee, within fifteen days of the effective date of termination of the agreement: Provided that if such refund is delayed beyond the period of 15 days as specified above, the Licensee shall pay interest at twice the rate specified under clause 16 ( 1) from the date of termination of the agreement.” The appellant is eligible to get refund of the security deposit paid by him on the occasion of dismantling of the connection.

### **Decision.**

From the analysis done above, this Authority have reached to the conclusion that in the light by the provision under Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by Sri. Davis, the



appellant, regarding the request for refund of Rs. 2,335/- towards electricity charges collected during the period from 03/98 to 03/99 on consumer number B438 need no further action at this Authority and hence stands dismissed.

Another request of the appellant is the refund of the security deposit of consumer number B402. The appellant produced a copy of a receipt vide No.39 dated 12-02-2004 pertains to consumer number B402 for Rs. 80/- towards the bimonthly energy charge. The service was dismantled on 16-06-2005. The appellant's claim for refund of security deposit is not challenged by the respondent. In these circumstances, the respondent shall take up the matter of security deposit to the higher authorities of the Licensee on the strength of the receipt and to refund a reasonable deposit with interest from the date of dismantling, since no records available with the respondent.

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 this extent. The order of CGRF, Central Region in Petition No. OP/146/2017-18/dated 30-06-2018 is modified to this extent. No order on costs.

## **ELECTRICITY OMBUDSMAN**

P/070/2018/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri. K.P. Davis, Kanjirathingal House, Venkidangu P.O., Thrissur.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kandassankadavu, Thrissur

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.