

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P72/09

Appellant : Sri C.H.Kunhabdulla Musliar
Secretary,Rahmanniya Arabic College Committee
KATAMERI (Po) Villiappally VATAKARA

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division VADAKARA(South)

ORDER

Sri C.H.Kunhabdulla Musliar, Secretary, Rahmanniya Arabic College Committee, Katameri submitted a representation on 6.5.2009 seeking the following relief :

Set aside the order dated 28.1.2009 passed by the CGRF Kozhikode on OP 47/2008

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 12.8.2009 , 3.11.2009 and 11.11.2009 .

The Rahmanniya Arabic College Committee is a society registered under the Societies Registration Act. Under the Committee institutions like Arabic College, Higher Secondary School, Madrassa and a destitute centre by name RAC Destitute Study Center (RACDSC) are functioning in the same compound. In the RAC Destitute Study Center students who are destitute and who are unable to meet their educational and other expenses are provided accommodation. The Committee is providing free education ,food and accommodation to the students staying in the RACDSC. Committee do not collect any amounts from the students staying in RACDSC. The Secretary of the Society is the correspondent of the RACDSC.

The consumer number of RACDSC is 4332.The Respondents had been collecting current charges under LTVIA from this consumer. But on audit verification it was found that LT

VIA can not be applied to the service as the building was used as a hostel attached to a private institution and hence it was put under LTVIIA Commercial applicable to private hostels with effect from July 2003 and a short assessment bill from 7/2003 to 12/2006 had been issued to the consumer. The Respondent advised the consumer to produce a certificate from the income tax department to show that they are exempted from payment of income tax for making them eligible to come under LTVIB tariff. The documents/communications produced by the Appellant were not satisfactory to Respondent. The Appellant moved the CGRF Kozhikode .The Forum dismissed the request of the Appellant to retain them under LTVIA or LTVIB. The Respondent has reiterated their assurance that once the required certificate from Income Tax department is produced they shall be put under appropriate tariff. The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation and during the hearing are summarized below:

True copies of the certificate of registration issued under Societies Registration Act , Certificate of recognition issued by the Board of Control of Orphanages, Government order showing sanction of grants under Social Welfare Department, Government order declaring the society as a minority institution, Provisional affiliation to Arabic College by University of Calicut etc were produced before the Respondents.

RACDSC is actually a hostel where destitute and who are unable to meet their educational and other expenses are provided free accommodation food and education. Even if the RACDSC is treated as a Hostel it can be classified only under LTVI B or LT VI C. Hostels of educational institutions affiliated to Universities can be classified only under LT VI B. The RACDSC can not be classified as a commercial undertaking.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

The consumer number 4332 is given to a building which is used as a hostel functioning under the Rahmanniya Arabic College Committee. The Hostel of the Institution is eligible for LT VIB tariff only if the institution is registered under cultural scientific and charitable societies act and exempted from payment of income tax. The Respondent as well as the CGRF had given several opportunities for the Committee to produce the income tax exemption certificate. The communications produced by the Appellant were only vague documents which did not state the Committee is exempted from paying income tax.

Discussion and Findings:

From the narrations provided by the Appellant it can be concluded that the RACDSC is actually a hostel. The Appellant themselves have admitted this in Para - H of the grounds in the petition given to CGRF.

In the Tariff order dated 24.10.2002 the hostels are covered in several categories:

- ✓ Hostels of educational institutions affiliated to the Universities or under the control of various Government departments are to come under LT VI B

- ✓ Hostels run by institutions that are registered under cultural scientific and charitable societies act and exempted from payment of income tax are also to come under LTVI B
- ✓ Hostels of mentally retarded students ,deaf /dumb/blind etc recognized by Government are to come under LTVI D
- ✓ Private Hostels are to come under LTVII A Commercial tariff.

The Appellant hostel RACDSC can not come under item 1 and 3 above. They are satisfying the conditionality attached to item 2 above only partially. In the absence of the Certificate exempting them payment of income tax they would not be eligible to be classified under LT VI B.

As pointed out by the Respondent , several opportunities were accorded to the Appellant to produce the exemption certificate. The CGRF had adjourned on 4 occasions and the undersigned had adjourned on 3 occasions to enable the Appellant to produce the exemption certificate. The Appellant had failed to produce the certificate. Finally on 11.11.2009 the representative of the Appellant submitted in writing before the under signed that the Appellant had failed in obtaining an exemption certificate from the concerned authorities and hence the Ombudsman may issue appropriate orders on the matter.

Naturally the only option shall be to classify the Appellant under private hostels and put under LTVII A.

Upon perusing the representation of the Appellant and the counter affidavit filed by Respondent along with all the connected records relating to the case and upon hearing the arguments of both sides I am constrained to uphold the action of the Respondent.

The Appellant shall be bound to pay current charges under LT VII A tariff from 7/2003 onwards , the date on which the Respondent had classified them under LT VIIA tariff , with interest as per statutes .

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The arguments/claims/points raised by the Appellant in support of the relief sought for are devoid of merit and hence the relief is not allowed and the representation is dismissed*
2. *No order on costs.*

Dated this the 11th day of November 2009 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 72 /09/ 403 / dated 12.11.2009

- Forwarded to: 1. Sri C.H.Kunhabdulla Musliar
Secretary,Rahmanniya Arabic College Committee
KATAMERI (Po) Villiappally VATAKARA
2. The Assistant Executive Engineer
Electrical Sub Division VADAKARA(South)
VADAKARA , Kozhikode Dt

Copy to :

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2. The Secretary ,KSE Board,
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3. The Chairman , CGRF,KSE Board ,
VaidyuthiBhavanam KOZHIKODE