

CONSUMER GRIEVANCE REDRESSAL FORUM

CENTRAL REGION

(Formed under Section 42(5) of the Electricity Act 2003)

220 kV Substation Compound, HMT Colony P.O. Kalamassery, Pin – 683 503

Phone No. 0484-2556500 Website: cgrf.kseb.in, Email: cgrf.ekm@gmail.com,

CUG No. 9496008719

Present

(1) Smt. Sheeba. P **Chairperson**
(2) Sri. Biju Varghese^{3rd} **Member**

Petitioner

Rev. Fr. George Panackal,
Director (Administration)
Divine (English) Retreat Centre
Muringoor, Thrissur (Dist.)

Respondent

- 1) The Deputy Chief Engineer,
Kerala State Electricity Board Ltd.,
Electrical Circle, Irinjalakkuda.
- 2) The Special Officer (Revenue)
Kerala State Electricity Board Ltd.,
Thiruvananthapuram- 4

No.CGRF-CR/OP No.63/2023-24

Date: 20-01-2024

ORDER

Background of the case:

The petitioner, Rev. Fr. George Panackal, is the Director (Administration) of M/s Divine (English) Retreat Centre, Muringoor. The Retreat Centre holds a High Tension (HT) electricity connection under the jurisdiction of Electrical Circle, Irinjalakkuda, with Consumer Number No: 1356500002061 (LC No. 32/3445). The Contract Demand of the HT connection is 300 kVA, with a connected load of 744.441 kW. The connection was originally classified under the tariff HT IIA-General. The purpose of the connection was for the functioning of the place of worship and the 'Dhyanakendra,' which primarily serves as a centre for religious practices, namely, 'dhyana,' and provides services for the rehabilitation of patients

with incurable diseases such as AIDS, Cancer, and kidney failure, etc., along with other related charity services.

Following an inspection conducted in August 2023 by the Deputy Chief Engineer of Electrical Circle Irinjalakkuda and the Assistant Engineer of Electrical Section Meloor on 20.09.2023, it was observed that four studios were operating on the premises, utilizing electricity from the same connection. As a result of this discovery, the tariff classification was revised from HT IIA-General to HT II(B) General. In accordance with Regulation 134(1) of the Kerala Electricity Supply Code 2014, a demand dated 09.10.2023, totalling Rs. 59,57,598/-, was issued to the petitioner as a short collection in tariff reclassification from 2017. Dissatisfied with this decision, the petitioner has sought redressal from this Forum.

Version of the Petitioner:-

The petitioner states that the HT service connection availed is being used for functioning of a place of worship and the working of the ‘Dhyanakendra’, the rehabilitation centre for patients with incurable diseases like AIDS, Cancer and kidney failure; the rehabilitation centre for drug addicts; old age home and home for destitute women. The petitioner claims that all these services are being provided free of cost as charity. The petitioner also asserts that electricity is not being used for the purpose other than the religious purpose and related charity services. The tariff assigned was HT IIA-General.

In August 2023, The Deputy Chief Engineer, Electrical Circle, Irinjalakkuda inspected the premises of the petitioner. Then the petitioner was served with a notice dated 02.09.2023, in which the respondent alleged that four studios of ‘Goodness TV Television channel’ are working in the petitioner’s compound and that the petitioner is renting out flats to occupants participating in the spiritual retreat. It was also informed that the tariff of this connection has to be changed to HT II B-General.

In replay to this notice, on 12.09.2023, the petitioner refuting all the allegations has informed the respondent that electricity is being used at the premises only for functioning the retreat center and for the purposes of religious worship, religious education and charity works.

On 16.10.2023, the petitioner received a notice and a demand note amounting to Rs.5957598/-, both dated 09.10.2023, from the Special Officer Revenue (SOR). In this notice, it is alleged that the Goodness TV channel is working in the premises of the petitioner from the year 2011 onwards and electricity from this connection is being used to an 11 storied apartment building. It was also informed that the tariff has been changed to HT IIB-General.

Further, the petitioner explains that the studios in the premises are used exclusively for the purpose of recording and editing the speeches made by the missionaries and experiences explained by the participants in the 'Dhyana'. Some of these recordings are given out to the 'Goodness TV' for broadcasting. The petitioner says that they have entered into an agreement with the 'Goodness TV' for this purpose. The petitioner points out that the 'site mahasar' prepared by the Assistant Engineer does not mention any TV channel working in the premises. The petitioner explains that as per the site mahasar, the studios are exclusively used for recording the experiences of the participants in the 'Dhyana'. It is an integral part of the retreat and for imparting religious education.

In regard with renting out of flats, the petitioner explains that the multi-storied building mentioned is situated in the property of the petitioner and is being used for the accommodation of volunteers and staffs serving Divine Retreat Centre. The petitioner refutes the allegation of the licensee that the flats are rented out to the participants in the retreat. The petitioner further argues that the road between the premises and the multi-storied building lays in the property of Divine Retreat Centre and has been constructed for the purpose of hassle free movement of vehicles in petitioner's compound.

Argument note submitted by the petitioner.

On 13.12.2023, the petitioner has submitted additional arguments in writing, in which the petitioner alleges that the inspection conducted by the Deputy Chief Engineer, Electrical Circle, Irinjalakkuda was not according to the procedures to be followed by the licensee. Neither any site mahazer has been prepared as a part of inspection, nor the acknowledgement by the petitioner has been obtained. So the findings in the inspection are untenable.

The petitioner explains that the Goodness TV is a licensed broadcaster and broadcasts the petitioner's programmes at a monthly rent of Rs.15,00,000/-. The petitioner further submits that the Devine Retreat Centre has no license to run a TV channel or a license to teleport programmes.

The petitioner argues that the site mahazer prepared by the Assistant Engineer states that there is no change in sanctioned connected load and contract demand in the premises. So the loads pertaining to the studios and to the residential building were included in the approved plan produced for the purpose of load enhancement.

Version of the Respondent (Deputy Chief Engineer)

The first respondent states that the petitioner availed High Tension (HT) connection as per the agreement dated 18.09.1998 under HT-II A tariff. This tariff is assigned solely for the purpose as a centre for religious worship and education. In 2017, the petitioner approached the licensee to enhance the connected load and produced an approved plan dated 04.05.2017 from Electrical Inspectorate, Thrissur, which includes the connected load for the purpose of studios. The enhancement of the connected load and the agreement to that effect showing studio purpose was executed in the year 2017. The respondent argues that the petitioner themselves has admitted the Studio activities in the premises and that the arrear bill was issued solely as a consequence of the tariff change due to the presence of studios in the premises.

According to the respondent, the tariff change from HT-II A to HT-II B is done as per the Tariff Order and short assessment is made as per Regulation 134 of Supply Code, 2014. Further the respondent explains that the multi storey building in the premises of the petitioner has no impact in the arrear bill issued, even though the same has been mentioned.

Version of Respondent (SOR):-

The respondent says that the tariff reclassification to HT- II (B) General Tariff and consequent short assessment were made as reported by the Deputy Chief Engineer, Electrical Circle, Irinjalakkuda through the letter No.EC/IJK/AE 1/HT/Tariff Classification/2023-24/767 dated 24.08.2023. In this letter, it is reported that in the inspection conducted at the premises of the petitioner by the Deputy Chief Engineer, a studio of “Goodness TV Television Channel” is found working in the same compound and utilizes power from the same connection. The tariff has been changed with effect from 07.08.2017 i.e., from the agreement date of enhancement of contract demand and connected load.

It is also reported that there is an 11 storey apartment building across a road, which is outside the premises and has been powered from this connection and these apartments are rented to occupants for participating the spiritual retreat.

The respondent put forward the argument that as per Regulation 56 of Kerala Electricity Supply Code 2014, the tariff applicable to a single point supply to premises with multiple beneficiaries has to be determined by the Regulatory Commission. Till date, no such tariff has been assigned by the Commission and hence the higher tariff was assigned due to a combination of usage under different tariff is found existed in a connection.

The respondent cites the Regulation 134 (1) of Kerala Electricity Supply Code, 2014 in justifying the issue of demand notice amounting Rs.59,57,598/- to the petitioner as undercharge occurred in the bills from 08/2007 to 08/2023, consequent to the change in tariff.

Additional Statement of facts (SOR)

The respondent put forward the argument that the inspection conducted by the Deputy Chief Engineer, Electrical Circle Irinjalakuda itself is a substantial evidence to prove that the consumer is using power in higher tariff and the arrear bill was issued relying on the findings in the inspection that a studio of Goodness TV Channel is working in the same compound and utilizes power from the same connection.

In response to the absence of formalities and procedure lapse alleged by the petitioner, the respondent says that the Site Mahasar prepared by the Assistant Engineer, Electrical Section, Meloor on 20.09.2023 has been signed by the petitioner.

Analysis and findings:

Two hearings were conducted at the chamber of the Chairperson, Consumer Grievance Redressal Forum, Ernakulam on 13-12-2023 and on 11.01.2024 respectively. The Forum afforded opportunity to hear the Petitioner and the Respondent. Both the petitioner and the respondent were present for these hearings. Having examined the petition in detail and the statement of facts of the respondent, considering all the facts and circumstances in detail and perusing all the documents of both sides, the Forum comes to the following observations, conclusions and decisions thereof.

The petitioner, Rev. Fr. George Panackal, is the Director (Administration) of M/s Divine (English) Retreat Centre, Muringoor. The Retreat Centre holds a High Tension (HT) electricity connection under the jurisdiction of Electrical Circle, Irinjalakkuda, with Consumer Number No: 1356500002061 (LC No. 32/3445). The Contract Demand of the HT connection is 300 kVA, with a connected load of 744.441 kW. The connection was originally classified under the tariff HT IIA-General. The purpose of the connection was for the functioning of the place of worship and the 'Dhyanakendra,' which primarily serves as a centre for religious

practices, namely, 'dhyana,' and provides services for the rehabilitation of patients with incurable diseases such as AIDS, Cancer, and kidney failure, etc., along with other related charity services.

Following an inspection conducted in August 2023 by the Deputy Chief Engineer of Electrical Circle Irinjalakkuda, a notice was served to the petitioner on 02.09.2023, stating that the tariff would have been assigned as HT II(B) General instead of HT II A General. Hence, the previous bills would also be revised accordingly, citing the reason that it was observed that four studios of the 'Goodness TV' Television channel were operating on the premises, utilizing electricity from the same connection. It is also stated that an 11-storied apartment, which is found rented to occupants participating in the spiritual retreat, is outside the premises, and the connection to which is laid across a road from this premises. Meanwhile, the Assistant Engineer, Electrical Section Meloor, has also conducted a site inspection and prepared a site mahazar on 20.09.2023. The site mahazar confirms the presence of studios and the existence of a high-rise building, which is separated by a road from the consumer premises. In the site mahazar, it is specifically stated that no unauthorized connected load was found at the premises. As a result of this discovery, the tariff classification was revised from HT IIA-General to HT II(B) General. In accordance with Regulation 134(1) of the Kerala Electricity Supply Code 2014, a demand dated 09.10.2023, totalling Rs. 59,57,598/-, was issued to the petitioner as a short collection in tariff reclassification from 2017.

During the hearing, the petitioner firstly stated that the inspection faced a procedural lapse as the provisions of Regulation 173 of the Kerala Electricity Supply Code, 2014 were not complied with during the inspection conducted by the Deputy Chief Engineer, Electrical Circle, Irinjalakkuda. No site mahazar was prepared as part of the inspection. The petitioner asserted that the operation of studios on the premises is solely for the purpose of recording programs associated with 'dhyana' and editing the same for broadcasting through institutions like 'Goodness TV' and JeevanTV, etc.

Regarding the 11-storied building allegedly used for purposes other than religious, the petitioner denies the respondent's allegation that the building is outside the premises. The petitioner contends that the building is included in the scheme submitted for the additional agreement with the Kerala State Electricity Board Ltd in 2017 at the time of enhancing connected load and contract demand. The building is used only for accommodating volunteers serving the Divine (English) Retreat Centre at no cost.

During the hearing on 13.12.2023, the second respondent took the stand that from the site mahazar of the Assistant Engineer and the inspection report of the Deputy Chief Engineer, Electrical Circle, Irinjalakuda, it is evident that studios are operational. The operation of studios on the premises justifies the tariff reclassification to HT-II(B) General Tariff and the consequent short assessment bill issued to the petitioner. Since the studios and television broadcasting fall under the same tariff (HT-II(B) General) according to the Tariff Order of the Kerala State Electricity Regulatory Commission, the operation of studios alone justifies the assignment of HT-II(B) General.

The first respondent reiterates the argument that the studios are operational on the petitioner's premises, and the approved plan produced at the time of connected load enhancement contains the load for the studios. Tariff reclassification is made solely due to the existence of studios on the premises, not based on the existence of the 11-storied building mentioned in the inspection report.

This Forum holds the view that, in regard to the 11-storied building, the site mahazar and other documents produced before the Forum are unable to prove that the flats in the building are commercially rented out. The respondent also admits that the short assessment is made solely due to the existence of the studios on the premises. Therefore, this Forum confines its conclusions mainly to the existence of studios on the premises and associated issues.

The existence of studios on the premises is admitted by both the petitioner and the respondent. For support in reclassifying the tariff to HT-II(B) General and the short assessment, the respondents put forward two arguments. Firstly, these

studios are operated by 'Goodness TV Channel.' Secondly, the activities of the studio on the premises itself justify the application of HT-II(B) General Tariff to the connection. Although the site mahazar mentions the studios, it does not categorically state that the studios are managed by 'Goodness TV Channel.' Instead, it was mentioned in the site mahazar that the studios are used on the premises for recording the activities of 'Dhanya Kendra.'

In the hearing, the respondent raised a meager argument that a sticker of 'Goodness TV Channel' was found on the premises. No other supporting materials have been produced before this Forum to establish any commercial activities conducted in the studios.

As mentioned in the site mahazar, the petitioner also stated that the studios on the premises are used only for recording the religious activities in 'Dhyanakendra' and editing the same for broadcasting to institutions like 'Goodness TV' and Jeevan TV, etc. In support of this argument, the petitioner has produced a copy of the agreement executed with 'Goodness TV' and a copy of the tax invoice generated by 'Goodness Media Private Ltd.' in the name of 'Divine Vision (Trust).'

The licensee can suomotu reclassify a consumer category and thereby its tariff based on Regulation 97(1) of the Kerala Electricity Supply Code, 2014, which is defined below:

Regulation 97. Suo motu reclassification of consumer category by the licensee.- *"(1) If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed, or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suomotu reclassify the consumer under the appropriate category."*

This Forum is of the opinion that the respondent has failed to prove the use of electricity in the premises for a purpose other than for which it was authorized by the licensee. Since the site mahazar mentions that the electricity used for the

studios is exclusively for the purpose of the 'Dhyanakendra', this Forum views that the reclassification of the tariff under HT-II(B) General is not in line with Regulation 97 and hence not in order, as the working of the studios is for recording and editing religious activities for the purpose of professing and educating the same among believers.

DECISION:

Considering the above facts and circumstances, the Forum issues the following orders: -

- 1. The short assessment bill dated 09.10.2023, totaling Rs. 59,57,598/- is hereby quashed.**
- 2. No cost ordered.**

The petitioner is at liberty to file appeal before the State Electricity Ombudsman, D.H. Road, Off shore Road Junction, Near Gandhi Square, Ernakulam, Pin – 682 016 (Ph: 0484 -2346488 , Mobile No. 8714356488) within 30 days of receipt of this order, if not satisfied with this decision.

Dated this 20th day of January 2024

Sd/-

Sri Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-

Smt. Sheeba. P
(CHAIRPERSON)
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.63/2023-24 Dated
Delivered to:-

Rev.Fr. George Panackal,
Director (Administration)
Divine (English) Retreat Centre
Muringoor, Thrissur (Dt.)

Sd/-
CHAIRPERSON
(DEPUTY CHIEF ENGINEER)
CGRF-CR, KALAMASSERRY

Copy submitted to: 1) The Secretary, KSEBL, Vydhyuthi Bhavanam, Pattom,
Thiruvananthapuram.

“ 2 The Secretary, Kerala State Regulatory Commission,
KPFC Bhavanam, C.V Raman Pillai Road, Vellayambalam,
Thiruvananthapuram.

Copy to: 1) The Deputy Chief Engineer, Kerala State Electricity
Board Ltd., Electrical Circle, Irinjalakuda

2) The Special Officer (Revenue), Kerala State
Electricity Board Ltd., Vydhyuthi Bhavanam,
Thiruvananthapuram.