

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) Smt. Jayanthi. S	2nd Member
(3) Sri. Biju Varghese	3rd Member

Petitioner

Sri. BharathK.Patel,
 Managing Director,
 K.P. Cars Private Limited,
 Suit No.205, 2nd Floor,
 Pioneer Towers, Shanmugham Road,
 Ernakulam – 682 031.

Respondent

The Deputy Chief Engineer,
 Kerala State Electricity Board Ltd,
 Electrical Circle,
 Ernakulam.

No.CGRF-CR/OP No.66/2023-24

Date:20-01-2024.

ORDER

Background of the case:

The petitioner, who serves as the Managing Director of M/s K.P. Cars (P) Ltd., operates an Audi Car Showroom at Kundannoor, Ernakulam, owning a High Tension (HT) electricity connection with consumer number 1355500052521 and LCN – 12/8272. Initially, they requested a Low Tension (LT) electricity supply and paid Rs.3,04,653/- on 03/04/2010 as the Estimated Cost of Service Connection (ECSC). However, upon inspection by licensee's officials, it was found that the load requirement has exceeded the capacity for Low Tension supply. Consequently, the respondent recommended a High Tension (HT) Supply of 117kVA, for which the petitioner paid an additional ECSC of Rs.3,96,854/- on 10/06/2010.

Subsequently, the National Highway Authority of India (NHAI) objected against the drawing of the overhead line and suggested laying an Underground (UG) Cable. Meanwhile, another applicant, Smt. SyamalaPotti, availed HT/LT supply by laying a UG cable and installing an RMU unit on the petitioner's premises, as per a mutual agreement. Later, the petitioner opted to undertake the work by themselves. As a result, a new Administrative Sanction for Rs.17,908/- was issued by the licensee towards 10% supervision charges, which was adjusted from the amount already paid by the petitioner. However, the remaining amount was not refunded to the petitioner by the licensee.

Despite meeting all requirements suggested by various departments, the petitioner's premises were not energized until December 2017. Consequently, the petitioner demands the refund of the balance ECSC amount along with its bank interest rate. Additionally, they seek Rs.14,00,000/- as damages for the loss incurred due to alternative power generation using diesel generators from the year 2010 to 2018.

Version of the Petitioner:-

The petitioner states that in the year 2009, they requested to the respondent for an Over Head (OH) electric connection to their Audi Kochi Showroom situated at Kundannoor, Ernakulam. At first, it was supposed to be a Low Tension (LT) Supply by drawing 75m 11kV Over Head (OH) line along the Aroor – Edappally By-pass road and by installing one 100kVA Transformer under OYEC basis. The petitioner thus remitted Rs.304653/- vide receipt number 136735 dated 03/04/2010 at Electrical Section, Maradu as LEOYEC towards the cost of works and supervision charges. But when the respondents performed a site inspection, the load requirement was found above the load mentioned in their application. Hence the respondent recommended a High Tension (HT) Supply of 117kVA, on the basis of which an estimate was provided to the petitioner.

On 15/05/2010, the respondent, vide Administrative Sanction (AS) No.13/10-11, issued Administrative Sanction along with a demand letter vide letter

No.AE3/HT SOP/KPCar/10-11/1825 dated 20/05/2010 which again directed the petitioner to remit an amount of Rs.3,96,854/-. The petitioner thus remitted Rs.3,96,854/- also vide receipt number 163035 dated 10/06/2010 at Electrical Section, Maradu towards LEOYEC.

Thereafter, the respondent forwarded the request to the Assistant Executive Engineer, Electrical Sub Division, Thrissur for Technical Sanction (TS) on 26/07/2010. But the Assistant Executive Engineer, Electrical Sub Division, Thrissur later replied on 01/10/2010 to the petitioner that the line extension work for availing power requires permission of National Highway Authority of India (NHAI) and NHAI through their letter on 24/09/2010 objected to draw OH line along Aroor–Edappally Bypass road and requested to change the proposal to Under-Ground (UG) cable along the same path. The Assistant Executive Engineer thus directed the petitioner to change their proposal and also to bear additional cost, along with paying 10% supervision charges to them. Thus, the petitioner proceeded to lay the cables on its own, along with other similarly situated persons who had building near to the petitioner's showroom.

On 24/04/2012, the petitioner proceeded to start the laying of underground cable, for which the cost was shared with their nearby applicants. The petitioner's share of payment was made to the contractor on 07/06/2012. The petitioner also entered into agreements with other applicants for this purpose. But even after installing all required equipments and cables, the respondent refused to provide HT service connection to them. The petitioner complains that even though they spent lakhs of money for laying the cable, the respondents did not do their share of the work. In the year 2016, the petitioner again wrote a letter to the respondent reiterating the whole story. Thus the Assistant Engineer, Electrical Section, Maradu issued a letter to the Assistant Executive Engineer, Electrical Sub Division, Thrissur, detailing the entire story and admitting that there is no amount pending from the part of the petitioner. On the same day, the Assistant Engineer also wrote another letter to the Assistant Executive Engineer, Transmission Construction Sub Division, Kallur for a feasibility report. In

response, the Executive Engineer, Electrical Division, Thrissur noted some minor defects, which could have been done and completed years ago. The petitioner again spent money and cleared those defects and the same was noted by the Assistant Engineer on 16/12/2016 and brought to the notice of the Executive Engineer.

Again the respondent, on 01/02/2017, raised the whole story along with some doubts and demanded the petitioner for a revalidated Energisation Certificate, as the validity of the Energisation Sanction from Electrical Inspectorate Inspector had expired. The petitioner was forced to reiterate the reason for the application through its reply on 14/02/2017. As clarification, the Assistant Executive Engineer replied on 28/02/2017. The Executive Engineer additionally clarified the whole events to the respondent on 13/03/2017. Finally, the respondent granted Administrative Sanction. Thus after 8 years, it was decided that an Add-On RMU needs to be installed to the existing RMU already installed in the premises of the petitioner. Laying of 15m of 11kV UG cable and allied works up to the metering point by the petitioner under licensee's supervision for giving HT supply of power to the extent of 68KVA was granted. The Estimate report stated an amount of Rs.7,29,488/- and supervision charges of Rs.1000/- which were already remitted by the petitioner on 27/09/2016. The same was communicated to the petitioner on 15/04/2017 and got the connection on December 2017.

Now, the amounts which were paid by the petitioner as Electricity Expenses amounting to Rs.396854/- remitted on 07/07/2010 and Rs.396854/- as cost of works and supervision charges on 09/06/2010 are not yet refunded. Even though the petitioner approached the licensee requesting the refund for several times, no action has been taken from the part of the licensee for the same. On 25/11/2021, the petitioner received a letter from the respondent stating that their request for refund has been forwarded to the Chief Engineer; but till date, no amount has been paid by the respondent.

The petitioner complains that after raising a request in the year 2009, they had to wait several years for a connection, which itself is a clear proof of deficiency in providing services by the respondent. Not only there was excessive delay in the connection, but also the money paid by the petitioner in the year 2010 has not yet repaid or refunded by the respondent till date. The unnecessary retaining of money also amounts to the deficiency in the licensee's service. Thus the petitioner demands the respondent to refund the amount deposited by them along with its compound interest at the rate of 14% from the date of deposit. Additionally, the petitioner prays before this Forum to charge the respondent with penalty which may extend to one thousand rupees for each day of default. The petitioner also requests this Forum to direct the respondents to pay a sum of Rs.14,00,000/- as damages for the loss of business and cost incurred for alternative power generation using diesel generator from the year 2010 to 2018.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 15-01-2024.

Argument Note of the petitioner:-

The petitioner states that the licensee has issued an Order to refund the amount within a month from the date of their Order, i.e. from 23/02/2024. The licensee admits that they have received the amount of Rs.3,04,653/- and Rs.3,96,854/- from them on various dates in the year 2010. The NHAI objection came also in the same year and the petitioner was asked to carry out the work by themselves. The petitioner states that they needed to liaison with various departments, contacted many contractors and also required various approvals from a number of regulatory bodies. After all the hard work was done, the connection was not given even in the year 2012. The petitioner complains that when one work is completed, the licensee would ask them to perform another task. It was as if the licensee was not sure on the next course of procedure. The petitioner complains that the energisation sanction was accorded by the licensee from the year 2014 onwards; but they refused to work on the same. The petitioner was additionally asked to pay another security deposit after the completion of works to an amount

of Rs.2,79,600/-, which the petitioner had to comply. Now the licensee is ready to return the deposit amount the petitioner had paid in the year 2010. But the licensee refuses to provide even the bank interest, stating that the amount is not a security deposit. The same contention has no legal validity. The petitioner questions if it were not a security deposit, under what head and authority the licensee had retained the amount from the year 2010 till date. The petitioner argues that the refund should have been returned in the year 2010 itself, when the licensee decided that they will not be doing the task by themselves and no amount is due to them. It is unjust and illegal to hold the money of the petitioner for more than a decade and return it without any compensation or interest. The petitioner thus demands for a compound interest of 14 percent from the date of deposit in the year 2010. Additionally, the petitioner demands a sum of Rs.14,00,000/- as damages for the loss of business incurred for alternate power generation using diesel generator from the years 2010 to 2018. The petitioner has also produced a copy of the ledger for the generator repairs and running for the year 2017 to 2018.

Version of the Respondent:-

The respondent states that the petitioner was intended to avail LT supply by installing a 100kVA transformer and the estimate for the same was prepared. Accordingly, M/s K.P. Cars Private Ltd. remitted an amount of Rs.3,04,653/- vide receipt number 136735 dtd. 03/04/2010 at Electrical Section, Maradu. On inspection, it was noticed that the power requirement was for 117kVA and hence the petitioner had to go for HT supply and accordingly the estimate was prepared and availed Administrative Sanction vide AS No:13/10-11 dtd.15/05/2010 of the Deputy Chief Engineer, Electrical Circle, Ernakulam. The petitioner thus remitted Rs.3,96,854/- vide Rt.No.-163035 dtd 10/06/2010 at Electrical Section, Maradu.

The National Highway Authority of India (NHAI) in their letter dtd. 24/09/2010 objected to draw OH line and requested to change the proposal to UG Cable. This matter was informed to M/s K.P. Cars Pvt. Ltd. by the Assistant Executive Engineer, Electrical Sub Division, Thrippunithura. Since an objection was raised by NHAI for drawing OH line, KSEBL requested to change the

proposal to UG cables. The Assistant Executive Engineer, Electrical Sub Division, Thrippunithura sought willingness of the petitioner to change the proposal. Later, M/s. K. P. Cars Pvt. Ltd. and Smt.Syamala R. Potti agreed to share the cost of UG cable work and RMU works. After that, the petitioner submitted the application for 68kVA on 22/08/2016. Accordingly, further sanction for laying UG cable was proceeded by the petitioner on sharing with other applicants who were waiting for the connection. The petitioner had remitted Rs.3,04,653/- and Rs.3,96,854/- for the previously proposed work of drawing OH 11kV line which was revised to UG Cable as per the objection raised by NHAI authorities. Meanwhile Smt.SyamalaPotti availed HT/LT supply by laying UG cable and installing RMU unit in the premises of the petitioner as per the mutual agreement between them. The work was done and a spare ADD ON unit was present in RMU for availing connection to the petitioner. But then, due to the objection of NHAI, the work was not done and the amount was not refunded or adjusted anyway. So a new Administrative Sanction was issued from the O/o the Deputy Chief Engineer, Electrical Circle, Ernakulam and a demand note was issued to the petitioner vide letter no:AEE1/SOP/KP Cars/17-18/30 dtd. 15/04/2017 in which the petitioner had to remit only Rs.17908/-. In the demand letter and Estimate Sanction, it was mentioned that the amount of Rs.17908/- may be adjusted from the amount already remitted by the petitioner and adjusted accordingly.

The respondent assures that the amount to be refunded is being calculated as per the direction from the Chief Engineer, Distribution Central and that the steps will be taken to pay the amount at the earliest. Thus the respondent requests this Forum to dismiss this petition.

Additional Statement of facts DyCE, Ernakulam:-

The respondent stated that the amount to be refunded is being calculated as per the direction from the Chief Engineer, Distribution Central and also assured that steps will be taken to pay the amount at the earliest.

2nd Additional Statement of facts Dy.CE, Ernakulam:-

The respondent intimated that the balance amount to be refunded to the applicant is Rs.683,599/- (304653+396854 – 17908). The respondent argued that the amount is not a security deposit; but only LEOYEC work deposit and hence not eligible for interest as per Section 47 (4) of Electricity Act 2003 and as per Regulation 72 (1) of The Kerala Electricity Supply Code, 2014. The respondent then quoted the Section which stated that *“The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security”*.

The respondent further quoted Regulation 72 of The Kerala Electricity Supply Code, 2014 which deals with the Interest on security deposit, which says that *“(1) The licensee shall pay to the consumer, interest on the security deposit furnished by him at the bank rate prevailing on the first of April of that year and it shall be payable annually with effect from date of such deposit. (2) The interest accrued during the financial year shall be adjusted in the energy bill of the consumer during the first quarter of the ensuing financial year. (3) If the adjustment of interest is delayed, interest at twice the bank rate shall be payable for the delayed period.”*

The respondent further argued that as per the Regulation 83 (3) of the Supply Code, only the refund of money is required. Regulation 83 (3) of The Kerala Electricity Supply Code, 2014 says that, *“On actual execution of the works, if it is found that certain items of works as provided in the demand note, are not required to give connection to the applicant, the expenditure for such items of works at the rates in the cost data approved by the Commission shall be refunded to the applicant by the licensee.”*

The respondent argued that here the Regulation keeps silence about the interest portion. The respondent further argued that Regulation 58 of the Supply Code is not applicable in this case. It says that *“(1) If any person after applying for supply of electricity with the licensee withdraws his application or refuses to take*

supply, the application shall stand lapsed and the applicant shall be informed accordingly.(2) The amount of security paid if any with interest at bank rate as on the date of furnishing such deposit and the unspent portion of the amount paid towards expenditure for providing electric line or electric plant shall be refunded by the licensee to the applicant: Provided that the installation or part thereof constructed out of the amount deposited by the applicant shall, on withdrawal of the application by the applicant, become the property of the licensee and the applicant shall have no claim whatsoever on such assets; Provided further that, the licensee shall as soon as may be, take steps to utilise such assets which shall be accounted as the assets created out of contribution by consumers.”

The respondent further argued that in this case, the petitioner has not withdrawn the application. The proposed installation was not done from the amount deposited by the applicant. The Electricity Act 2003 and The Kerala Electricity Supply Code, 2014 does not stipulate to give interest for the LEOYC amount or the work deposit amount. There was no any delay from the part of KSEBL related to this work and hence not entitled to any compensation. The licensee is bound to abide by the statutes. The act and law do not permit the consumer to make an unlawful gain. None of the grounds raised in the petition are tenable and the petitioner is not entitled for any reliefs. Thus the respondent requested this Forum to dismiss the petition.

Analysis and findings:

The First Hearing of this petition was conducted at the chamber of the Chairperson of this Forum on 25/01/2024 at 2:30PM. The Forum afforded an opportunity to hear the representatives of both the Petitioner and the Respondent. All of them were present for hearing. According to the request of the representative of the petitioner to postpone the hearing as they had received the statement of facts on the day of hearing only, this Forum decided to conduct a second hearing on 13/02/2024. But due to the request from the respondent vide Lr. No.GB1/SOF-KPCars/23-24/2303/dated 12/02/2024 of the Deputy Chief Engineer, Electrical Circle, Ernakulam, to postpone the hearing, it was rescheduled to 24/02/2024 at

2:30 PM at the chamber of the Chairperson of this Forum. The representatives of both the Petitioner and the Respondent were present for hearing. 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, who serves as the Managing Director of M/s K.P. Cars (P) Ltd., operates an Audi Car Showroom at Kundannoor, Ernakulam, owning a High Tension (HT) electricity connection with consumer number 1355500052521 and LCN – 12/8272. Initially, they requested a Low Tension (LT) electricity supply and paid Rs.3,04,653/- on 03/04/2010 as the Estimated Cost of Service Connection (ECSC). However, upon inspection by licensee's officials, it was found that the load requirement has exceeded the capacity for Low Tension supply. Consequently, the respondent recommended a High Tension (HT) Supply of 117kVA, for which the petitioner paid an additional ECSC of Rs.3,96,854/- on 10/06/2010.

Subsequently, the National Highway Authority of India (NHAI) objected to draw the overhead line and suggested laying an Underground (UG) Cable. Meanwhile, another applicant, Smt. Syamala Potti, availed HT/LT supply by laying a UG cable and installing an RMU unit on the petitioner's premises, as per a mutual agreement. Later, the petitioner opted to undertake the work by themselves. As a result, a new Administrative Sanction for Rs.17,908/- was issued by the licensee towards 10% supervision charges, which was adjusted from the amount already paid by the petitioner. However, the remaining amount was not refunded to the petitioner by the licensee.

Despite meeting all requirements suggested by various departments, the petitioner's premise was not energized until December 2017. Consequently, the petitioner demands the refund of the balance ECSC amount along with its bank interest rate. Additionally, they seek Rs.14,00,000/- as damages for the loss incurred due to alternative power generation using diesel generators from the year 2010 to 2018.

During the hearing, both the representatives of the petitioner and respondent reiterated their arguments as outlined previously. The petitioner emphasized that despite fulfilling all requirements and paying the demanded amounts to the licensee, they experienced significant delay in obtaining the electric connection. They expressed their frustration over the licensee's failure to refund the excess amount paid, despite numerous correspondences over the years. The petitioner highlighted the challenges faced in operating their premises without electricity and insisted on the refund of the excess ECSC amount with compound interest, or at least at the bank rate. The petitioner emphasised that Section 42 of the Electricity Act, 2003 allows them to claim the balance amount along with its interest.

Section 47. (Power to require security): --- *“(1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him -*

1. *(a) in respect of the electricity supplied to such persons; or*
2. *(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to person, in respect of the provision of such line or plant or meter, and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.*

(2) Where any person has not given such security as is mentioned in sub- section (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.

(3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.

(5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.”

In response, the respondent assured the petitioner of promptly refunding the excess amount paid. However, they refused to provide any interest on the amount to be refunded, arguing that it was not collected as a security deposit under Section 47 of the Electricity Act 2003 and therefore not subject to interest payment. The respondent attributed the delay in providing the electric connection to the actions taken by the petitioner, such as initially opting for a Low Tension (LT) supply, later proceeding with laying cables on their own after NHAI objections and delay in obtaining necessary approvals from the Electrical Inspectorate. The respondent substantiated their claims with relevant documents.

After reviewing the documents and statements from both parties, this Forum determined that the petitioner has agreed with the respondent's information regarding the refund of the excess ECSC charges collected by the licensee, amounting to Rs.6,83,599/-. Subsequently, this Forum analyzed whether there is any provision for paying interest on the excess ECSC amount. Regulation 83 of the Kerala Electricity Supply Code, 2014 addresses ECSC charges, which is stated below:-

Regulation 83. Payment of expenditure as per demand note.-

“(1) The applicant shall make the payment within fifteen days of receipt of demand note, failing which the application shall stand lapsed and the applicant shall be informed accordingly in writing under acknowledgement:

Provided that the licensee may grant enlargement of time to the applicant for payment of charges in case the applicant submits with in fifteen days of the receipt of demand note, a written request for such enlargement of time.

(2) On actual execution of the works, if it is found that additional items of works in excess of those provided in the demand note, are required to give connection to the applicant, the expenditure for such items of additional work at the rates in the cost data approved by the Commission shall be remitted by the applicant.

(3) On actual execution of the works, if it is found that certain items of works as provided in the demand note, are not required to give connection to the applicant, the expenditure for such items of works at the rates in the cost data approved by the Commission shall be refunded to the applicant by the licensee.”

Sub-Regulation 3 of Regulation 83 pertains to the refund of ECSC charges collected from an applicant. However, this Regulation does not stipulate any provision regarding the payment of interest to the consumers when refunding the excess amount collected as ECSC charges. Therefore, the petitioner cannot claim interest on the amount paid as ECSC.

DECISION:

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

- 1) The respondent need to refund the excess amount collected from the petitioner within one month from the date of this Order.**
- 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 07th day of March 2024

Sd/-

Sri.Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-

Smt. JayanthiS.
2nd Member
CGRF-CR, Ekm

Sd/-

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

Endt. On CGRF-CR/OP No.66/2023-24 Dated

Delivered to

Sri.BharathK.Patel,
Managing Director,
K.P. Cars Private Limited,
Suit No.205, 2nd Floor,
Pioneer Towers, Shanmugham Road,
Ernakulam – 682 031.

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.