

**CONSUMER GRIEVANCE REDRESSAL FORUM  
KERALA STATE ELECTRICITY BOARD LTD- SOUTHERN REGION  
VYDYUTHI BHAVANAM, KOTTARAKKARA**

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Present: 1. Smt.Laila.N.G, Deputy Chief Engineer, Chairperson  
2. Sri. Sanjeev Koshi, Executive Engineer, Member II  
3. Sri.C.K.Harikumar, Advocate, Member III

Thursday, 26<sup>th</sup> October, 2023

**OP No.39/2023**

Between

Petitioner: Sri. Jacob Pothen  
General Administrator  
Believer's Church, St. Thomas Nagar  
Kuttappuzha (P.O), Thiruvalla  
Pathanamthitta.

And

Respondents : (1) The Chief Engineer (Distribution South),  
Power House Buildings, Thiruvananthapuram.

(2) The Special Officer (Revenue), K.S.E.Board Ltd.,  
Vydyuthi Bhavanam, Pattom, Thiruvananthapuram.

(3) The Deputy Chief Engineer Transmission Circle.  
Poovanthuruthu.

**ORDER**

**1. Grievance of the petitioner**

The petitioner is the Managing Trustee of the public charitable trust under the episcopal church named Believer's Church bearing consumer number 1346170001101-31/3416 under Electrical Section Kuttappuzha. A 110 KV substation was established to cater the energy requirement of its Headquarters campus and originally the consumer was included in EHT General (A) tariff category. The petitioner is aggrieved by the issuance of an exorbitant bill amounting to Rs.9,90,74,445/- by the licensee on 27/07/2022, stating that the petitioner has been wrongly classified in the EHT General (A) tariff category and being a self financial institution, the petitioner ought to have classified in EHT General (B) tariff category. The petitioner contented that all the institutions run by the petitioner are part of the church which are non profit making and the income is used for charitable purpose. Thereafter the licensee issued another

letter dated 27/06/2022 stating that the institution has been reclassified in EHT General (B) tariff category with effect from 17/04/2017.

The petitioner alleged that the licensee did not served proper bills or demands according to Regulations 122 and 123 of the Kerala Electricity Supply Code 2014. Against the said amount of arrears and disconnection notice due on 27/08/2022, the petitioner approached the Hon'ble High Court of Kerala vide WP © 29400/2022 on 14/09/2022 . The Division Bench of the Hon'ble High Court of Kerala vide judgement dated 13/01/2023 in WA.No.1892/2022 has permitted the petitioner to remit the arrears in 36 equal monthly installments. The petitioner contented that the demands specified in bills cannot be treated as proper as the amounts claimed in the demand notes dated 27/06/2022 and 27/07/2022 differed substantially .

On 26/04/2023, the petitioner has received an email communication from the licensee dated 20/04/2023 demanding interest for the period of 256 days presumably commencing from 27/08/2022 to 10/05/2023 and the future interest calculated for a period upto 06/04/2026. The petitioner alleged that since no amount of interest was directed to be paid or permitted to be collected as per judgement of the Hon'ble High Court of Kerala the licensee's claim for interest is not sustainable.

## **2. Version of the respondent**

According to the respondent, in accordance with the tariff order dated 14.08.2014 which was prevalent at the time of the execution of the service connection agreement dated 27.11.2014, M/s Believers Church Hospital & Campus had been assigned the EHT General tariff which was exclusively for EHT consumers excluding EHT Industrial and Commercial consumers. In the Tariff order dated 17/04/2017, the Hon'ble Kerala State Electricity Regulatory Commission has sub categorized the EHT General category into two, EHT General A & B. Being a self financing educational institution, Believer's Church Hospital and Campus should have been categorized in EHT-General B tariff, however, the consumer was wrongly placed under EHT-General A tariff category. The anomaly was detected in June 2022. As per the latest tariff order dated 25/06/2022, the consumer is under EHT General-C tariff category as Hon'ble Kerala State Electricity Regulatory Commission placed utility services, self financing educational institutions and any other EHT consumer not listed anywhere else in the tariff order.

The fact was intimated to the consumer and as per Regulation 134 of Kerala Electricity Supply Code ,2014, the undercharged amount consequent to the application of wrong tariff, was calculated and assessed as Rs.9,90,74,445/- Against the above demand the consumer approached Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala permitted the petitioner to remit two crores in two equal/six weekly installments on or before 28.02.2023 and 11.04.2023 and the balance amount to be remitted in 36 equal monthly installments. The installment was facilitated in accordance with the judgement of the Hon'ble High Court of Kerala and the consumer remitted Rs.3,11,34,325/- up to 12.06.2023.

The WP (c)No.17613/2023 filed by the consumer before the Hon' ble High Court of Kerala for waiver of interest was declined by Hon'ble High Court, vide judgement dated 30/06/2023,and directed the petitioner to approach CGRF in this regard, if he desires so.

The petitioner comes under the Tariff EHT General-B with effect from 17/04/2017,the date of effect of tariff revision order and the said tariff further reclassified as EHT General-C according to the tariff revision order dated 25/06/2022. while reviewing the purpose of electricity connection and the tariff category assigned as per tariff revision order dated 25/06/2022, the omission of billing as per tariff reclassification and consequent short assessment was noticed. The fact was intimated to the petitioner as per regulation 122, Kerala Electricity Supply code, 2014. Subsequently a notice dated 27/07/2022 was also served as per regulation 123 of Kerala Electricity Supply Code,2014, demanding Rs.9,90,74,445 with bill revision report including all details of bill revision. As per Regulation 134 (1), KESC 2014, the distribution licensee has legal right to claim the amount of short assessment which has emphasized by the Hon'ble Supreme Court of India in its Judgement in Civil Appeal No.7235 of 2009 (M/s Prem Cottex versus Haryana Bijli Nigam Ltd.& others)

In accordance with the tariff order dated 17/04/2017 EHT General, A tariff was applicable to the consumers under LT VI (A) category availing supply at EHT level and EHT General B tariff is applicable to ISRO, utility services such as Airport, Self-financing Educational institutions and any other EHT consumer not included under other tariff. As per the tariff order dated 17/04/2017 the demand charges per month and energy charges per unit applicable to EHT General A consumers were Rs.300/- and Rs.5/- respectively

whereas the EHT General B consumers are liable to pay demand charges per month @ Rs.370/- and energy charges per unit @ Rs.5.80 respectively. The licensee had inadvertently billed the petitioner under EHT General A tariff since 17.04.2017 onwards. As the petitioner's institution is a Self Financing Educational Institution it should have been categorized under EHT General B Tariff from 17/04/2017 onwards. According to the tariff order dated 25/06/2022, of the Kerala State Electricity Regulatory Commission, the petitioner's Institution comes under the category of EHT General C tariff at present and the demand charge per month and energy charge per unit applicable to EHT General C tariff consumers are Rs.450/- and Rs.6.30/- respectively. While verifying the records of the consumer as per Regulation 134 of Kerala Electricity Supply code 2014, the mismatch in categorization of the petitioner's Institution was realized by the licensee and the fact was informed to the petitioner .

The respondent stated that the difference in amount of pre-revised and revised bills is shown as 9,90,74,445 in the demand dated 27/07/2022, which was the under charged amount assessed in accordance with regulation 134 of Kerala Electricity supply code 2014. Though the judgment in WA. No.1892/2022 does not mention about interest on belated payment, it was not the denial of levying interest on belated payment as per the item No.12 of the "Schedule of Miscellaneous Charges" under Regulation 131 (2) of the Kerala Electricity Supply Code, 2014. In petition No.RP3/2021 Dated 15.11.2021, between KSEBL and M/s Bennet Coleman & Co.Ltd., Kochi the Hon'ble Kerala State Electricity Regulatory Commission has reviewed the Order of the Hon'ble Supreme Court Judgement in Civil Appeal No.7235 of 2009 Dated 05/2021 (M/s Prem Cottex versus Uttar Haryana Bijli vitaran Nigam Ltd & others), and ordered that (3) The interest as per rules will be applicable for the amount due from the date of issuance of the demand notice dated 29.04.2020. Kerala State Electricity Regulatory Commission also viewed that "Electricity charges would become first due only after the bill is issued to the consumer, even though the liability to pay may arise on the consumption of electricity". In this instant case the interest on belated payment has been claimed only from the due date (28-08-2022) stipulated in the demand notice (27.07.2022) and further interest on installments were taken upto the due date of each installment.

The rate of interest on belated payment was approved by the Hon'ble Kerala State Electricity Regulatory Commission after considering the factors like PLR rate, rate of interest defrayed by KSEBL for the delayed payment made to generating companies. Though the Hon'ble Division Bench of the Hon'ble Court has permitted the petitioner to remit 36 monthly installments and the Hon'ble Court has not denied of levying interest on belated payment in accordance with regulation 131(2) Item No.12 of "Schedule of Miscellaneous Charges". Bill revision for the period from 4/2017 to 5/2022 and the consequent additional demand was issued as per regulation 134 (1) after observing the formalities under regulation 122 & 123. The rate of interest on belated payment applied was approved by the Hon'ble Kerala State Electricity Regulatory Commission. The due date of the revised bill issued by the licensee as per regulation 131(2) and according to Regulation 123 it cannot be altered. As the judgement dated 13.01.2023 of Division Bench of the Hon'ble Highcourt, pronounced that the petitioner commits two continuous defaults in any of the installments, the Licensee is entitled to recover the amount and initiate such other step or action as is permissible in law including disconnection.

### **3. Analysis and Findings**

The hearing was conducted on 19/09/2023. Both the petitioner and the respondent were present and the Forum heard the matter in detail.

On going through the petition and perusing all the documents the Forum viewed that the petition pertains to the interest levied to the amount of 36 installments at the rate of 18% per annum permitted by the Hon'ble High Court of Kerala vide W.A No.1892 of 2022.

The petitioner alleged that the respondent has no legal right to impose an illegal demand of surcharge against the vide judgement of Hon'ble High Court in W.A.No.1892/2022 and approached the Forum to set aside the surcharge amount imposed on the installment scheme by the licensee. The petitioner also contended that the demand issued on 27.07.2022 was not according to the prevailing regulations under 122 and 123 of the Kerala Electricity supply code 2014.

According to the respondent, the bill issued on 27/07/2022 for the period from 4/2017 to 5/2022 after observing the formalities insisted as per the regulations 134 (1), 122 and 123 of the Kerala Electricity supply code 2014 and the Hon'ble Court has not denied levying of interest on belated payments. The

rate of interest on belated payment was approved as 18% per by the Hon. Kerala State Electricity Regulatory Commission and hence the licensee is legally empowered to realize the bill and charged the interest.

In this instant case the Forum viewed that the Hon'ble High Court of Kerala has ordered the petitioner to pay Rs. 2 Crores in equal or in six weekly installments and the balance demand is paid in 36 equal installments and the Hon'ble court has not denied the levying of interest on belated payments. The Regulation 131 (2) of Kerala Electricity Supply code 2014, Item No.12 of "Schedule of Miscellaneous charges" clearly stipulates the levying of interest on belated payments.

*131.Payment of bills and penal interest for belated payments.-*

*(2) If the consumer fails to remit the bill amount on or before the due date, the licensee is entitled to recover interest on the amount of the bill at the rates specified in the Schedule of Miscellaneous Charges as per schedule 1 of the Code.*

*Schedule 1 -12). Rate of interest for delayed payment @ 12% per annum, based on actual number of days delay from the due date , upto a period of 30 days and thereafter at the rate of 18% per annum for the entire period of default from the due date.*

According to the Regulation (60) XIV, the interest on delayed or deffered payment on bills are considered as one of the source of income mentioned in the indicative list as per the order dated 5/10/2018 by the Hon'ble Kerala State Electricity Regulatory Commission. Regarding the rate of interest on belated payment, the Forum viewed that the interest rate on belated payment was approved by the Hon'ble Kerala State Electricity Regulatory Commission after considering the factors like Prime Lending Rate and the rate of interest for the delayed payment made to generating companies by the licensee.

Regarding the correctness of the format of the demand notice, on perusal of the documents the Forum observed that the letters dated 27/06/2022 and 27/07/2022 issued by the licensee accompanied with bill revision report is authentic and it is hereby ascertained that the demand issued by the licensee is correct and sustainable in accordance with the Regulation 122 and 123 of Kerala Electricity Supply Code, 2014. The licensee has claimed that they issued the demand note on 27/7/22 along with the bill revision report due for the outstanding period and has been reaffirmed by licensee vide email communication dated 22/12/2022.

As far as this case is concerned the Forum viewed that the cause of dispute is due to the incorrect fixation of tariff by the licensee. In this instant case the licensee admits that it is a default on the part of the licensee in fixing the tariff of the petitioner. Instead of being included and billed in EHT General B tariff of the self financing Institutions , Believer's church & Medical College Campus, was erroneously included in the EHT General A tariff by the licensee and billed accordingly since 17/04/2017. The anomaly from the part of the licensee, comes under Regulation 152 of Kerala State Electricity Regulatory Commission 2014. The regulation 152 clearly stipulates that, the anomalies attributable to the licensee which are detected at the premises of the petitioner by the incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer. The Church Hospital and Campus was energized in 2014 and the purpose of the use of electricity by the consumer was not changed.

*152. Anomalies attributable to the licensee which are detected at the premises of the consumer.- (1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.*

*(4). The consumer may be given installment facility by the licensee for a maximum period of twelve months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of installment .*

#### **4. Decision**

Considering the above facts and circumstance of the case, the Forum disposed the case with the following directions.

(1).The assessment based on the anomalies attributable to the licensee which are detected at the premises of the consumer under regulation 152 uphold the right of the licensee to collect the short assessment amount for the entire period during which the anomaly persisted. The consumer may be given facility for maximum period of 12 monthly installments without imposing penalty. Since the Hon'ble High Court has directed to remit the amount in 36 installments, the licensee shall have discretionary powers to impose penalty .

2).As per the assessment, the claim of 18% interest by the Licensee is found to be sustainable.

(3).No order as to cost.

If the petitioner is not satisfied with the above order of this Forum, he is at liberty to prefer appeal before the Electricity Ombudsman within 30 days from the date of receipt of this order.

The address of the Electricity Ombudsman is furnished below.

*'The State Electricity Ombudsman, D.H & Foreshore Road Junction, Near Gandhi Square, Ernakulam, Kerala - 682 016. Phone: 0484 2346488'.*

Sd/-	Sd/-	Sd/-
C .K.HARIKUMAR	SANJEEV KOSHI	LAILA.N.G
ADVOCATE MEMBER III	EXECUTIVE ENGINEER MEMBER II	DEPUTY CHIEF ENGINEER CHAIRPERSON

Forwarded

Sd/-  
CHAIRPERSON  
(DEPUTY CHIEF ENGINEER)

No: CGRF/KTR/OP No.39/2023/228

Dated :26/10/2023

Delivered to:

- (1) Sri. Jacob Pothen, General Administrator, Believer's Church St. Thomas Nagar, Kuttappuzha (P.O), Thiuvalla, Pathanamthitta.
- (2) The Chief Engineer (Distribution South), Power House Building, Thiruvananthapuram.
- (3) The Special Officer (Revenue), K.S.E.Board Ltd., Vidyuthi Bhavanam, Pattom, Thiruvananthapuram.

Copy to:

1. The Secretary, KSERC, KPFC Bhavanam, Vellayambalam, TVPM.
2. The Deputy Chief Engineer, Electrical Circle, Poovanthuruthu.
3. The Assistant Executive Engineer, Transmission Sub Division Changanacherry.