

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

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

Monday 12th February,2024

OP No.58/2023

Between

Petitioner: Sri. K. Lalitha
Executive Director Attukal Shopping Complex
Management Office,
Second Floor, East Fort, Thiruvananthapuram.

And

Respondents: (1) The Deputy Chief Engineer, Electrical Circle,
Thiruvananthapuram.
(2) The Special Officer, (Revenue) ,Pattom ,Thiruvananthapuram

ORDER

1. Grievance of the petitioner

The complainant is the Executive Director of the Attukal Shopping Complex (Pvt) Ltd. On 28-06-2019, Attukal Shopping Complex (Pvt) Ltd. had participated in the public auction of Dhanalakhmi Bank, Fort Branch, Thiruvananthapuram under SARFAESI Act and the complainant was the successful bidder of the property and building which stood in the name of Sri. A.V Rangaraj (Ayyappas Textiles). The bid has been confirmed in the name of ASCPL. Thus ASCPL has become the absolute owner of the said property and Ayyappas building therein. The authorized officer of Lakshmi Bank Ltd. Sold the aforesaid property and building to ASCPL on "as is where is "condition. The bank had confirmed the sale and issued the sale certificate on 02.11.2019 and the sale deed was got registered on 07-032020 at the Sub Registrar's Office, Fort Thiruvananthapuram under Rule IX (6) of Securities Interest

(Enforcement) Rules 2022. The ownership of the building has been changed in the name of the purchaser namely ASCPL. On 08-09-2020 the complainant made an application to the KSEB Ltd to change the ownership and another application was filed on 22-02-2020 to reduce the contract demand from 250 KVA to 25 KVA. There was an arrear of energy charges to the tune of Rs.11,96,945/- to be remitted by the previous owner or bank. The licensee asked for NOC from the previous owner of the building for transfer of security deposit, which has been objected to by the previous owner. The grievance is to pass orders setting aside the order no.SOR/HTB164223/2022-2023 of the Special Officer(Revenue) KSEB dated 04/04/2023 and also direct the Board to appropriately redress the grievance of the consumer.

2. Version of the respondent

M/S Ayyappas Textiles bearing consumer No.LCN 16/4223 was a HT consumer under Electrical Circle, Thiruvananthapuram. M/S Dhanalekshmi Bank has taken possession of firm under SARFASI Act as the owner Sri. Rangarajan failed to clear the loan availed from the bank. Later the property was purchased by the petitioner Smt.Lalitha, Executive Director, Attukal Shopping Complex and the sale deed was registered on 07.03.2020 in the name of the the petitioner. In accordance with the order dated 29.07.2022 of the Hon'ble State Electricity Ombudsman vide order dated 29.07.2022 in Appeal Petition No.P/029/2022 the following action were taken by this office.

1. Arrears of previous consumer up to 07.03.2020 was deducted from the security deposit of the previous owner.
2. The contract demand was reduced from 250 KVA to 25 KVA with effect from 07.11.2020
3. To treat the amount Rs.2,78,607/- as security deposit as and when the petitioner execute fresh agreement for power supply. In accordance with the judgement in WP(C) No. 172/2023 KSEBL didn't insist the petitioner to deposit the amount in the manner prescribed in Proviso 2 of Section 40(3) of the Supply Code 2014. Things being so, now the consumer has again filed a petition before the Hon'ble CGRF-SR pointing more or less the same complaint. However the following are submitted

Regarding Old Security Deposit

At present the Petitioner is not a HT consumer since necessary HT agreement has not been executed by the consumer .The petitioner has no

legal right to claim the old security deposit furnished by the then registered owner Sri.A.V.Rengaraj. The agreement with Sri.A.V.Rengaraj, the previous owner deemed to be terminated as on 07.03.2020 only and the petitioner has no legal claim over the security deposit. Moreover the Security Deposit is not coming under the purview of SARFAESI Act, and Licensee is having the right to recover arrears. The Service Connection was also not transferred in the name of petitioner in accordance with Regulation 91 of supply code 2014 and hence the petitioner has no legal right over the old deposit. The petitioner is liable to clear dues from **07.03.2020**, ie from the date of sale deed. Dues up to 06.03.2020 was collected from the previous owner . The amount **Rs.2,78,607/-** remitted by the petitioner, vide cheque No.888357 dated 11.03.2020 will be treated as fresh deposit.

As per **Regulation-71** of Supply code 2014, Licensee is having the right to recover the arrear from the security deposit and the very purpose of the security deposit is to ensure the security of receivables from the consumer. The interest on deposit was granted up to 06.03.2020, since the HT agreement with the previous owner deemed to be terminated as on 07.03.2020. Hence the action of the Licensee is in order as it is in accordance with **Regulation-71** of Kerala Electricity Supply Code 2014.

Regulation-(71) Refund of security deposit.- (1) The security deposit shall be refunded to the consumer on termination of the agreement within thirty days after the settlement of all dues payable to the licensee.

Details of adjustment of old Security Deposit is appended below:

Principal amount upto 06.03.2020	3,91,302/-
TDS	7,711/-
Interest up to 07.03.2020	12,666/-
Less: Security Deposit	5,59,860/-
Refunded amount	1,48,181/-

Transfer of service connection

The process of transfer of service connection is dealt with **Reglation 91** of Kerala Electricity Supply Code 2014.

Reglation 91 : (3) The transferee shall pay the required security and execute a fresh service connection agreement.

(4) The licensee shall process applications relating to change of name of the consumer due to change in ownership or occupancy of the premises in accordance with the procedure detailed below:-

(a) the applicant shall apply for the change of name of the consumer in the format prescribed in Annexure - 8 to the Code, along with a copy of the latest bill, duly paid;

(b) the request for transfer of connection shall not be accepted unless all recoverable dues in respect of the concerned connection are fully paid;

(c) the application form shall be accepted on showing proof of ownership or occupancy of the premises;

(d) a no objection certificate from the registered consumer or previous occupant of the premises or a person authorised by them shall be required in the cases involving transfer of security deposit in the name of applicant;

(e) the licensee shall process the application form in accordance with the relevant provisions of the Code;

(f) in case the no objection certificate from the registered consumer or previous occupant of the premises or a person authorised by them is not submitted, an application for change of name shall be entertained only if security deposit as stipulated in the Code is paid afresh by the applicant;

The petitioner had not fulfilled the relevant provisions of **Regulation 91** Kerala Electricity Supply Code 2014 hence neither the connection nor the deposit was transferred.

Reduction of contract demand and charging of minimum demand

The contention of the consumer that the respondent should not raise demand for 07/04/2020 – 07/10/2020 is liable to be dismissed. The contentions are beyond the purview of the Electricity Act, 2003, Kerala Electricity Supply Code, 2014 and the Tariff Order dated 8.7.2019. According to Regulation 2(58) of the Code 2014, minimum charge means the charge payable by the consumer for a billing period as approved by the Commission in the Tariff

Order. In view of general condition 2 and 6 under Part B of the Tariff Order dated 8.7.2019, billing demand shall be the recorded maximum demand (RMD) for the month in kVA or 75% of the contract demand (CD) as per the agreement, whichever is higher and the **monthly minimum charge applies even during the period of disconnection of power supply**. Moreover there was energy consumption during the period 07-04-2020 to 07-10-2020 (**Exbt.R1**). Hence the petitioner is liable to pay the demand during 07-04-2020 to 07-10-2020 also. It is also pertinent to note that the petitioner had submitted the request dated 22.10.2020 for reduction of contract

demand from 250 KvA to 25 KvA. Hence relying upon **Regulation 100(10) of Kerala Electricity Supply Code 2014** the Hon'ble State Electricity Ombudsman vide order dated 29.07.2022 reduced the contract demand to 25 KvA with effect from 07.11.2020. Therefore the demand from 07.11.2020 was issued with reduced contract 25 KvA.

KSEB Ltd is a public sector undertaking and it does not nourish any ill feeling against any consumer including the petitioner and it functions as per rules and regulations as established by the statutes.

3. Analysis and Findings

Hearing was conducted on 14.11.2023 both the petitioner and respondent were present and heard the matter in detail. The complainant is the Executive Director of the Attukal shopping complex (Pvt) Ltd., On 28-06-2019, Attukal shopping complex (Pvt) Ltd., had participated in the public auction of Dhanalakshmi Bank, Fort Branch, Thiruvananthapuram under SARFAESI Act and successfully bid the property and building in the name of Sri. A.V.Ranga Raj, Security deposit will not come under the purview of SARFAESI Act. The previous owner Sri. A.V.Rang Raj is not willing to give NOC to transfer the Security deposit to the present owner. Petitioner has approached the Honourable High Court through the writ petition to challenge one of the decisions issued in the order dated 29.07.2022 of the ombudsman. The Honourable High Court disposed the case dated 09.01.2023. with a direction that the licensee will not insist the petitioner to deposit the amount in the manner prescribed in provision 2 of Section 40 (3) of the Electricity Supply Code, 2014. The Regulation 40 (3) stipulate that if a purchases or lessee or occupier of such premises requires a new connection, as the earlier connection given to the previous consumer in that premises has already been disconnected and dismantled on the ground of outstanding dues of the previous or lesee on occupier of premises provided he furnishes a deposit which shall be equal to the arrears of electricity charges and other liabilities if any, excluding interest thereon, till the licensee obtains from the appropriate legal forum an order on the recovery of arrears and other liabilities or till the licensee settles the arrear and liabilities with the previous consumer or till completion of three years which ever is less.

As per the judgement Smt. K. Lalitha Executive Director, Attukal shopping complex (Pvt) Ltd, has remitted Rs,2,78,607/- by Cheque No.888357 drawn on M/s Dhanalakshmi Bank dated 11.03.2020 and it is to be treated as

her fresh security Deposit. This will be considered only as and when she execute a fresh HT agreement for supply with KSEBL. Since the petitioner has remitted the amount as per judgement of the Honourable High Court this Forum has no jurisdiction to enter into the case. Thus the case lacks merit.

4. Decision

Considering the facts and circumstances of the case mentioned above the Forum ordered as follows.

1. Since the Honorable High Court has already disposed the case, the Forum has no jurisdiction to enter into case thus lacks merit. Hence it is decided to close the petition and disposed the case accordingly.

(2).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/-
C .K.HARIKUMAR
ADVOCATE
MEMBER III

Sd/-
SANJEEV KOSHY
EXECUTIVE ENGINEER
MEMBER II

Sd/-
LAILA.N.G
DEPUTY CHIEF ENGINEER
CHAIRPERSON

Forwarded

Sd/-
CHAIRPERSON
(DEPUTY CHIEF ENGINEER)

No: CGRF/KTR/OP No.58/2023/56 Dated : 24/02/2024

Delivered to: 1.K. Lalitha Executive Director Attukal Shopping Complex
Management Office, Second Floor, East Fort, Thiruvananthapuram.
,
2. The Deputy Chief Engineer, Electrical Circle,
Thiruvananthapuram.
3. The Special Officer, (Revenue)Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram.

Copy to:

1. The Secretary, KSERC, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram.
2. The Assistant Executive Engineer,Electrical Sub Division,Fort,TVPM