

# **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](http://cgrf.kseb.in), Email: [cgrf.ekm@gmail.com](mailto:cgrf.ekm@gmail.com),**  
**CUG No. 9496008719**

Present	(1) Smt. Sheeba. P (2) Smt. Jayanthi. S (3) Sri. Biju Varghese	Chairperson 2 <sup>nd</sup> Member 3 <sup>rd</sup> Member
Petitioner	The Vice President Legal, M/s. Sterling Holiday Resorts Ltd., Chithirapuram, Munnar, Chinnakkanal, Idukki, Pin – 685 618.	
Respondent	1) The Deputy Chief Engineer, Kerala State Electricity Board Ltd., Electrical Circle, Thodupuzha, Idukki. (Electrical Section, Rajakumari)	
Kerala State Electricity Board Ltd., Thiruvananthapuram – 4.	2) The Special Officer (Revenue)	

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**No.CGRF-CR/OP No.114/2023-24**

**Date: 30-04-2024.**

### **ORDER**

#### **Background of the case:**

The petitioner, the Vice President of M/s Sterling Holidays and Resorts (P) Ltd. at Chinnakkanal, Munnar, is having a resort with a High Tension (HT) electricity connection bearing consumer number 1356150001711 / LCN 29/2963 under the jurisdiction of the Deputy Chief Engineer, Electrical Circle, Thodupuzha (Electrical Section, Rajakumari). This connection is having a contract demand of 175 kVA and a connected load of 263kW.

On February 14<sup>th</sup>, 2019, the licensee issued a penal bill of Rs 2,72,42,370/- after discovering an unauthorized additional connected load at the petitioner's premises. The petitioner made a partial payment up on this penal bill amount. The Appellate Authority confirmed this penal bill on the petitioner's appeal, after which the petitioner sought relief from the Hon'ble High Court of Kerala. The Hon'ble Court granted a stay on both the penal bill and the hon'ble Appellate Authority's Order. The licensee has kept the balance of this penal bill amounting to Rs.1,31,85,555/- under "dispute". The case is currently being considered by the hon'ble Court.

On May 25, 2022, the petitioner submitted an application requesting an increase in contract demand to 250 kVA at their premises. However, the licensee insists for the remittance of the balance amount of Rs.1,31,85,555/- as per Regulation 99(4) of the Kerala Electricity Supply Code, 2014, for sanctioning the enhancement in contract demand. The petitioner is now approaching this Forum requesting contract demand enhancement without remitting the disputed amount, as the Hon'ble Court Order staying the penal bill is currently in effect.

**Version of the Petitioner:-**

The petitioner states that they had submitted an application for enhancement of contract demand from 175kVA to 250 kVA in the prescribed form dated 25/05/2022 along with the necessary fees before the Assistant Engineer, Rajakumari. All necessary documents including drawings were also enclosed with this application. The Electrical Inspectorate approved the same. Sanction was granted by the Electrical Inspector, Office of the Electrical Inspector, Moolamattom, Idukki for energisation as well. But while processing this application, the Deputy Chief Engineer, Electrical Circle, Thodupuzha issued a communication dated 28/03/2023 to the Special Officer, Revenue (SOR) of the Kerala State Electricity Board Limited seeking details of security deposit available and Darius/legal cases pending if any against this petitioner. In response, the SOR issued a communication dated 05/04/2023 to the Deputy Chief Engineer, which clearly stated that there are no dues outstanding against the petitioner except the sum of Rs.1,31,85,555/-, which is under dispute.

The petitioner states that they were having a dispute against an inspection bill issued by the licensee for an amount of Rs.3,11,68,100/- and approached the Hon'ble High Court against this bill. Vide Order dated 06/11/2017 in W.P. (C) No. 34979 of 2017, the Court then directed the petitioner to pay 50% of this inspection bill amount i.e. Rs.1,31,85,555/-. Thus the petitioner remitted this amount in order to comply with this Order and the balance amount of this bill was put under the head "Disputed amount" by the licensee. Now the demand raised by KSEBL on this disputed amount for processing the application of contract demand enhancement is illegal, since the disputed amount is the subject matter of a writ petition and the Hon'ble High Court of Kerala vide Order dated 08/03/2019 has stayed all proceedings until further Orders. Moreover, all the discrepancies pointed out by the licensee were also rectified. But the petitioner received a communication dated 05/04/2023 issued by the Deputy Chief Engineer, insisting the petitioner to remit the disputed amount of Rs.1,31,85,555/- for enhancing the contract demand by referring Regulation 99(4) of the Kerala Electricity Supply Code, 2014. The petitioner argues that the Deputy Chief Engineer is aware that the amount of Rs 1,31,85,555/- is disputed and hence this demand is illegal. The petitioner states that even though they informed the Deputy Chief Engineer about this Stay Order up on the disputed amount, the sanction was not accorded for the enhancement of contract demand. Furthermore, in contradiction to this, the Deputy Chief Engineer issued a communication dated 02/08/2023 to the petitioner, requesting to take steps to enhance the contract demand. Moreover, the Deputy Chief Engineer has issued an Order dated 11/01/2024 stating that the application dated 25/05/2022 submitted by the petitioner cannot be processed due to the non-payment of disputed amount of Rs.1,31,85,555/- and thus, the application will be cancelled within 15 days. Thus the petitioner was forced to approach this Forum requesting to process and finalise their application for enhancement of contract demand without payment of Rs.1,31,85,555/-.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 01-04-2024.

**Version of the Respondent (Dy.CE, Thodupuzha):-**

The respondent states that the petitioner remitted an application fee on 25/05/2022 at the Section Office, Rajakumary for enhancing their contract demand from 175 kVA to 250 kVA with a change in connected load. In this regard, the first letter of the Deputy Chief Engineer, Electrical Circle, Thodupuzha describing the defects in regard to this application was sent to the petitioner on 22/10/2022 vide letter No.ECT/TS-II/2022-23/1326. Later, the petitioner submitted Energisation Approval on 28/03/2023 vide Order No.B1-2368/22/EII dated on 03/03/2023 before the respondent. The respondent states that as per records, the connected load of the petitioner was 263KW and in the latest approval and the present load is 783.474kW+49HP +20HP (Lift) + 140kVAr.A letterseeking arrear details of the petitioner was sent to the office of the Special Officer, Revenue (SOR) on 28/03/2023 vide letter no.ECT/HT/AEII/Sterling/2022-23/2592. In response, on 05/04/2023,vide letter no.SOR/RG1/CD/HTB-29/2963/2022-23, the SOR reported that the petitioner is having a disputed arrear of Rs.13185555/-. Thus an intimation was given to the petitioner regarding this.Also, a letter describing the defects in regard to the contract demand enhancement application was given to the petitioner on 29/03/2023 by the respondent vide letter no.ECT/AE-II/2022-23/2605 dated 29/03/2023.

The respondent argues that as per Regulation 99(4) of Kerala Electricity Supply Code, 2014, *“the application for enhancement of connected load shall not be considered if the consumer is in arrears of payment of the dues payable to the licensee”*. Thus the respondent demands thecomplete payment of Rs.13185555/- by the petitioner for the enhancement of their contract demand / connected load. The respondent further states that a reply has given to the letter dated on 05/09/2023 as an arrear details intimation vide letter No.ECT/AEII/HT-Sterling Holidays & Resorts/2023-24 1422/dated 30/09/2023,which was delivered to the petitioner and has signed the receipt on 03/10/2023. Thus the respondent requests this Forum to dismiss the petition.

**Version of the Respondent (SOR):-**

The respondent states that the Deputy Chief Engineer, Electrical Circle, Thodupuzha vide email dated 28/03/2023 had requested to intimate the details of the petitioner, such as the security deposit available, arrears, legal cases pending if any etc. In response to this letter, it was reported vide letter dated 05/04/2023 that an amount of Rs.13185555/- is pending as disputed arrears and that the petitioner is having Bank Guarantee for Rs.1210250/- and Cash Deposit for Rs.1439172/- as security deposit as on date.

The respondent states that the Anti Power Theft Squad (APTS) team of the licensee at Kottayam conducted a surprise inspection in the premises of the petitioner on 23/05/2017 and detected unauthorized additional load of 521 kW over and above the registered connected load of 263 kW. Accordingly, a provisional assessment bill for Rs.50956413/- was issued to the petitioner as per Section 126 of the Electricity Act, 2003 on 15/6/2017. Later the provisional assessment was confirmed by the Assessing Officer i.e. the Assistant Engineer, Electrical Section, Chithirapuram vide Order dated 16/10/2017. Aggrieved by this Order, the petitioner approached the Appellate Authority. Vide Order dated 26/02/2018, the Appellate Authority set aside the Final Assessment Order dated 16/10/2017 and directed the KSEBL to refund the amount remitted by the appellant with interest as per Regulation 158(17) of Kerala Electricity Supply Code, 2014. The Appellate Authority was of the opinion that the Assistant Engineer, Electrical Section, Chithirapuram is incapacitated to issue Assessment Order under Section 126 of the Electricity Act, 2003 in the light of G.O. (P) No.7/2017/PD dtd. 26/09/2017, which conferred on the Assistant Executive Engineer, the power of Assessing Officer under Section 126 of Electricity Act, 2003. Moreover, the Hon'ble Authority observed that KSEBL is at liberty to initiate fresh assessment proceedings under Section 126 of the Electricity Act 2003, based on the inspection conducted in the premises on 23/05/2017.

In compliance with the Order of Appellate Authority, KSEBL vide Board Order dated 03/04/2018 accorded sanction to refund the amount deposited by the petitioner, under Section 127 of the Electricity Act 2003. Subsequently, the Assessing Officer viz. Assistant Executive Engineer, Electrical Sub Division, Chithirapuram issued revised penal bill for Rs.27242370/- on 14/02/2019, based on the connected load shown in the invoices issued by the Electrical Inspectorate, Idukki which conducted periodical inspection during the period from 06/2008 to 05/2017, subject to the final verdict in the SLP pending before the Hon'ble Apex Court between KSEBL and Sulabha Marketing (P) Ltd, challenging the impugned decision of limiting the assessment to demand charges only in the UAL cases.

In the meantime, the petitioner filed a writ petition vide WP© No.5963/2019 before the Hon'ble High Court of Kerala, challenging the Order of the Hon'ble Appellate Authority. Considering the gravity of the matter and stake involved in it, KSEBL decided to file a Writ Petition before the Hon'ble High Court of Kerala and the same is under consideration of the Court.

The respondent argues that as per Regulation 99(4) of Kerala Electricity Supply Code 2014, the application for enhancement of load shall not be considered if the consumer is in arrears of payment of the dues payable to the licensee i.e. oncomplete payment of Rs.13185555/- only. Thus the respondent requests this Forum to dismiss this petition.

### **Analysis and findings:**

Hearing was conducted at the chamber of the Chairperson, Consumer Grievance Redressal Forum, Ernakulam. The Forum afforded an opportunity to hear the Petitioner and the Respondent on 23-04-2024. Both the representatives of 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, the Vice President of M/s Sterling Holidays and Resorts (P) Ltd. at Chinnakkanal, Munnar, is having a resort with a High Tension (HT) electricity connection bearing consumer number 1356150001711 / LCN 29/2963 under the jurisdiction of the Deputy Chief Engineer, Electrical Circle, Thodupuzha (Electrical Section, Rajakumari). This connection is having a contract demand of 175 kVA and a connected load of 263 kW.

On February 14th, 2019, the licensee issued a penal bill of Rs.2,72,42,370/-after discovering an unauthorized additional connected load at the petitioner's premises. The petitioner made a partial payment up on this penal bill amount. The Appellate Authority confirmed this penal bill on the petitioner's appeal, after which the petitioner sought relief from the Hon'ble High Court of Kerala. The Hon'ble Court granted a stay on both the penal bill and the Hon'ble Appellate Authority's Order. The licensee has kept the balance amount of this penal bill amounting to Rs.1,31,85,555/- under "dispute". The case is currently being considered by the Hon'ble Court. On May 25, 2022, the petitioner submitted an application requesting an increase in contract demand to 250 kVA at their premises. However, the licensee insists for the remittance of the balance amount of Rs.1,31,85,555/- as per Regulation 99 (4) of the Kerala Electricity Supply Code, 2014, for sanctioning the enhancement in contract demand. The Regulation is quoted below:-

**Regulation 99. Enhancement of connected load or contract demand:-**

*"(4) The application for enhancement of load shall not be considered if the consumer is in arrears"*

During the hearing, both the petitioner and the respondent reiterated their arguments presented in their written submissions. The petitioner acknowledged the disputed amount of Rs.1,31,85,555/-. However, they emphasized that they had obtained an Interim Stay Order [Stay Orders dated 27/02/2019 and 08/03/2019] from the Hon'ble High Court of Kerala regarding this amount, based on the Writ Petition which is currently under the consideration of the Hon'ble Court. The petitioner also highlighted that the licensee had neither filed a counter affidavit nor taken any steps to revoke this Stay Order. Consequently, the

petitioner argued that as long as the Stay Order concerning the disputed amount remains in effect, it cannot be deemed as an arrear. The petitioner further stated that on August 2, 2023, the first respondent issued another notice to the petitioner as per Regulation 101 (1) of the Kerala Electricity Supply Code, 2014, directing the petitioner to submit an application to increase their Contract Demand, as the petitioner's Recorded Maximum Demand (RMD) had exceeded the sanctioned Contract Demand of 175 kVA for more than three billing periods in the previous financial year. The Regulation is quoted below:-

**Regulation 101. Annual review of contract demand.-**

*“(1) In the case of HT and EHT connections, if the maximum demand recorded exceeds the contract demand in three billing periods during the previous financial year, the licensee shall issue a notice of thirty days to the consumer directing him to submit within the notice period, an application for enhancement of contract demand.”*

The petitioner highlighted a discrepancy in the respondent's actions, noting that they had received two letters: one requesting an enhancement of the contract demand and the other rejecting the petitioner's application for such enhancement. The petitioner further argued that demanding the payment of an amount that has been stayed by the Hon'ble Court is unlawful and constitutes contempt of the Hon'ble Court's Order. The petitioner also expressed their readiness to settle the arrear amount following the final verdict of the Hon'ble High Court and offered to provide an Undertaking to guarantee payment upon the Hon'ble Court's decision.

In response, the respondent acknowledged the Stay Order issued by the Hon'ble High Court of Kerala. However, they cited Regulation 99 (4) of the Kerala Electricity Supply Code, 2014, which prohibits the enhancement of a consumer's contract demand if there are any outstanding arrears owed to the licensee. But the respondent admitted that they have not submitted a counter affidavit nor taken any measures to revoke the Stay Order.



Following the deliberation with both the parties, this Forum views that the disputed amount has indeed been stayed by the Interim Order of the Hon'ble High Court of Kerala. The petitioner has provided a copy of this Interim Order vide W.P. (C) No.5963/2019 (U),[Stay Orders dated 27/02/2019 and 08/03/2019] deferring all actions upon this penal bill by the respondent. The respondent has acknowledged their failure to file a counter affidavit or to take steps to lift this Stay Order. Consequently, as long as the Stay Order remains in effect, the disputed amount cannot be deemed as an arrear. Therefore, the respondent is obligated to positively consider the petitioner's application for the enhancement of their contract demand.

Moreover, considering the letter dated 02/08/2023 from the first respondent which highlights that the petitioner's Recorded Maximum Demand (RMD) has exceeded the sanctioned Contract Demand of 175 kVA for more than three billing periods during the previous financial year, this Forum is of the view that the petitioner's application is essentially a procedural requirement for enhancing the contract demand to align with the RMD of the preceding financial year in accordance with Regulation 101 (1) of the Kerala Electricity Supply Code, 2014. Furthermore, this Forum recognizes that Regulation 101 (2) of the Kerala Electricity Supply Code, 2014 permits the licensee to enhance a consumer's contract demand, if the maximum demand recorded exceeds the contract demand in three billing periods during the previous financial year. The Regulation is quoted below:-

**Regulation 101. Annual review of contract demand.:-**

*“(2) If there is no response from the consumer by the end of the notice period, the licensee shall enhance the contract demand of the consumer to the average of the top three readings of maximum demand shown by the maximum demand indicator (MDI) meter of the consumer during the previous financial year, if the additional load can be sanctioned without augmentation or upgradation or uprating of the distribution system.”*

Based on the Regulations and circumstances outlined above, this Forum asserts that the respondent is not justified in rejecting the petitioner's application for contract demand enhancement solely on the ground of arrear amount, because the amount is the subject matter under consideration of the Hon'ble High Court in W.P. (C) No.5963/2019 (U) and as the Hon'ble Court Order staying the penal bill is currently in effect [Stay Orders dated 27/02/2019 and 08/03/2019]. Therefore, this Forum is of the view that the respondent shall duly consider the petitioner's request.

### **DECISION:**

**Based on the aforementioned facts, including the Interim Stay Order issued by the Hon'ble High Court of Kerala in W.P. (C) No.5963/2019 (U), the thirty-day notice dated 02/08/2023 issued by the first respondent to the petitioner for enhancing the contract demand in compliance with Regulation 101 (1) of the Kerala Electricity Supply Code, 2014 and the licensee's authority to suo-moto increase the contract demand as per Regulation 101 (2) of the Kerala Electricity Supply Code, 2014, this Forum issues the following directives:-**

- 1. The respondent is directed to consider the request of the petitioner for the enhancement of the contract demand without insisting on payment of the disputed amount in the light of the Interim Stay Order issued by the Hon'ble High court of Kerala vide W.P. (C) No.5963/2019 (U) Stay Orders dated 27/02/2019 and 08/03/2019.**
- 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 30<sup>th</sup> day of April, 2024**

**Sd/-**  
Biju Varghese  
3<sup>rd</sup> Member  
CGRF, Ernakulam

**Sd/-**  
Jayanthi S.  
2<sup>nd</sup> Member  
CGRF-CR, Ekm

**Sd/-**  
Sheeba P.  
CHAIRPERSON  
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.114/2023-24 Dated

Delivered to:-

M/s. Sterling Holiday Resorts Ltd.,  
Chithirapuram, Munnar,  
Chinnakanal, Idukki,  
Pin – 685 618

Sd/-

CHAIRPERSON  
(DEPUTY CHIEF ENGINEER)  
CGRF-CR, KALAMASSERRY

Copy submitted to: 1)The Secretary, KSEBL, VydhyuthiBhavanam, 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,Thodupuzha

2)TheSpecial Officer (Revenue), Kerala State Electricity Board  
Ltd., VydhyuthiBhavanam,Thiruvananthapuram.