

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/060/2023  
(Present A. Chandrakumaran Nair)  
Dated: February-02-2024**

Appellant : Sri. Varghese Kurian,  
Madapparambil Granites,  
Mrala B III/373, Mrala P.O.,  
Thodupuzha, Idukki- 685587.

Respondent : The Deputy Chief Engineer,  
Electrical Circle, KSE Board Ltd.,  
Thodupuzha, Idukki (Dist.).

The Special Officer Revenue,  
Vydyuthi Bhavanam, Pattom,  
Thiruvananthapuram-4.

**ORDER**

**Background of the case**

The appellant Sri. Varghese Kurian is a HT consumer of the licensee. HTconnection has been availed from the licensee to run an industrial unit. On 07/11/2022, the consumer had intimated AE, Electrical Section, Thodupuzha that their CT/PT unit is damaged and hence requested unmetered power supply. The agreement signatory sanctioned direct supply for 15 days and directed then to replace the faulty meter within this time. In the letter it was also stated that the penalty as per the Regulation will be imposed if they fail to replace the faulty meter within this time. The consumer did not change the meter within the stipulated time limit, penalty for meter fault for Rs. 5,74,982/- was charged with the demand during March 2023. The extra amount due to the delay in replacement of the defective meter was charged as per the General Condition 4(d) of the tariff order. The appellant has contented the extra charging on this issue and filed petition to CGRF (Central Region). The CGRF issued order dated 30/09/2022 stating that the appellant is liable to pay the penalty imposed

by the respondent. Aggrieved by the decision of CGRF, this appeal petition is filed to this authority.

## **Arguments of the Appellant**

Ours is an electric connection under HT I(A), Industrial tariff. We have received the monthly bill of Rs.9,60,504/- dated 08.03.2023. In the above bill KSEBL have claimed Rs.5,74,981.92/- as Penalty for Meter Faulty. On 31.03.2023, we have objected the bill, and on 19.06.2023, KSEBL have again send us an arrear notice stating that Rs.5,74,982/- is due from us towards arrears of current charges as short collection amount during March, April, May and June 2023. But the demand amount shown in the statement and collection amount shown is wrong. Please not that if there was a short collection, then KSEBL can collect the undercharged amount, it's not a penalty. Also, KSEBL haven't mentioned the reason of penalty.

A poor consumer cannot be made liable for noncompliance of the directive by the KSEB officials. The Regulation 134(1) permitting KSEB to collect the undercharged amount, *'If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill'*. But nowhere is it mentioned that KSEBL can have a claim without proper explanation. Even if the penalty is due to Meter Faulty, as per Reg. 116 (2), *'If the meter is found defective, the licensee may test it at site, if feasible, and if not feasible, the meter shall be replaced with a correct meter and the defective meter shall be got tested in an accredited laboratory or in an approved laboratory'*. Here KSEBL not changed the meter when they found meter faulty or tested the same.

As per Reg.115 (9), *'In case the meter is found to be faulty, revision of bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills'*. But KSEBL have served as a Penalty on Meter Faulty and the same included in the regular monthly bill without any explanation. Without justifying the calculation and details for faulty period, calculation method etc...KSEBL cannot claim the amount. The Electricity Act 2003 sec. 50 is very clear and specific in assigning the duty and responsibility to specify Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, etc... and hence KSEBL cannot have their own discretion in billing and collection of payment. While issuing a bill it has to be as per all Regulations such as 134(1) which permits licensee to collect the undercharged amount by issuing a bill. Here KSEBL can collect the undercharged amount as per Reg.134(1), but with proper supporting documents. We requested KSEBL to provide us with MRI

downloaded data and clarification of meter faulty period, calculation sheet and any other supporting documents for penalty claim.

After submitting the petition with CGRF, KSEBL have produced the calculation statement of penalty. KSEBL saying that they already informed us regarding the penalization. But they haven't produced any proof for the same. Also KSEBL admitting that or CT PT fault reported on 7th November 2022 and we have given the new one for testing on 23rd November 2022. Which clearly shows that the delay is not from our end. The tested CT PT and Meter received only on 14th December 2022 Immediately on receiving the same we have give the reports to KSEBL. The changing of the CT PT and Meter also under scope of KSEBL and TMR division. So it clearly shows that the delay in changing CT PT and meter is not from our part.

### **Arguments of the Respondents (From Dy. C.E & SOR)**

M/s. Madapparambil Granite's (LCN 18/7143) is a live HT consumer with LCN 18/7143 under Electrical Circle, Thodupuzha with Contract Demand 380 KVA and Connected Load 442.074 KW. Assistant Engineer, Electrical Section, Thodupuzha I, vide letter dated 12.10.2022 informed Deputy Chief Engineer, Electrical Circle, Thodupuzha that certain consumers including M/s. Madapparambil Granite's (LCN 18/7143) were using meter type, 3 phase 3 wire with old specification. Since this meters had no facility to display old billing parameters, Assistant Engineer, Electrical Section, Thodupuzha I, requested Deputy Chief Engineer, Electrical Circle, Thodupuzha to give direction to the consumer to replace the old meter with new one having latest specifications.

On 07.11.2022 consumer intimated the Assistant Engineer, Electrical Section, Thodupuzha, that their CT, PT is damaged and hence requested for unmetered supply for running their firm. As such in accordance with Regulation 118(3) of Electricity Supply Code 2014, Agreement Authority sanctioned direct supply for 15 days and directed them to replace the faulty meter. It was clearly stated that penalty will be imposed as per existing rule if they fail to replace the faulty meter within the stipulated time. Since the consumer did not change the meter within two months penalty for meter fault Rs. 5,74,982/- was charged with the demand during the month March 2023. Under Regulation 125 of Kerala Electricity Supply Code 2014 says that the procedure for billing in case of non-availability of meter reading.

### **125. Procedure for billing in the case of defective or damaged meter.-**

(1) In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective:

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available: Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

(2) In case, the maximum demand indicator (MDI) of the meter at the installation of the consumer is found to be faulty or not recording at all, the demand charges shall be calculated based on maximum demand during corresponding months or billing cycle of the previous year, when the meter was functional and recording correctly.

Since the petitioner failed to replace the meter within two months as stipulated in **General Condition 4(d) under part B of Tariff Order dated 25.06.2022**, an amount of Rs. 5,74,982/- was imposed as meter faulty penalty along with the bill dated 08-03-2023. It is seen that faulty meter **was replaced on 16.03.2023 only.**

**General Condition 4(d) States that:** If any existing consumer, having elected to purchase and supply the meter for replacement of the defective meter in his premises, fails to do so within two months, such consumer will be charged 50% extra over the prevailing rates applicable to him for bQth demand and energy, for the said two months and one month thereafter.

<b>Month</b>	<b>Demand charge (Rs.)</b>	<b>Energy charge (Rs.)</b>	<b>Energy Charge (Rs.)</b>	<b>Energy Charge (Rs.)</b>	<b>Total Energy Charge (Rs.)</b>
1/2023	129480	243341.20	5133.15	2831.93	380786.28
2/2023	140010	243341.20	5133.15	2831.93	391316.28
3/2023	126555	243341.20	5133.15	2831.93	377861.28
					1149963.84

Penalty for non-replacement of faulty meter (1149964) X 1.5= Rs.5,74,982/- Therefore, the meter faulty penalty, Rs. 5,74,982/-(Rupees Five Lakh Seventy 3 Four Thousand Nine Hundred and Eighty Two Only) was imposed as per relevant rules in force.

Considering the contentions of the petitioner challenging regulations of Kerala Electricity Supply Code 2014 and the conditions of the Tariff Order, the Petition No.060/2023 filed by M/s. Madapparambil Granite's (LCN

18/7143) cannot be challenged before the Hon'ble Forum and hence it may be dismissed with cost.

It is also kindly be noted that the order of the Consumer Grievance Redressal Forum (Central Region) Number CGRF - CR/OP No.29/2023-24/255 dated 30.09.2023 ruled in favour of KSEBL. The decision of the Consumer Grievance Redressal Forum (Central Region) issues the following orders.

1. The petitioner is liable to remit the penalty imposed by the respondent for not replacing the faulty meter in time.
2. No cost ordered.

It is also please be noted that considering the contentions of the petitioner challenging regulations of Kerala Electricity Supply Code 2014 and the conditions of the Tariff Order, the reference P/060/2023/01362 dated 15.11.2023 to the State electricity Ombudsman filed by M/s. Madapparambil Granite's (LCN 18/7143) Cannot be challenged before the Hon'ble Forum and hence it may be dismissed with cost.

### **Analysis and findings**

The hearing of the appeal petition was conducted on 24/01/2024 at 11:00 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the Respondents Sri. Ashokan S., The Senior Superintendent, SOR, Sri. Vijayakumar V, Superintendent, SOR and Sri. Rajesh S, Asst. Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Thodupuzha. The appellant has not attended the hearing in spite of sending letter very much in advance and also repeated telephonic follow up.

The appellant availed an industrial HT connection for M/s Madapparambil Granite's and metering of the power was through 3 phase three wire meter. There was a direction in KSEB to replace all these to 3 phase 4 wires meters. The appellant has informed the licensee on 07/11/2022, that the CT/PT units connected to the meter was damaged and requested for power by bypassing the metering arrangement and the licensee has given time for 15 days for replacing the meter and power was given a by passing the meter. The licensee also informed that 50% penalty will be applied if the appellant is failed to replace the CT/PT unit within the specified period. The Section 118 of the Supply Code 2014 clearly describes about the replacement of damaged meter.

118(1) *“If a meter is found damaged either on the complaint of the consumer or upon inspection by the licensee, the meter shall immediately be replaced by the licensee with a correct meter and if it is not possible the supply shall be restored by the licensee, bypassing the damaged meter, after ensuring that necessary preventive action at site is taken to avoid future*

damage and obtaining an undertaking from the consumer to make good the loss if any sustained by the licensee”.

118(2) “The consumption during such period in which the supply was restored as per the above sub-regulation, shall be computed based on the average consumption during the previous billing cycle”.

118(3) “The bypassing shall be removed by replacement with a correct meter within the least possible time, at any rate within three working days for LT meters and within fifteen days for HT meters”.

118(4) “If the meter is damaged due to causes attributable to the licensee, the licensee shall replace the damaged meter with a correct meter within three working days of receiving the complaint in the case of LT meter and within fifteen days in case of HT meter”.

118(5) “If the meter is damaged due to causes attributable to the consumer, such as defect in the installation of the consumer, meter getting wet and connecting unauthorized additional load, the procedure laid down in regulation 117 shall be followed”.

This Section spells out that the damaged meter is to be replaced within 15 days and power is to be restored by bypassing the meter and the power consumption in this period is to be computed based on the average consumption during the previous billing cycles. The Section 125 of the supply code 2014 is about the procedure for billing in the case of defective or damaged meter.

Section 125(1) “In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or report defective:

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.”

Section 125(2) “Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with correct meter”.

Here in this case, appellant would have followed procedure for replacement of the meter.

1. Purchase of meter & CT/PT unit.
2. Testing of meter and CT/PT units in the laboratory.
3. Installation of CT/PT unit and meter.
4. Inspection by Electrical Inspector and issue of energization certificate.
5. Submission of completion certificate with the energization certificate to KSEBL.
6. Commissioning of the meter.

The appellant has purchased meter & CT/PT units during November-2022 and the meter was tested in KSEB had on 23/11/2022 but the CT/PT was tested on 14/12/2022. Even after testing of the CT,PT and meter there was a considerable delay from the appellant for installing the meter and also to get the energization certificate from the Electrical Inspector. The scheme approval of the installation was issued by the electrical inspector on 29/11/2022 the energization certificate was issued on 15/02/2023.

On examining in detail, the appellant has also applied for the enhancement of contract demand on 08/12/2022 from 272 kVA to 380 kVA. The appellant has clubbed the replacement of damaged meter & CT/PT unit along with the enhancement of contract demand. All the formalities connected with the enhancement of contract demand such as scheme approval for modification, execution of modification of the installations and the installation of meter, CT/PT units etc. Inspection and energization certificate, payment of additional security deposit, pending of arrear payments, execution of agreement for connecting additional load etc., have been completed only on 15/03/2023. The licensee has given letter dated 30/01/2023 for remitting the SD and executing the agreement. The agreement was executed only on 15/03/2023 and accordingly the recommissioning of meter & CT PT units was done only on 16/03/2023. Till the recommissioning of the meter was done, the power supply was drawn without meter. The drawing the power for more time without meter is in violation to the regulation.

There was considerable delay in recommissioning of meter and CT PT units as this was clubbed with the enhancement of contract demand. As per the Tariff order issued by Kerala State Electricity Regulatory Commission issued on 25/06/2022, the General Conditions for HT and EHT tariff clause 4(d) states *“If any existing consumer, having elected to purchase and supply the meter for replacement of the defective meter in his premises, fails to do so within two months, such consumer will be charged 50% extra over the prevailing rates applicable to him for both demand and energy, for the said two months and one month thereafter”*.

It states that if the defective meter is not replaced within a period of two

months, the consumer will be charged 50% extra over the prevailing rates applicable to him. The licensee has raised the bill for this 50% as per the tariff order conditions of the KSERC. Through the meter has been replaced only after the lapse 130 days, the meter penalty has been charged only for 3 months as per the regulation.

## **Decision**

Verifying the documents submitted by the appellant( the appellant has not attended the hearing) and hearing respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. I hereby agree with the decisions of the CGRF.

## **ELECTRICITY OMBUDSMAN**

No. P/060/2023/ dated: 02/02/2024.

### Delivered to:

1. Sri. Varghese Kurian, Madapparambil Granites, Mrala B III/373, Mrala P.O., Thodupuzha, Idukki- 685587.
2. The Deputy Chief Engineer, Electrical Circle, KSE Board Ltd., Thodupuzha, Idukki (Dist.).
3. The Special Officer Revenue, Vydyuthi Bhavanam, Pattom, Thiruvananthapuram-4.

### Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.