

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/04/2025
(Present A. Chandrakumaran Nair)
Dated: 24-03-2025**

Appellant : Smt. Sabeena.N, Secretary, Kilimanoor
Grama Panchayath,Kilimanoor P.O,
Thiruvananthapuram(Dist.)

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Limited,
Kilimanoor, Thiruvananthapuram(Dist.)

ORDER

Background of the case

The appellant is the Secretary of Kilimanoor Grama Panchayath. The appellant has requested the Licensee for the installation of 376 new single tube lights at various locations as part of augmentation of the street lighting system and remitted Rs.49,250/- towards the supervision charges. The lights were installed during 2008. The street lights were installed as un metered system. The License had omitted to add the new street lights fittings for the billing. This omission was found out during the audit conducted by Regional Audit Officer on 23/02/2011. Though the mistake of omission in billing was found out during 2011, the demand for the under charged amount was raised only on 29/03/2014. Then a joint inspection was carried out by Panchayath and Licensee and accordingly the bill was revised to Rs.6,11,082/- and issued on 20/02/2015. The appellant contented that the bills were raised after three years of detecting the mistake as such as per 56(2), the demand issued by the Licensee is not valid due to the limitation period of two years. The appellant had filed the petition to CGRF and CGRF issued order dated 10/12/2024, stating that the appellant is liable to pay the amount as per the revised bill.

Arguments of the Appellant

The Appellant is a Grama Panchayat and filing this application through its Secretary against the order dated 10.12.2024 in OP No. 49/2024 passed by the Consumer Grievance Redressal Forum. The Appellant panchayat is aggrieved by the arbitrary steps taken by the Assistant Engineer, Electrical Section, Kilimanoor by issuing notice to terminate/disconnect the street lights in the panchayat alleging that arrears of electricity charges along with interest to the tune of Rs. 15,31,121/- is remain due from the panchayat.

It is submitted that the Appellant panchayat is situated in the rural area of Thiruvananthapuram district. The panchayat is with an arrangement with the Kerala State Electricity Board under Regulation 27 of Kerala State Electricity Board Terms and Conditions of Supply 2005 for providing street lights in the panchayat area. As per Regulation 27: Street lights required by a Local Body (Panchayat, Municipality or Corporation) will be installed by the KSE Board on realization of cost of installation and as per conditions and rates stipulated in the agreement in Form No.11 prescribed for street lighting, provided the financial stability for the expenditure to the incurred is certified by the District Panchayat Officer. In areas where the Local Authority, is unable to finance the street lighting programme, private person's requisition for streetlights in public paths, which is approved by the Local Authority, will also be considered for execution on the same terms and conditions. The Board will also consider installation of streetlights in Private areas where Board's distributing lines are in existence, on special terms and conditions. The energy will be metered and charged at the appropriate tariff. Hire charges will be realized for the street light fittings and mains. The bulbs initially installed, or replaced subsequently, will be at the cost of consumers. Maintenance works will be done by the Board at its own cost. The executive authority of the local body shall execute the agreement in Form No.11 with a valid resolution to that effect and accepting the rates and conditions of the Board and passed by the local body in duly constituted meeting. This will form part of the agreement. All agreements shall also be stamped with common seal of the local body.

Form No.11 is the format of agreement to be executed between the local authority and the KSEB Ltd. to establish for street lights without metered supply. Since the agreement between the Appellant panchayat and KSEB is to provide street lights without metered supply, no metering arrangement was made by KSEB nor by Assistant Engineer. As per condition No.4 of Form No.11 agreement: "The Board shall, within 15 days after the expiration of the first and every subsequent calendar month from the commencement of the supply of electrical energy in accordance with this agreement, deliver a bill to the consumer showing the amount payable by the consumer to the Board under this agreement and the consumer shall pay the same within one month from the delivery of such bill. In the event of the amount

mentioned in such bill or any portion thereof not being paid within such period, the consumer shall, in addition to and without prejudice to the other rights and remedies of the Board pay interest on the amount so remaining due, at the rate fixed by Regulatory Commission from time to time, from the date of bill, until payment. In case the consumer fails to pay to the Board the amount due under the agreement within the time herein before provided for payment thereof, the Board may, after giving 15 days previous notice' in writing to the consumer of their intention to do so, cease and discontinue the supply of electric energy, until the amount of the bill in arrears together with interest thereon and the costs incurred in the disconnection and re-connection are paid, without rendering themselves liable under this agreement for failing to supply electric energy as aforesaid." As per Regulation 27 and Condition No.4 of the Form No.11 agreement, the Board shall issue monthly bills towards maintenance of the street lights at the rates fixed by the Board along with electric charges. It is submitted that the panchayat had cleared all monthly bills till date and there is no arrears in the bills mentioned in condition No.4 as extracted above.

It is submitted that on 29.3.2014 the Assistant Engineer, Electrical section had issued a bill to the tune of Rs. 10,53,323/- as short assessment bill of street lights stating that in an audit report dated 23.2.2021, the Regional Audit Officer, Thiruvananthapuram of KSEB had reported that there was shortage in the assessment in the electric bills issued to the local bodies regarding maintaining of street lights during the period from 2008 onwards. Immediately the panchayat made objection against the short assessment bill on the ground that all the bills issued till date towards the maintenance/electric charges of street lights were cleared by the panchayat and they are not responsible for any audit objection regarding the failure, if any, of the KSEB. Thereafter the Assistant Engineer, Electrical section issued a letter dated 20.2.2015 stating that they have withdrawn bill and mentioned Rs.6,11,082/- as the new arrears. Though the Assistant Engineer, Electrical section claimed that the amount was re-fixed after a meeting with panchayat officials and after a joint inspection of street lights, there is no such information in the panchayat. By letter dated 20.2.2015 the Assistant Engineer, Electrical section informed the Appellant that the amount due as short assessment is Rs.6,11,082/- for a period from 10/2018 to 2/2015 and also directed to pay Rs.73,941/- as monthly bill with effect from 1.3.2015.

It is respectfully submitted that after the explanation and resolution adopted by the panchayat and submitted before the KSEB and Assistant Engineer, Electrical section, Kilimanoor, there is no communication from them. The Appellant panchayat has been regularly remitting the monthly bills as received from the Assistant Engineer, Electrical section, Kilimanoor without any delay. While so a letter dated 18.5.2022 was issued by the Assistant Engineer, Electrical section, Kilimanoor stating that an amount of Rs. 10,53,323/- was issued on 29.3.2014 on the basis of audit report dated

23.2.2011 and the amount was revised and re-fixed as Rs.6,11,082/- on 20.2.2015 and as on 18.5.2022 an amount of Rs. 13,98,524/- is due along with interest. It is respectfully submitted that Ext.P6 letter was issued after 6 years of Ext.P5 and in the meantime all the monthly bills issued were cleared by the panchayat. On receipt of Ext.P6 again the panchayat committee considered the demand for the alleged arrears and found that the panchayat is not responsible to clear the amount demanded as per the audit report of the KSEB and a resolution was adopted by the committee on 31.5.2022 by vide resolution No.5(1) and the same was communicated to the 2nd respondent by letter dated 13.7.2022.

Though the panchayat is not liable to pay the money as per the audit report of the KSEB, as per the request of the Assistant Engineer, Electrical section, Kilimanoor, the Tahsildar had issued demand notice dated 8.8.2023 U/s.34 of the Revenue Recovery Act to recover an amount of Rs. 12,10,789/-. The Assistant Engineer, Electrical section, Kilimanoor again issued a notice dated 19.9.2023 alleging that the Regional Audit Officer, Thiruvananthapuram of the KSEB Ltd. in his audit report had found that the street lights were not billed for a period from 10/2008 to 2/2015 and on subsequent inspection the amount was revised and re-fixed at Rs.6,11,082/- and the said amount can be remitted by taking the benefits under One Time Settlement scheme. As per the notice the Assistant Engineer, Electrical section, Kilimanoor offered to clear the 'arrears' by remitting a total amount of Rs.6,69,583/-.

It is submitted that the Appellant approached Consumer Grievance Redressal Forum, Kottarakkara addressing the matter but the CGRF not appreciated the fact that the bill issued by the Assistant Engineer, Kilimanoor is illegal. Apart from internal audit report by RAO, Thiruvananthapuram, there is no documentary, evidence produced by the licensee to show or prove that the Appellant/petitioner unauthorizedly used electricity at any point of time. Therefore, the finding arrived by the CGRF is highly arbitrary, illegal, unsustainable and unenforceable. The appellant is aggrieved by the above approach of the CGRF, Kottarakkara seeking to set aside the order passed in O.P No. 49/2024 by filing this appeal.

It is respectfully submits that the panchayat is not liable to pay any amount to the KSEB as demanded in Ext.P2, P3, P6, P8 to P10. As per Regulation 27 of Kerala State Electricity Board Terms and Conditions of Supply 2005, the Assistant Engineer, Electrical section, Kilimanoor is only required to issue monthly bills to the local body regarding the street lights erected and no 'short assessment bills' as issued in this case is permissible. Moreover as per the impugned bills/demand notices, Assistant Engineer, Electrical section, Kilimanoor demanding 'arrears' based on some audit report for a period from 10/2008 to 2/2015, which is impermissible under law. Even in the case of unauthorized use of electricity Regulation 27A(e) permits the assessing officer to presume that such unauthorized usage was continuing

for a period of 3 months immediately preceding to the date of inspection in case of domestic and agricultural services and for a period of 6 months immediately preceding the date of inspection of all other categories of services. Hence even if any inspection revealed unauthorized use of electricity for the street lights in the panchayat, they can only demand arrears for 6 months as per Regulation 27A(e) of Kerala Electricity Supply Code 2005. No additional bills or short assessment is permissible as per the agreement in Form No.11 and hence the additional bills and demands were issued by the Assistant Engineer, Electrical section, Kilimanoor without any authority.

The applicant further declares that the application is within the limitation period prescribed under the Act. The copy of the award was received by the appellants on 18.12.2024 by post, and as per the limitation period, the appeal should be filed on or before 18.01.2025. Therefore, it is respectfully submitted that there is no delay in filing this application before the Ombudsman.

Arguments of the Respondent

It is submitted that the petitioner Kilimanoor Grama Panchayath is an unmetered street light consumer with consumer number 1145357000330 under Electrical Section Kilimanoor. The unmetered street light billing is done according to the number of street light fittings multiplied with rate per street light fittings. The street light fittings includes LED bulbs, single tube lights, double tube lights, ordinary bulbs etc.. and each item has separate rate for billing. It is also submitted that the petitioner consumer Kilimanoor Grama Panchayath had requested for the installation of 376 new single tubelights at various locations under Kilimanoor Grama Panchayath on 16.08.2008. The Executive Engineer, Electrical Division, Attingal issued administrative sanction vide numbers 54/08- 09,55/08-09 and 56/08-09. The petitioner consumer Kilimanoor Grama Panchayath remitted a total amount of Rs.49,250/- towards supervision charges for the installation of 376 numbers of single tube light fittings at various locations. Accordingly, the petitioner consumer Kilimanoor Grama Panchayath installed 376 numbers of single tube light fittings under the supervision of the licensee at various locations under Kilimanoor Grama Panchayath. But the licensee omitted to add the new street light fittings to the already existed street light fittings for calculation of billing. This omission under the single consumer Kilimanoor Grama Panchayath was subsequently found out by the Regional Audit Officer, Kerala State Electricity Board Ltd, Thiruvananthapuram. Hence short assessed the consumer under Regulation 134 (1) of the Kerala Electricity Supply Code 2014 for the period from 10/2008 to 03/2014 and issued a bill amount of Rs. 10,53,323/-. Being aggrieved, the Grama Panchayath as per the decision taken in the Block Vikasana Samithi held with the participation of the MLA concerned decided to request the KSEBL

to conduct a joint inspection or physical verification to find out the live street light fittings. As per the demand of the panchayath a joint physical verification was conducted by the KSEBL staffs and the panchayath Ward Members. During the inspection the list of total number of bulbs,CFL's, tubes and other lights alongwith additional and idle fittings were taken. Copy of the joint inspection report is produced and marked as Exhibit R3. During the inspection it is found that 265 nos.40 Watts ordinary bulbs, 12 nos of 60Watts Ordinary Bulb and 22 nos of Sodium/Mercury vapour Lamp removed from the system. Since the number of live street light fittings as per the joint inspection was less compared to the total number of street lights previously taken for short assessment, the bill already issued was revised to Rs.611082/-(Six lakhs eleven thousand eighty two rupees) for the period from 10/2008 to 2/2015 and revised bill issued accordingly on 20/02/2015. The copy of the revised bill with calculation details is produced herewith and marked as Exhibit R4. The averments of the petitioner consumer that the panchayath authorities had no knowledge about the joint inspection is false and contrary to the facts. In the letter the licensee had given on 20/02/2015 (R4) it is clearly mentioned that the revision of arrear bill and monthly bill of Street light consumer is based on the joint inspection report. They had accepted the revised monthly bill issued for Rs. 73941/- and paid the same, but refused to pay the revised arrear bill issued for Rs.611082/- for the same nos. of street lights. After accepting and remitting the revised monthly bill issued based on joint inspection, refusing to pay the revised short assessment for the same nos. of street lights is unreasonable. The resolution passed by the Panchayath authorities on 31.05.2022 and submitted along with letter no.400204/GARCO4/GPO/2022/293/(2) dtd 26.07.2022 further disprove the contention of the petitioner consumer that the Panchayath authorities had no knowledge about the joint inspection as it is clearly mentioned in the resolution that electricity arrears has been revised based on joint inspection conducted.

The petitioner has unnecessarily and irrelevantly quoted Regulation 27 of the Kerala State Electricity Board Terms and Conditions of Supply 2005 in the petition. It is an outdated enactment. Regulation 178 (i) of the Kerala Electricity Supply Code 2014 clearly stipulate that with the enactment of Supply Code 2014 the Kerala State Electricity Board Terms and Conditions of Supply 2005 would ceased to exist. More over the matter herein is related to short assessment bill issued under Regulation 134 (1) of the Kerala Electricity Supply Code 2014. The said Regulation provides that" if the licensee establishes either by review or otherwise, that it has under charged 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 bill. The same clause is also included in the regulation 37(5) of the Kerala State Electricity Board Terms and Conditions of the Supply 2005, the regulation specified by the appellant.

It is further submitted that, on receipt of the revised short assessment bill the petitioner panchayath conducted a meeting to discuss on the revised short assessment bill. As per the decisions taken in the meeting the Panchayath decided not to remit the short assessed amount as the financial condition of the panchayath is very poor. In the same meeting decision had also been taken by the panchayath to submit requests before the the Hon'ble Minister for Electricity, the Deputy Chief Engineer Thiruvananthapuram and the Executive Engineer concerned to waive the short assessed amount as the panchayath is financially not in a position to rem the amount. .In view of the aforesaid resolution it is pertinent to note that the panchayath authorities had not declared the short assessed amount as an illegal one at any stage, but denied the payment due to financial stringency and decided to request for waiving off the same. Though the short assessed amount has continuously been shown in all the monthly bills from 2014 onwards the petitioner has not turned up to remit the amount so far on the ground of financial stringency.

It is submitted that the amount under challenge herein is not an additional bill or a bill issued for unauthorised use of electricity as per regulation 27 of Kerala Electricity Board Terms and Conditions of the Supply 2005 as mentioned by the appealant, but it is bill issued as per Regulation 134 (1) of the Supply Code 2014 for the under charged portion of the current consumed by the petitioner consumer. Though the short assessed amount has continuously been shown in the monthly bills from 2014 onwards the consumer has not turned up to remit the amount. Hence the amount with interest as on 01/08/2023 accrued to Rs. 15,31,121/-. During 9/2023 the Kerala State Electricity Board Limited had declared One Time Settlement scheme for settling long pending arrears with reduced interest rate. Since the petitioner consumer also was eligible for consideration under One Time Settlement, a notice detailing the benefit, the consumer would get, if the arrear is settled under OTS scheme was served. As per the scheme the consumer would get a reduction of Rs.6,69,583/-. The notice is generally in the form of an invitation letter to make the consumers aware of the benefit of OTS scheme and not a disconnection or termination notice as alleged by the petitioner.

The short assessment bill issued under Regulation 134 (1) of the Kerala Electricity Supply Code 2014 is not an illegal one. The bill has been issued per the relevant statute. The bill is for the under charged portion of current used by the consumer. The bill was first issued in 2014. If the consumer had any objection with regard to the issuance of the short assessment bill the consumer ought to have initiated legal action at the initial stage. Filing this Representation in 2025 against a short assessment bill issued in 2014, ie, after an elapse of clear ten years is with ulterior motives. The petitioner consumer is legally bound to remit the amount. Denying current charge payment due to financial stringency will adversely affect an equally financially stringent licensee. It is further submitted that the Hon'ble

Supreme Court in a civil appeal No.7235 of 2009 M/s Prem Cottex v/s Uttar Haryana Bijli Vitran Nigam Ltd. And Others examined a similar case and ordered that licensee can raise additional demand if the licensee discovers in the course of audit or otherwise that a consumer has been short billed. The case was against the short assessment bill issued to M/s Prem Cottex, due to the wrong application of multiplication factor for the period 03/08/2006 to 08/2009. The licensee issued bill for the above period with multiplication factor 5 instead of 10 the actual multiplication factor. The court find it as a case of escaped assessment and not deficiency in service.

It is submitted that the appellant approached the Hon'ble Consumer Grievance Redressal Forum, KSEBL (Southern region), Kottarakkara for a remedy in this case and to pass order for canceling the bill issued by the licensee. But the Hon'ble forum after conducting a detailed hearing ordered to remit the revised bill served by the licensee as per Regulation 134 (1) of the Kerala Electricity Supply Code 2014. From the above facts it may be noted that the petition has been filed only to delay or escape from the payment of current charges which the consumer is legally bound to pay. Hence it is humbly submitted that the petitioner is not entitled to get any reliefs as claimed in the petition. The Hon'ble Court may be pleased to dismiss the petition and direct the petitioner to remit the amount of current charge arrears Rs.611082/- claimed in the bill with surcharge to the licensee.

Counter Arguments of the appellant

Panchayat is aggrieved by the arbitrary action of the Assistant Engineer, Electrical Section, Kilimanoor, who issued a notice threatening to disconnect the streetlights within the Panchayat's jurisdiction. This action is based on the alleged non-payment of electricity charges and accrued interest totaling Rs. 15,31,121/-, which the Panchayat disputes. It is submitted that Section 56(2) of the Electricity Act, 2003, clearly stipulates that no sum due from any consumer shall be recoverable after two years from the date when such sum first became due unless such sum has been continuously shown as recoverable in subsequent bills. The alleged short-assessment bill was first issued on 29.03.2014, referring to an audit report dated 23.02.2011, highlighting an assessment issue dating back to 2008. The revised demand notice was issued much later, on 20.02.2015, and a further demand was made on 18.05.2022 , after a gap of more than six years.

The opposite party is relying on the M/S Prem Cottex vs Uttar Haryana Bijli Vitran Nigam in which, the appellant, a manufacturer of cotton yarn, hadan electricity connection extended in 2006. In 2009, the electricity distribution company issued a "short assessment notice" demanding *1,35,06,585 due to an error in the multiplication factor (MF) applied to the electricity bills from 2006 to 2009. The National Consumer Disputes Redressal Commission (National Commission) dismissed the consumer complaint, ruling that the case involved "escaped assessment" and not "deficiency in service." The

appellant appealed this decision before the Supreme Court. The issue raised is Whether the demand is barred by the two-year limitation under Section 56(2) of the Electricity Act, 2003 and court explained when the limitation period starts. Electricity charges become "first due" when the bill is issued, not when the electricity is consumed. This means the two-year limitation period starts from the date of the bill, not the date of usage. In cases of mistake or bona fide error, the limitation period starts from the date of discovery of the mistake. This means that if an error in billing is found later, the two-year limitation period would begin from the time the mistake is identified. Unlike Prem Cottex, this is not a mere billing error but a negligent from the side of staff to record installation. Since the arrears were not continuously shown in the bills from 2011 onward the date on which it is first found, KSEB's claim is time-barred. In Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd. [(2021) SCC OnLine SC 870], the Supreme Court allowed recovery of short assessment but only if it was demanded within the limitation period. The judgment does not permit indefinite delays in issuing demand notices. Since KSEB waited beyond two years despite knowing about the error, they cannot now claim the amount. It is submitted that Opposite party argued that Limitation starts only when the bill issued. If this interpretation is accepted, it gives KSEB unlimited power to raise old demands, violating the spirit of Section 56(2).

It is submitted that in Assistant Executive Engineer Electrical Sub Division V/s Arun R Chandran.

"The amount became due from April, 2010, to March, 2011. Merely because Ext.P1 short assessment bill was issued by the KSEB on 17.08.2015, that too, after more than four years, it cannot be treated as the date on which the sum became due. In this case, an unauthorized additional load was detected in an inspection conducted by the APTS, and accordingly, directions were also given to the concerned officers to continue assessment till regularization. It is nothing, but a clear lethargy on the part of the officers concerned during the relevant period, in not issuing penal bills for the subsequent months for the unauthorized additional load. It is true that the first respondent ought to have remitted the amount under the provisions of the Act. However, without issuing any provisional assessment order or without any de-mand within the prescribed period of two years, the consumer cannot be directed to remit the said amount. In this case, the date of detection of the defect by the audit unit cannot be taken as the date on which such sum first became due since Ext.P3 inspection report of the APTS was already there on 16.03.2010. The KSEB cannot take shelter under 'administrative reasons' and take years to issue a short assessment bill, which was solely due to the lethargy or inaction on the part of the officers concerned.

Time and tide wait for no man. Though I have found that the delay in demanding penal charges for the unauthorized load occurred due to the inaction and lethargy on the part of the officers who were in charge at the relevant time, considering the fact that 13 years have elapsed after the inspection conducted by the APTS, I refrain from ordering any recovery action against those officers, but alert the officers of the KSEB to be more vigilant in their duty. On a consideration of the entire facts of the case, I

hold that the Ext.P1 short assessment bill dated 17.08.2015 issued by the KSEB was out of time and the petitioner/KSEB is not entitled to get any relief as prayed for. Accordingly, the writ petition is dismissed.

It is pertinent to note that in this case High Court dismissed the case because short assessment noted by KSEB 4years prior to the 1st demand notice they send. In our case by Looking into R2 notice it is understood that the Respondent have knowledge about the short assessment prior to 3years before they sending demand notice. The KSEB cannot take shelter under 'administrative reasons' and take years to issue a short assessment bill, which was solely due to the lethargy or inaction on the part of the officers concerned. The Panchayat has been regularly remitting all monthly bills issued by the Assistant Engineer, Electrical Section, Kilimanoor, and there was no outstanding liability as per the monthly bills. The sudden claim of arrears after several years, based on an internal audit report, without prior notice or proper substantiation, is arbitrary and illegal. The opposite parties action is placing huge burden on consumers due to the supplier's negligence.

It is submitted issuing notice by KSEB is violation to Regulation Regulation 27 of Kerala State Electricity Board Terms and Conditions of Supply, 2005, mandates that monthly bills should be issued for streetlights based on an agreement between the local body and KSEB. The Panchayat has honored its obligations under the agreement (Form No.11) and paid all bills issued regularly. However, KSEB's demand is based on an audit report and not on any actual unauthorized use of electricity. Even in cases of unauthorized use, Regulation 27A(e) of the Kerala Electricity Supply Code, 2005, limits arrears to a maximum retrospective period of six months for non-domestic services. Here, KSEB is demanding arrears retrospectively for nearly seven years, which is impermissible.

Analysis and findings

The hearing of this appeal petition was conducted on 21/12/2024 at 03:30 p.m. in the KSEBL IB, Paruthippara, Thiruvananthapuram. The hearing was attended by the appellant's representative Adv. Ahsana and the respondent, Sri. Biju.P, Assistant Executive Engineer, Electrical Sub Division, Kilimanoor, Thiruvananthapuram(Dist.)

Kilimanoor Grama Panchayath had requested the Licensee for the installation of 376 new single tube light fittings in the public road under the jurisdiction of this Grama Panchayath during 08/2008. They have remitted Rs. 49,250/- towards the supervision charges to the Licensee. The fittings were installed under the supervision of the Licensee during the month 10/2008. The Regional Audit wing of the Licensee conducted the audit on 23/02/2011 and found that the Licensee has not included the electricity charges of these fittings in the monthly bill issued to the appellant. These street lights were installed as unmetered street lights. The street main was

not connected through a meter as such the energy charges are calculated as the fixed charges fixed by the KSERC & published in the Tariff notification. The mistake from the Licensee had been found out during 2011 itself but the Licensee had raised the bill only on 29/03/2024 for Rs. 10,53,323/- for a period from 10/2008 to 03/2014.

The **regulation 134** of the Supply Code 2014 states about the under charged bills.

134. Under charged bills and over charged bills.-

(1) 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.

(2) If, after payment of any bill, it is established that the licensee has overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate as on the date of remittance of such excess amount.

(3) The licensee may refund such overcharged amount along with interest at bank rate as on the date of remittance of such overcharged amount, by way of adjustment in the three subsequent bills and if the adjustment is not possible in the next three bills, the licensee shall refund the balance amount in full by cheque.

Though the undercharged situation is happened from 2008 to 2014, the disputed have raised only on 2015. Then the regulation prevailing at the time of dispute is the Supply Code 2014. Then the recovery of arrears and its limitations are described in the **regulation 136** of the Supply Code 2014.

135. Recovery of arrears and its limitation.-

(1) The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due.

(2) The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice.

(3) No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied.

(4) If the consumer fails to remit the amount of arrears with interest on or before the due date indicated in the bill or in the demand notice, the licensee may disconnect

the supply of electricity after giving notice and initiate proceedings for the recovery of the arrears in accordance with the relevant legal provisions.

(5) The licensee may formulate a scheme for one-time settlement of long pending arrears and implement the scheme with prior approval of the Commission: Provided that such one-time settlement schemes shall be open only for short duration.

The same is described in the **Section 56(2)** of the Electricity Act 2003 also

Section 56.(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity:

Here in both the act & regulation, it is clearly mentioned about the Limitation period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable arrear of charges. Then the question is when this amount become first due? In the judgement of dated 05/10/2021 of Hon'ble Supreme Court against the Civil appeal no.7235/2009 between **M/s. Prem Cottex and M/s. Uttar Haryana Bijli Vitran Nigam** states in Para "12" that the electricity charges would become first due only after the bill is issued, eventhough the liability would have arisen on consumption.

Para 11. In **Rahamatullah Khan** (supra), three issues arose for the consideration of this Court. They were (i) what is the meaning to be ascribed to the term "first due" in Section 56(2) of the Act; (ii) in the case of a wrong billing tariff having been applied on account of a mistake, when would the amount become first due; and (iii) whether recourse to disconnection may be taken by the licensee after the lapse of two years in the case of a mistake.

Para 12. On the first two issues, this Court held that **though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, electricity charges would become "first due" only after the bill is issued, even though the liability would have arisen on consumption.** On the third issue, this Court held in **Rahamatullah Khan** (supra), that "the period of limitation of two years would commence from the date on which the electricity charges became first due under **Section 56(2)**". This Court also held that **Section 56(2)** does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafide error. To come to such a conclusion, this Court also referred to **Section 17(1)(c)** of the Limitation Act, 1963 and the decision of this Court in **Mahabir Kishore & Ors. vs. State of Madhya Pradesh**

Para 16. Be that as it may, once it is held that the term "first due" would mean the date on which a bill is issued, (as held in para 6.9 of **Rahamatullah Khan**) and once it is held that the period of limitation would commence from the date of discovery of the mistake (as held in paragraphs 9.1 to 9.3 of **Rahamatullah Khan**),

*then the question of allowing licensee to recover the amount by any other mode but not take recourse to disconnection of supply would not arise. But **Rahamatullah Khan** says in the penultimate paragraph that “the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under subsection (2) of [section 56](#) of the Act”.*

In the case in hand the consumption of electricity occurred since 2008, then the mistake of non billing has been find out during the audit conducted on 2011. The first bill has issued on 03/2014 for Rs. 10,53,323/-. Then the joint inspection was conducted on 06/2014 and the revised assessment has been calculated for Rs.6,11,082/- on 10/04/2015. The joint inspection report was not seen to be signed by the representative of Panchayath. During the argument it is stated that the Licensee had send a communication to the appellant regarding the joint inspection., no officials were deputed form the panchayath office by the appellant in turn the inspection was completed with the presence concerned ward members. Then the amount was first due on 03/2014 and subsequently revised on 04/2015. Then it has to be examined from the dated of first due, whether it has been shown continuously that the arrear is recoverable as arrear of charges for electricity supplied. The bills dated 02/02/2016, 02/12/2016, 03/01/2017, 04/12/2017,03/01/2018,05/12/2018,01/04/2019,03/12/2019,03/01/2020,02/11/2020, 02/01/2021,03/12/2021,01/01/2022,12/09/2022,01/11/2023,01/01/2024 have been examined. In all these bills, Rs. 6,11,082/- has been shown as arrear (Disputed). Then the Section 56(2) of Act 2003 and regulation 136 of Supply Code 2014 were strictly complied by the Licensee. As the amount of arrear is continuously shown as arrears, the appellant is liable to pay this arrear.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The appellant is liable to pay the arrear as per the bill issued on 10/04/2015.
2. The Licensee shall not charge any interest or Surcharge.
3. The Licensee shall grand 12 monthly installments for remitting this amount.
4. No other charges allowed.

ELECTRICITY OMBUDSMAN

No. P/04/2025/ dated: 24-03-2025 .

Delivered to:

1. Smt. Sabeena .N, Secretary, Kilimanoor Grama Panchayath, Kilimanoor P.O, Thiruvananthapuram (dt)
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Kilimanoor, Thiruvananthapuram.

Copy to:

- 1) The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2) The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
- 3) The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.