

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. RP/006/2023

(Present A. Chandrakumaran Nair)

Dated: August-02-2023

Review Appellant : The Assistant Executive Engineer,
Electrical Sub Division,
KSEB Limited, Thodupuzha East,
Idukki.

Review Respondent : Sri. Mathew P.J.,
Cheekkaparayil (H),
Odiyapara,
Vannappuram P.O.,
Idukki. Pin: 685585

ORDER

Background of the case

Review appellant Asst: Executive Engineer, Electrical Sub Division, Thodupuzha (East) submitted the Review petition to review the order of the Ombudsman for the petition P/019/2023. The appellant of the petition P/019/2023 was Sri. Joseph Mathew, Vannappuram, Idukki and is the review respondent of this petition. The review respondent owns a small shop room with a power connection from the licensee and the load connected is only a ceiling fan and a tube light. The regular monthly consumption was around 20 units. The electricity bill for 10/22 was very high for Rs. 1973/-. The meter was tested and found OK but the meter data shows that there was an earth leakage. The ceiling fan was damaged, the damage has happened due to the lighting. The lighting would have happened either in the building or through the electric line. Accordingly, the Order was to share the responsibility and review respondent has to pay 50% of this charges. The review appellant submitted review petition to review the order of the Ombudsman.

Maintainability of the Review Petition

The Section 27A of KSERC (CGRF and Electricity Ombudsman) Regulation 2005 states on the ground of accepting the Review Petition.

27A (1) *“The Electricity Ombudsman may, either on its own motion or an application of any person aggrieved by an order, review its order on the following grounds, namely: -*

(i) *On the discovery of a new and important matter or evidence which, after the exercise of due diligence, was not with his knowledge or could not be produced by him.*

(ii) *Mistake or error apparent on the face of the record.”*

(2) *“An application under clause (1) shall be filed within period of fifteen days from the date of receipt of the order.*

Provided that Electricity Ombudsman may entertain an application after the expiry of the said period of fifteen days, if it is satisfied that the applicant had sufficient cause for not preferring the review within such period.”

The review petition has been submitted within the stipulated time as per 27(A) (2), and certain new matter or points which has not been considered while preparing the order for original petition was brought out for consideration.

In view of the above Review petition is maintainable as per the regulation.

Arguments of the Review Appellant

1. This Honorable Ombudsman in decision No. 1 of the order on Appeal Petition no. P/019/2023, directed the licensee KSEB Ltd to bear the burden of 50% of the bill amount as the responsibility is to be shared both the consumer and the licensee. From the part of the licensee, it is humbly requesting to review the decision on the following reasons.
2. KSEB Ltd has supplied the energy only through a healthy meter and the fact is evident from the test report furnished.

As pointed out under the heading Analysis and findings in the order No. P/019/2023/01187 dtd 13-06-2023 of this Honourable Ombudsman; KSEB Ltd is liable to receive the payment for the energy supplied through a healthy meter. It is not the liability of the licensee for the consumption occurred due to earth leakage in the installation of the consumer. If the consumer would have provided a working ELCB, which is the responsibility of the consumer as per Section.15(5) of the supply code 2014, this event could have avoided. Also, it is not the responsibility of the licensee to ensure the supply to the installations through ELCB.

3. As already mentioned in the complaint filed by the petitioner before the Honourable CGRF-CR and also as mentioned in the order of this Honourable Ombudsman, the petitioner himself is agreeing about lightning strokes occurred in the area on 14-09-2022 and 15-09-2022. But as per the downloaded meter data the earth leakage started on 05-09-2022 and continued till 25-09-2022.

This indicates that the earth leakage has started much before the date of occurrence of lightning, as claimed by the petitioner. Also, it is only an assumption that the leakage was occurred due to lightning. The date of occurrence of earth leakage, as explained before, contradicts this assumption. Hence KSEB Ltd is liable to receive the payment.

4. As per the tamper report downloaded from the Energy meter, it is clear that an Earth Leakage was occurred from 05-09-2022 to 25-09-2022. The other possibility of recording a tamper record of the earth leakage in the meter is when the power is consumed from the outgoing phase conductor by using earth as the return path. In these circumstances, the possibility of actual power consumption exists and the consumer is liable to pay the amount. This possibility cannot be ruled out since the leakage according to tamper report started much before the date of striking of lightning stroke as claimed by the petitioner.

The above explained possibility has much credibility than assumption of the leakage due to strike of lightning because of the prolonged duration of earth leakage. If it would have been with lightning, the possibility observed from the past experiences is that the equipment would have damaged immediately and protection like fuse would have acted. But on the contrary earth leakage prolonged.

5. The licensee has already taken the burden of providing a parallel meter and later tested the meter in a accredited lab and proved that the consumed energy was through a healthy working meter and the cost was only according of Section 31 of the Supply code 2014. Hence the licensee has right to the claim.

Any non-realization of charges for the energy actually consumed by the appellant is detrimental to the interests of other consumers for the reason that the same will be booked as transmission loss, and recoverable from other innocent consumers under tariff hike. Therefore, it is of fair most importance to recover all dues connected with the energy actually consumed from the respective consumers itself by the licensee.

6. More than everything else the licensee is hereby raising its concern on the far reaching effect of the decision of the Honourable Ombudsman which proclaims that the licensee is liable to bear fifty percent of the burden of the energy charges due to the fault or other defects from the side of the consumers. As per the statutory provisions in force the responsibility of the licensee ends at the point of supply. Hence this direction from a higher

Honourable forum like Ombudsman can be quoted as a guidance in any future litigations which can initiate a false procedure as denial of natural justice.

Considering all the above facts, it is humbly requested to review the order and allow KSEB Ltd to realise the amount due to the licensee.

Arguments of the Review Respondent

The review respondent has not submitted any written statement for the review petition filed. However, during the hearing, he pointed out that this room was used for the meeting of the Brothers Karshika Swayam Sahaya Sangham which is a friendships group of agricultural farmers. This room is normally closed and opened only once in a week on Sundays for a meeting for Maximum 2 hours. The current bill was around Rs. 140/- per month. The bill for 10/22 was a high amount Rs. 1973/- which is not affordable for this group to pay as they are all poor farmers working for their livelihood. They want this amount is to be waived off.

Analysis and Findings

The hearing of the Review petition held on 31/07/2023 at 11:30 a.m. in the office of the State Electricity Ombudsman, D.H Road & Foreshore Road Junction near Gandhi square, Ernakulam South. The hearing was attended by the Review appellant Sri. Manoj M.R., AEE, Electrical Sub Division, Thodupuzha East and the Review Respondent Sri. Mathew P.J.

The electric load of this room is very small and the current charges was very low. One bill on October 22, a high amount of Rs. 1973/- has come as the consumption recorded was very high which is 277 units. The review respondent mentioned that there was heavy lighting during the month of September especially on 14/09 & 15/09. The fan was damaged during this time. The review appellant mentioned that they have already provided an ELCB in the circuit. The metre was taken by the licensee and tested that the meter is working satisfactory. The meter data was downloaded. The meter tamper data shows that there was an earth fault occurred from 5/09/2022 to 25/09/2022. This earth fault would have been the reason for the heavy reading recorded by the meter.

The availability of ELCB was not mentioned during the proceedings of the original petition P/019/2023. If the fan would have damaged due to the lighting and earth fault occurred from the fan, the ELCB would have tripped and then the earth leakage would have not occurred.

The lighting chances are of two type one is the local strikes which would have struck on the building and thus the fan would have damaged. Then the ELCB

would have acted. The second chance is the lightning strike hitting the line and the high voltage travelling waves would have damaged the fan and resulting the earth leakage. Then also ELCB would have acted. Further when the high voltage lighting surges travelling through the line and affecting the wiring, then the first equipment would have damaged is the electronic energy meter which is very sensitive on high voltage surges. In this case there is no damage had happened to the energy meter and hence these two possibilities are to be ruled out. Then the conclusion is the earth fault would have happened after the energy meter and before the ELCB. The meter board is a wooden board, and then the earthing through this board also to be ruled out. The technical answer for the problem is some earth leakages have happened in between meter and ELCB, which is the responsibility of the consumer. The review respondent requested for the instalment facility for remitting the payment which is acceptable.

Decision

The original order issued for the petition P/019/2023 has reviewed and following order is issued herewith.

1. The consumer is liable to pay the bill issued by the licensee.
2. The licensee shall grant 12 instalments for paying this amount.
3. No order on cost.

ELECTRICITY OMBUDSMAN

No. RP/006/2023/ dated: 03/08/2023 .

Delivered to:

1. Sri. Mathew P.J., Cheekkarayil (H), Odiyapara, Vannappuram P.O., Idukki. Pin: 685585.
2. The Assistant Executive Engineer, Electrical Sub Division, KSEB Limited, Thodupuzha East, Idukki.

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.