

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO.P/078/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 29th May 2015

Appellant : Sri O.N. Janardhanan,
M/s National Diesels,
Moonnalingal,
Kozhikode – 673 032

Respondent : The Assistant Executive Engineer
Electrical Sub Division
KSE Board Ltd.,
Nadakkavu,
Kozhikode District

ORDER

Background of the case

The appellant is a consumer having consumer No. 5244 with LT IV tariff under Electrical Section, Nadakkavu, Kozhikode. He has been running an industry, M/s National Diesels for the last 32 years. Meanwhile he was served with a bill dated 31-03-2014 for Rs. 12,210.00 based on an inspection conducted by the Division Squad on 22-03-2014. It was alleged by the respondents that they had found a small counter where telephone recharge coupons had been sold. This counter was not connected to the power systems of the licensee. There was no additional load detected by the licensee. A site mahazar was prepared by the Sub Engineer of the KSEB. Subsequently the appellant approached the CGRF seeking to direct the respondents to quash the bill and to change the tariff to previous LT IV A. The Forum, in its order directed the respondents to reassign LT IV tariff to the appellant from 11/2014 onwards. The Forum also directed the respondents to maintain good consumer friendly relationship. But the Forum made no orders for quashing the bill issued by the respondents. Aggrieved against this order this appeal petition was filed.

Appellant's arguments

The appellant stated that the establishment, "M/s National Diesels" was started in the year 1982. The appellant is owner as well as worker of the said industry. He has got permission to utilize 3000 watts of electric power. On 31-03-2014, a penal bill amounting to Rs. 12,210.00 was issued to him towards the misuse of energy and unauthorised additional load. It is true that he has newly started a facility for recharging mobile coupons in front of his establishment. No energy is required for the said facility. Secondly, only 2,725 watts of electricity is being utilized

in his industry. The Chairperson of the CGRF has also pointed out the above said facts in his order. He was forced to remit the bill amount due to the harassment on the part of Assistant Engineer and other officials of the licensee. He, therefore, requests to give back the sum of Rs. 12,210.00 remitted by him.

Respondent's arguments

The appellant (consumer No. 5244) is a LT consumer under Electrical Section, Nadakkavu. The tariff assigned to the consumer was LT IV A. During the inspection conducted in the premises of the appellant on 22-03-2014, the Division Squad found misuse of tariff. Hence provisional assessment was prepared and issued to the appellant on 31-03-2014. The appellant remitted the bill amount.

The Consumer Grievance Redressal Forum was not empowered to entertain the petition as per clause 2 (f) (VII) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation, 2005. Section 126 of the Electricity Act is the exclusive domain of Assessing Officer i.e. the Assistant Engineer of Electrical Section, Nadakkavu. In the present case Sri Manoj Kumar K.P., Sub Engineer inspected the premises along with the Division Squad and prepared site mahazar as per the orders issued by the Kerala State Electricity Board Limited. Hence it cannot be considered as a violation of Section 126 of the Electricity Act, 2003. It was done in the presence of Smt. T.K. Girija, Assistant Executive Engineer of Kozhikode Division and Sri. P. Muhammad Salih, Assistant Engineer, Electrical Section, Beach. The Assessing Officer directed the appellant to attend the hearing within 7 days from 01/04/2014 vide his letter dated: 31-03-2014. The appellant did not attend the hearing. He accepted the provisional bill and remitted the bill amount after availing instalment facilities. If the appellant wishes to obtain LT IV connection for his industry he can apply for the same after segregating commercial and industrial loads. A new service connection can be given to the appellant as per Regulation 104 (10) of the Supply Code, 2014.

Analysis and findings

Hearing of the case was conducted on 07-04-2014 in my chamber at Edappally, Kochi. The appellant himself appeared for the hearing. Sri C.K. Jayakumar, Assistant Executive Engineer, Nadakkavu represented the respondents. Hearing the arguments of both parties, perusing the case records and considering all the facts and circumstances of the case, this Authority comes to the following observations and conclusions.

Vide BO (FB) No. 2518/2013 dated: 28-11-2013, KSEB Limited has issued detailed procedure to be followed during inspection, provisional assessment on detection of unauthorised additional load, hearing, final assessment, handling appeal and its final disposal etc. On going through the site mahazar issued subsequent to the inspection of the Division Squad, it can be seen that the connected load detected in the premises is only 2.725 kW against a sanctioned load of 3 kW. It is therefore surprising to note that the respondents in their notice dated: 31-03-2014 accused the appellant of having Unauthorised Additional Load.

Further, for conducting site inspection and the preparation of site mahazar etc, the inspection team should thoroughly inspect all the relevant aspects of the appellant's installations. But, the inspection team prepared site mahazar without observing the guidelines issued in this regard. In the case of detection of incorrect application of tariff even while there is no change in declared purpose of use of

electricity by the consumer shall not be penalised under Section 126, provided that there is no unauthorised addition in load necessitating a change in tariff. This was also violated by the respondent in the instant case.

Site mahazar is the crucial document for the preparation of assessment. Here, in the site mahazar, there is nothing to show that the appellant has taken supply to the counter where the telephone recharge coupons are sold. It has become a trend on the part of officers of the licensee to impose Section 126 on each and every case so as to deny the chance of poor consumers to approach the CGRF for the redressal of their grievances. In the present case the CGRF themselves have conducted a site inspection in order to ascertain the facts of the case. It was found by the Forum that fuel injection related works were carried out in the appellant's workshop. The Forum was convinced that the nature of work carried out thereat was in order. This Authority sees no reason to alter that finding which is favourable to the appellant herein. The Forum also found some recharge coupons of mobile operators on a small table with glass top, placed in a corner of the premises. However, electricity is not at all required for selling recharge coupons which were found in the premises. As there is no change in the declared purpose of use of electricity in the appellant's premises, segregation of tariff does not arise in the present case.

Decision

In view of the above discussion it is held that the bill amount of Rs. 12,210.00 demanded by the respondents is without any reasoning or legal basis. The said amount remitted by the appellant is to be refunded. The respondents are therefore directed to refund the sum of Rs. 12,210.00 within a period of 30 days from the date on which this order is received. The order of CGRF is revised to that extent. The appeal petition is allowed. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/078/2014/_____ /Dated: _____

Forwarded to:

1. Sri O.N. Janardhanan, M/s National Diesels, Moonnalingal, Kozhikode – 673032.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Nadakkavu, Kozhikode District.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSEBoard Ltd, Gandhi Road, Kozhikode