

KERALA STATE ELECTRICITY REGULATORY COMMISSION

THIRUVANANTHAPURAM

Present : **Shri. Preman Dinaraj, Chairman;**
Adv. A.J Wilson, Member (Law).

OP No.22/2021

In the matter of : **Exclusion of supervision charges in connection with electrical utility shifting in respect of projects financed by Kerala Infrastructure Investment Fund Board (KIIFB)**

Petitioner : Kerala State Electricity Board Limited,
Vydyuthi Bhavanam, Thiruvananthapuram.

Petitioner represented by : Sri. Manoj, Assistant Executive Engineer, TRAC

Date of E-Hearing : 05.05.2021, 11.00 A.M

Order dated 05.05.2021 in OP No. 22/ 2021

1. Kerala State Electricity Board Limited (hereinafter referred to as KSEB Ltd. or the petitioner) filed a petition before the Commission, on 18.03.2021, for exclusion of supervision charges (administrative and overhead charges) for electricity utility shifting in respect of projects financed by Kerala Infrastructure Investment Fund Board (KIIFB) by invoking powers under Regulation 179 of Kerala Electricity Supply Code, 2014
2. Kerala Infrastructure Investment Fund Board (KIIFB) was established by Government of Kerala through the Kerala Infrastructure Investment Fund Act, 1999 (Act 4 of 2000), as the principal funding agency for the Infrastructure projects of the Government. The objective of KIIFB is to channelize fund for critical and large public infrastructure projects in Kerala. KIIFB is mobilising and channelling funds for facilitating planned, hassle-free and sustainable development of both physical and social infrastructure including major land acquisition needs that are integral to development, ensuring all round wellbeing and prosperity with the public infrastructure development ecosystem, in the state covering all vital sectors including Power supply.

3. The details provided in the petition filed by KSEB Ltd. are as follows: -
- (i) Government of Kerala vide order G.O (Ms) No. 444/2018/Fin dated 26.11.2018 has issued guidelines for procedure simplification with respect to Utility shifting/ Road restoration works in connection with the projects funded by KIIFB. As per this order, no separate Centage charge or supervision charge shall be granted to any SPV towards utility shifting/ road restoration in respect of KIIFB projects.
 - (ii) The Chief Executive Officer, KIIFB vide letter No. PW/D004-64-PA-01 dated 23.11.2018 has informed KSEB Ltd. that, KIIFB's general policy does not allow supervision charges for utility shifting in projects under its ambit. This is applicable to all SPVs in charge of KIIFB works and has requested KSEB Ltd. to accept the decision.
 - (iii) Government as per letter No. 259/B3/2019/PD dated 30.12.2020 directed KSEB Ltd. to file a proper petition before the Commission for exclusion of supervision charges for utility shifting in respect of KIIFB projects, as per KSERC (Conduct of Business) Regulations, 2003.
 - (iv) The Full Time Directors of KSEB Ltd. after duly considering the direction, decided to exclude supervision charge for the works in connection with the electrical utility shifting (shifting of poles and lines) for KIIFB projects, subject to approval of the Hon'ble Commission. KSEB Ltd. in the petition has stated that they are preparing the estimates for deposit works by following the procedure outlined in the Kerala Electricity Supply Code, 2014 which includes the supervision charge for labour and transportation cost.
 - (v) KSEB Ltd. in the petition has requested the Commission to issue necessary orders for excluding supervision charge (administrative and overhead charges) for the works in connection with the electrical utility shifting (shifting of poles and lines) in respect of Projects financed by KIIFB by invoking the powers under Regulation 179 of the Kerala Electricity Supply Code, 2014.
4. The Commission admitted the petition as OP No. 22/2021 and Form 3 (A) notice was issued to KSEB Ltd. The hearing was conducted on 05.05.2021 through video conferencing. Sri. Manoj, Assistant Executive Engineer, TRAC,

KSEB Ltd. presented the petition before the Commission and answered the queries raised by the Commission during the hearing.

Analysis and decision

5. The Commission examined in detail the petition filed by M/s KSEB Ltd, the orders of the State Government in public interest, the provisions of the Electricity Act, 2003, and the Kerala Electricity Supply Code, 2014 and its amendments issued by the Commission, and observes as follows :-

(i) The Commission, in exercise of the powers conferred on it, under Section 181 read along with Section 50 of the Electricity Act, 2003, notified the Kerala Electricity Supply Code, 2014 (herein after referred as Supply Code), vide the notification dated 31.01.2014.

(ii) The Commission, as per Regulation 33 of the Supply Code, has been approving the cost data of the rate of materials and works at which the expenditure, as per Section 46 of the Electricity Act, is to be recovered by the licensee.

(iii) The Schedule 2 of the Supply Code provides the 'Model Estimated Rates for Distribution works'. Further, at the end of the Schedule 2, under the note, as items I & II, the Commission has specified the procedures for estimating the cost of works in the distribution sector for which specific rates are not approved as per Regulation 33 of the Supply Code. This schedule was amended vide the Kerala Electricity Supply (Amendment) Code, 2017, through notification dated 24.01.2017. The said procedures after the Amendment are extracted below:

"Cost of works in the distribution sector for which specific rates are not given shall be arrived at as follows:

I. (a) Cost of materials as per cost data.

(b) Centage charge 16% of (a).

(c) Transportation charge, if any.

(d) Labour charges.

Total cost of work is [(a) + (b) +(c) + (d)]

II. Administrative Overhead Charges at the rate of 10% of I (c) and of I (d)

Grand Total is (I + II)"

(iv) The procedure specified as above under Schedule 2 of the Supply Code has been followed by KSEB Ltd. for the distribution works including deposit works, line shifting etc. for which specific rates are not approved. Hence, for such works, KSEB Ltd. has been charging 10% of the transportation charges and labour charges as 'administrative overhead charges/ 'supervision charges'.

6. Regulation 179 of the Kerala Electricity Supply Code, 2014 empowers the Hon'ble Commission with "**Power of relaxation and power to remove difficulties**" The Regulation 179 of the Kerala Electricity Supply Code, 2014 are quoted below:

"179. Power of relaxation and power to remove difficulties. -

(1) The Commission may, in public interest and for reasons to be recorded in writing, relax any of the provisions of this Code.

(2) If any difficulty arises in giving effect to any of the provisions of this Code or there is a dispute regarding interpretation of any provision, the matter shall be expeditiously referred to the Commission.

(3) The Commission shall pass necessary orders after hearing the parties concerned."

7. The Regulation 179 of the Kerala Electricity Supply Code, 2014 empowers the Commission to relax any of the provisions of the Supply Code in public interest. KIIFB is an important funding arm of the Government of Kerala and its objective is to channelise funds for critical and large public infrastructure projects in Kerala. The Commission notes that the projects executed through KIIFB funds are projects of public importance which goes a long way in fulfilling public aspirations and enabling a better living condition to the subjects of the State. In view of the massive public interest involved, the Commission, in exercise of the powers conferred on it under Regulation 179 of the Kerala Electricity Supply Code, 2014, can exclude the supervision charge for the works in connection with the electrical utility shifting (shifting of poles and lines) for KIIFB projects

Order of the Commission

8. The Commission after due scrutiny of the Petition filed by M/s Kerala State Electricity Board Limited, clarifications provided during the hearing, the

provisions of the Electricity Act, 2003 and in exercise of the powers conferred on it under Regulation 179 of the Kerala Electricity Supply Code, 2014, and after considering large public interest involved, hereby directs KSEB Ltd to exclude the supervision charge (administrative and overhead charges) for the works in connection with the electrical utility shifting (shifting of poles and lines) in respect of projects financed by KIIFB.

The Petition is disposed off as ordered above.

Sd/-
Adv. A. J. Wilson
Member (Law)

Sd/-
Preman Dinaraj
Chairman

Approved for Issue

Sd/-
Secretary