

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri. Preman Dinaraj, Chairman
Shri. S. Venugopal, Member

OA 12/2019

In the matter of : Reduction of Tariff for retail sale of electricity to aided schools.

Petitioner : P. Muraleedharan,
S/o. Chandrasekharan Nair.
4D, Surya Manzil, Dr. P.A. Kutty Road
Olavakkode, Palakkad District – 678 002

Petitioner represented by : Adv. Jose J Matheikkal

Respondent : M/s KSEB Ltd,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram - 695004.

KSEB Ltd represented by : Sri. K G P Nampoothiri, EE, TRAC
Sri. Edward P Bonafice, AEE, TRAC
Sri. Praseed Kumar K, SA, TRAC

Order dated 25.02.2020

1. Hon'ble High Court of Kerala, vide the judgment dated 12.04.2019 in W.P.(C) No.12204/2019, has ordered as follows,-

“4. Taking note of the afore submission, I order this writ petition and direct the 1st respondent to take up Exhibit P8 and dispose it of in terms of law, after affording an opportunity of being heard to the petitioner, as expeditiously as is possible but not later than 3 months from the date of receipt of a copy of this judgment.

I make it clear that I have not considered the entitlement of the petitioner to any of the relief sought for in the exhibit P 8 and that I leave it to the regulatory commission to decide it appropriately in terms of law as they deem fit.

This writ petition is thus ordered.”

2. The above judgment of the Hon'ble High Court was pronounced on the petition filed by Sri. P. Muraleedharan, Manager, Sabari Charitable Trust before the Hon'ble Court. The Exhibit P8 as referred by the Hon. Court is the affidavit dated 10.04.2019 filed by the petitioner before the Commission for reducing the electricity tariff applicable to aided educational institutions from the existing rate in the next tariff revision order.

3. The summary of issues raised by the petitioner in the Exhibit P8 is given below.

(i) The petitioner is the manager of Sabari Charitable Trust which is founded on 1997 and is currently running upper primary, high schools and nursery schools at various locations in Palakkad District. These schools are aided schools, and hence the State Government is paying salaries and allowances of teaching and non-teaching staff. At present the electricity tariff applicable to the schools of the petitioner is the same tariff applicable to educational institutions owned by the State Government. The present tariff is given below,-

LT - VI GENERAL (A)	
(a) Fixed Charge (Rs. per kW or part thereof per Month)	50
b) Energy Charge (Rs/kWh)	
(i) Of and Below 500 kWh (all units)	5.5
(ii) Above 500 kWh (all units)	6.3

(ii) The petitioner further submitted as follows,-

(a) The management of the Schools is facing huge financial liability for running these schools.

(b) As per Section 9(3) of Kerala Educational Act, Government is bound to pay maintenance grant to the manager of the school at such rate as prescribed. As per the Rule 3 (X) of Chapter XXVIII Kerala Educational Rules, electricity charges are liable to be paid by the Government.

(c) As per rule 4 of Chapter XXVII, Kerala Educational Rules, an amount of Rs. 3.25 per annum per pupil in LP and UP Section and Rs.5 per annum per pupil in High school classes is prescribed. This meagre amount fixed forty years back is even now paid by the Government to the Managers which are not sufficient to meet the expenses including electricity charges.

(d) As per the Right to Education Act, 2009 as well as the constitutional amendment to Article 21 A, every child between age of 6 to 14 are entitled to give free and compulsory education. The Government is

therefore bound to provide necessary infrastructure for enabling their education.

(e) In the above circumstances, the petitioner prayed before the Commission to favorably consider the grievances highlighted in the petition and allow the petition by reducing the electricity tariff to educational institution from the existing rate in the next tariff revision order.

4. The Commission admitted the petition as OA No 12/2019 and conducted the hearing on 17.06.2019. Adv. Jose J Matheikal represented the petitioner and Sri KGP Nampoothiri, EE represented KSEB Ltd
5. KSEB Ltd, vide letter dated 15.06.2019 submitted the counter affidavit. The summary of contentions raised by KSEB Ltd is given below;
 - (i) As per Tariff Order dated 17.4.2017, the aided educational institutions are classified under LT VI A tariff, along with Government educational institution.
 - (ii) The Commission had conducted public hearing on ARR, ERC and Tariff revision filed by KSEB Ltd for the control period 2018-19 to 2021-22, at following places for getting comments and suggestions of the Stakeholders.
 - (a) At Kozhikode on 26.11.2018
 - (b) At Ernakulam on 27.11.2018
 - (c) At Kattapana on 28.11.2018
 - (d) At Thiruvananthapuram on 10.12.2018.

However, the petitioner has not raised any suggestions during the public hearings.

- (iii) The crux of the issue raised in the petition is non availability of sufficient funding from the State Government towards maintenance of the educational institutions. Hence the petitioner may be advised to approach the State Government to redress the grant related issues.

Analysis and Decision

6. In compliance of the direction of the Hon'ble High Court in the judgment dated 12.04.2019 in WP(C) No. 12204/2019, the Commission has examined in detail the Exhibit P8 petition dated 10.04.2019, filed by Sri P Muraleedharan for reducing the tariff of aided schools, as per the provisions of the Electricity Act, 2003 and the Regulations notified by this Commission and also on the basis of National Electricity Policy, 2005 and Tariff policy, 2016 notified by the Central

Government in compliance with the section 3 of electricity Act 2003, various judgments and direction issued by the Hon'ble Appellate Tribunal for Electricity.

As extracted under paragraph-2 of this order, the prayer of the petitioner in the Exhibit P8 petition is to favourably consider the grievances highlighted therein and to reduce the electricity tariff applicable to aided educational institutions from the existing rates in the next tariff revision order.

7. Based on the petition filed by KSEB Ltd on 31.10.2018 in petition OA No. 15/2018, the Commission initiated the process of determination of Aggregate Revenue Requirement (ARR), Expected Revenue from Charges (ERC) and determination of Tariff for the control period from 2018-19 to 2021-22, in the month of November 2018. The petition filed by KSEB Ltd was uploaded at the website of the Commission, published the summary of the petition in the following dailies.

- Kerala Kaumudi daily dated 09.11.2018
- Desabhimani daily dated 09.11.2018
- Times of India daily dated 09.11.2018

Commission conducted public hearing on the petition at the following places.

- Kozhikode on 26.11.2018
- Ernakulam on 27.11.2018
- Kattappana on 28.11.2018
- Thiruvananthapuram on 10.12.2018

However, the petitioner did not attend any of the above tariff hearings to present their views and objections, if any.

Thereafter, the Commission vide the order dated 08.07.2019 in OA No. 15/2018, had approved the ARR, ERC of KSEB Ltd for the year 2018-19 to 2021-22 and after conducting due deliberations and considering the views, objections and relevant material facts had determined the Tariff for all categories of consumers in the State w.e.f 08.07.2019.

8. Further, in compliance of the directions of the Hon'ble High Court in WP (C) No. 12204/2019 dated 12.04.2019, the Commission conducted hearing on the Exhibit-P8 petition on 17.06.2019 at the Court Hall of the Commission.

Since the process of determination of ARR, ERC and Tariff for the control period from 2018-19 to 2021-22 was still ongoing at the time of the deliberations of the Exhibit P8 petition filed by the petitioner, the Commission examined the prayer of the petitioner and directions of the Hon'ble High Court in detail in the Order dated 08.07.2019 in OA No. 15/2018, while determining the tariff for educational institutions. The relevant portion of said Order is extracted below for ready reference.

“

Low Tension –VI-General (A) [LT-VI(A)]

- 6.34 The tariff under LT-VI (A) category is applicable to
- (i) Government or aided educational institutions; libraries and reading rooms of Government or Government aided educational institutions.
 - (ii) Government hospitals; X-Ray units, laboratories, blood banks, mortuaries and such other units attached to the government hospitals; blood banks of IMA or of local self-government institutions; poly clinics under Ex-servicemen Contributory Health Scheme (ECHS).
 - (iii) Centres for religious worship such as temples, mosques and churches; institutions imparting religious education, monasteries and convents;

Table 6.25
Existing and Tariff proposed by KSEB Ltd

SINo	Particulars	Existing Tariff	Proposed by KSEB Ltd	
			2018-19	2020-21
1	Fixed charges (Rs/ kW / month)	50	110	135
2	Energy charge (Rs/ kWh) (Non telescopic)			
	Up to 500 units	5.50	4.75	4.60
	Above 500 units	6.30	5.35	5.00

In the case of LT-VI (A) categories also, KSEB Ltd has proposed disproportionate increase in fixed cost compared to the prevailing tariff. Though there is a reduction in energy charges proposed by KSEB Ltd, there will be an excessive increase in overall tariff and especially of those consumers having low load factor. Considering these factors, the Commission has approved the LT-VI (A) category tariff as detailed below.

Table 6.26
Existing tariff, proposed tariff and approved tariff for LT-VI(A) category

Particulars	Existing Tariff	Proposed by KSEB Ltd		Approved by the Commission
		2018-19	2020-21	
Fixed charges (Rs/ kW / month)	50	110	135	65
Energy charge (Rs/ kWh) (Non telescopic)				
Up to 500 units	5.50	4.75	4.60	5.70
Above 500 units	6.30	5.35	5.00	6.50

In the meantime, on 08.04.2019, the Manager, Sabari Charitable Trust, filed a Writ Petition WP(c) No. 12204 Of 2019, before the Hon'ble High

Court of Kerala to direct the Kerala State Electricity Commission to consider the petition filed before it for revision of the existing electricity tariff and provide to various schools belongs to the petitioner. Hon. High Court of Kerala, vide the judgment dated 12.04.2019 in W.P.(C) No.12204/2019 has ordered as follows,-

“4. Taking note of the afore submission, I order this writ petition and direct the 1st respondent to take up Exhibit P8 and dispose it of in terms of law, after affording an opportunity of being heard to the petitioner, as expeditiously as is possible but not later than 3 months from the date of receipt of a copy of this judgment.

I make it clear that I have not considered the entitlement of the petitioner to any of the relief sought for in the exhibit P 8 and that I leave it to the regulatory commission to decide it appropriately in terms of law as they deem fit.

This writ petition is thus ordered.”

The Commission conducted hearing on the Exhibit P8 petition filed before it on 17.06.2019. Adv. Jose J Matheikal, presented the matter before the Commission during the hearing. The summary of the issues raised by the petitioner is given below.

- (i) The petitioner is the manager of Sabari Charitable Trust which is found in 1997 and running upper primary high schools and nursery schools at various locations in Palakkad District. These schools are aided schools, and hence the State Government is paying salaries and allowances of teaching and other non-teaching staff.*
- (ii) At present the electricity tariff applicable to these schools is the LT VI(A) tariff, applicable to educational institutions owned by the State Government.*
- (iii) As per Section 9(3) of Kerala Educational Act, Government is bound to pay maintenance grant to the manager of the school at such rate as prescribed. As per the Rule 3 (X) of Chapter XXVIII Kerala Educational Rules, electricity charges are liable to be paid by the Government.*
- (iv) As per rule 4 of Chapter XXVII, Kerala Educational Rules, an amount of Rs. 3.25 per annum per pupil in LP and UP Section and Rs.5 per annum per people in High school classes is prescribed. This meagre amount fixed forty years back is even now paid by the Government to the Managers which are not sufficient to meet the expenses including electricity charges.*
- (v) As per the Right to Education Act, 2009 as well as the constitutional amendment to article 21 A, every child between age of 6 to 14 are entitled to give free and compulsory education. The*

Government is therefore bound to provide necessary infrastructure for enabling their education.

- (vi) All the State machineries including State Government, KSERC and KSEB are legally bound to respect and obey the Constitution of India whose Article 21A says State shall provide free and compulsory education to all Children of the age six to fourteen.
- (vii) In the above circumstances, the petitioner requests before the Commission to favorably consider the grievances highlighted by the petitioner and allow the petition by reducing the electricity tariff to educational institution from the existing rate in the next tariff revision order.

The Commission has examined the issues raised by the petitioner as per the provisions of the Electricity Act, 2003, the Tariff Policy 2006 notified by the Central Government, and the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018, and decided as follows.

- (i) At present, the LT-VI (A) tariff applicable to aided educational institutions is same as that applicable for 'educational institutions run by Government'.
- (ii) The Section 62(3) of the Electricity Act 2003, empowers the Commissions to differentiate consumer according to the Load Factor, Power Factor, voltage, total consumption of electricity, geographical area, nature of supply and **the purpose for which electricity is being used**. The Commission determines the retail supply tariff of electricity, based on the approved aggregate revenue requirement of the incumbent distribution licensee, KSEBL. The Commission has to ensure that the approved aggregate revenue requirement has to be recovered from the consumer thorough electricity tariff as per the provisions of the electricity act 2003 and Regulations notified by the Commission.
- (iii) The issues raised by the petitioner in the Exhibit P8 are the issues to be taken up with the State Government regarding the inadequacy of the grants provided by the State Government for maintenance of the aided educational institutions.
- (iv) Since the educational institutions of the petitioner are aided educational institutions, the electricity tariff applicable to the educational institutions run by the petitioner is same as the tariff determined for the educational institutions run by the Government. As per the provisions of the Electricity Act, 2003 and the Regulations notified by the Commission under Section 181 of the Electricity Act-2003, the Commission cannot grant further relief to the petitioner in this regard.

Considering all these, the Commission ordered to levy electricity charges of the aided educational institutions in the State at LT-VI (A) Tariff, the tariff applicable to Government owned educational institutions.”

9. From the above it is clear that the Commission, in compliance to the judgment of the Hon'ble High Court dated 12.04.2019 in WP (C) No. 12204/2019, had vide Order dated 08.07.2019 in OA No. 15/2018 in the matter of ARR, ERC and Tariff for the control period 2018-19 to 2021-22, has duly examined the relief sought by the petitioner, and ordered to levy electricity charges of aided educational institutions in the State at LT-VI (A) Tariff, at the same tariff as applicable to Government owned educational institutions.

The petition is disposed off.

Sd/-

**S.Venugopal
Member**

Sd/-

**Preman Dinaraj
Chairman**

Approved for issue

C R Satheesh Chandran,
*Administrative Officer,
(in charge of the Secretary)*