

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**Present: Shri. K.VikramanNair, Member  
Shri. S. Venugopal, Member**

**Petition No. 2327/Com.Ex/KSERC/2015**

**In the matter of:** Disconnection of service connection by Kerala State Electricity Board Ltd, violating the provisions of Supply Code, 2014

Sri. Joseph Jacob, Managing Director,  
Poabs Enterprises (P) Ltd : **Petitioner**

1. Asst. Engineer, Electrical Section, KSEB Ltd.,  
Vandiperiyar :

2. The Deputy Chief Engineer, Electrical Circle,  
KSEB Ltd., Thodupuzha : **Respondents**

2.The Special Officer (Revenue), KSEB Ltd.,  
VydyuthiBhavanam, Thiruvananthapuram. :

**Order dated 29.02.2016**

**Background of the Case:**

1. M/s. Poabs Enterprises Private Ltd,Thengakkal estate is an HT consumer bearing Consumer Code 24/2441 under Electrical section, Vandiperiyar. They had been served with a demand notice for Additional Cash Deposit (ACD)by KSEB Ltd., amounting to Rs. 52,120/- on 25.06.2015 directing to remit the same on or before 25.07.2015.
2. Since the consumer had not remitted the amount, the supply to the consumer was disconnected on 28.11.2015, Saturday at 4.15 p.m.
3. The complainant consumer remitted the ACD on 30.11.2015 and supply was reconnected on the same date at 1.09 p.m.

4. The petitioner has submitted that :

- 1) The Electrical supply to Thengakkal estate Con. Code 24/2441 was disconnected on Saturday at 4.15 p.m. violating sub regulation (2) of regulation 139 of the Kerala Electricity Supply Code, 2014. The above clause provides that the supply shall not be disconnected after 1 pm on any day or on holidays so that the consumer is not deprived of a chance to remit the dues on the same day and get reconnection. 28<sup>th</sup> November 2015 is the fourth Saturday, a holiday for all the banks. Further next day is Sunday and KSEB Ltd is aware that the consumer can remit the ACD only on Monday, since ACD can be remitted only by Demand draft. They had also intimated the Officials that the amount would be remitted by DD on Monday, the next working day of the bank. The KSEB officials were also reminded of the provision in clause 139 of the Supply Code 2014. In spite of the assurance given, the deliberate action on the part of the licensee had caused substantial financial loss to the consumer.
- 2) The demand for ACD amounting to Rs. 52,120 was issued to the consumer vide notice dated 25.06.2015. The detailed calculation was not provided. An amount of Rs. 36,701 being interest on CD after deducting applicable TDS, has been adjusted in the invoice of the consumer for June 2015 issued during 1<sup>st</sup> week of July 2015. It would be convenient to the consumer if the refund of interest is adjusted against the demand of ACD if any. Also the additional cash deposit payable is only Rs. 25,029/- if calculated as per Regulation 73 of Supply Code 2014.
- 3) The web enabled service of the consumer shows an advance payment of Rs. 129492/45. The ACD amount of Rs. 52,120/- would have been adjusted on the advance amount.
- 4) The Poabs group has 12 numbers of HT service connections under KSEB Ltd. and have a total cash deposit of Rs. 1,75,58,217/- as on 1.4.2015 and the interest adjusted after deducting TDS during July 2015 was Rs. 12, 90, 663/- the poabs group have received notice for ACD only for three consumers amounting less than Rs. 1,50,000/-.
- 5) As per clause 73 (3) of the supply code, if the security deposit available with the licensee is more than what is required to be paid, the excess amount shall be refunded to the consumer and such refund of security to the consumer by the licensee, as and when arises, shall be made without any other formalities, by way of adjustment in a maximum of two ensuing electricity bills. This is not being done by the KSEB Ltd.

- 6) Suitable action against the responsible officials of the KSEBL may be initiated by the Commission on the above issues.

5. The Special Officer (Revenue), KSEBL in his statement has submitted that,

- (1) After serving the notice demanding ACD, the consumer had never approached the Special Officer (Revenue) or any officials in the office objecting the demand. There was no request from the part of the petitioner, to adjust any amount at his credit against the ACD demand. There was no request submitted for time extension or for installment facility. Unless a request is received to adjust such credit, it cannot be adjusted against the ACD demand.
- (2) The Special Officer (Revenue) admitted that during the process of computerization of billing and accounting works of HT consumers, some mistakes had inadvertently crept into the accounts of many consumers in respect of transactions made, previous to the computerization. Special working group is working to identify the mistakes and the work is in progress. Unless the work is completed, the veracity of the amounts shown in the accounts of the consumers is doubtful. A facility has been provided to all HT/EHT consumers of the KSEBL to view their status of arrear/advance in their accounts in the website. The correctness of these figures are being verified.
- (3) The consumer had never raised a contention to adjust the outstanding balance against the ACD demand before the Special Officer (Revenue). This matter had come to their attention, for the first time through the complaint lodged by the consumer, before this Hon'ble Commission. Hence, the contention that the Board could have adjusted the balance amount shown in his accounts is one raised for the present complaint. It was also submitted that the process of finding the correctness of the previous transaction is in progress and will be completed and if found correct, the same will be refunded to the consumer after having the figures reconciled with the consumer.
- (4) Interest accrued on cash deposit of consumer is being adjusted in the monthly current charges as per regulation 72 of the Supply Code 2014. Consumers suggestion to adjust this accrued interest against the ACD is not in line with the regulation.

6. The Deputy Chief Engineer, Electrical circle, Thodupuzha has submitted that,

- (1) The Special Officer (Revenue) KSEBL vide fax message No. HTB-24/2441/ 15-16 dated 27.11.2015 has intimated to disconnect the service connection to M/s Thengakkal estate under Electrical section, Vandiperiyar due to the non-remittance of ACD amounting Rs. 52,120/-. The Electric supply was disconnected on 28.11.2015 at 4.15 p.m.
- (2) As per the regulation 67 of Kerala Electricity Supply Code 2014, all consumers are required to furnish security deposit equal to average of two months power consumption charges. Accordingly, a demand notice was issued vide Notice No. Con code 24/2441 dated 25.06.2015 by the Special Officer (Revenue) directing the consumer to remit the ACD amount of Rs. 52,120/- on or before 25.07.2015, failing which the service connection will be disconnected without any further notice.
- (3) On 17.08.2015 the petitioner was served with a notice under Section 56 (1) of the Electricity Act, 2003 intimating that if the ACD amount is not paid on or before 31.08.2015, the service connection will be disconnected without further notice.
- (4) The service connection to the premises of the petitioner was disconnected on 28.11.2015 after a lapse of 4 months. The consumer had enough time to remit the amount before the date of disconnection. Hence the petitioner's claim that the date of disconnection of service connection to his premises was on a Saturday is baseless. The Assistant Engineer, Electrical Section, Vandiperiyar has acted only on the interest of the Board and as per the prevailing statutes and norms.

7. Hearing was conducted on 29.01.2016 at the Commission Office, Thiruvananthapuram. Sri. P. Reghuvaran presented the complainant's views. He submitted that the service connection was disconnected on the 4<sup>th</sup> Saturday (bank holiday) at 4.15 pm. It was also submitted that they have not received any disconnection notice as stated by Kerala State Electricity Board Ltd. He had also mentioned that at the time of disconnection about Rs. 85,000/- was remaining with Kerala State Electricity Board Ltd. which could have been adjusted against the amount due.

Mr. P. K. Anilkumar Dy. Chief Engineer, Electrical Circle, Thodupuzha submitted that the service connection was disconnected at 4.15 p.m on Saturday on receipt of a communication from Special Officer (Revenue) to disconnect the service due to the outstanding Additional Cash Deposit

demand. As per Supply Code the service connection can be disconnected before 1.00 p.m so that the consumer can remit the dues and avail reconnection on the same day. Sri .Gopinathan P.K, Special Officer (Revenue) submitted that the accounts of the complainant consumer was verified, reconciled and found that an amount of Rs. 83, 928/- being the excess amount remitted while clearing the arrears under One Time Settlement scheme was lying as advance from 2010 onwards. The same has been adjusted in the current charges payable in January 2016. Interest has not been allowed.

## 8. Analysis and Decision of the Commission

(1) Regulation 67 of the Supply Code, 2014 specifies the security deposit to be provided by the consumer for the supply of electricity by the licensee, as follows,-

***“Security for supply of electricity.- (1) A distribution licensee may require any person who applies for supply of electricity to his premises to provide security:-***

*(a) in respect of electricity supplied; and*

*(b) in respect of any electric line or electrical plant or electric meter provided for supplying electricity.*

*(2) The licensee shall demand security deposit only at the rates approved by the Commission.*

*(3) The person who applies for supply of electricity shall deposit with the licensee such amount of security deposit as demanded by the licensee as per sub-regulation (2) above.*

*(4) If any person refuses to give such security, the licensee may refuse to give supply of electricity or to provide line, plant or meter, as the case may be.*

*(5) Where any person has not given such security as per sub-regulation (1) above or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give the licensee reasonable security for the payment of all monies which may become due to it in respect of the supply of electricity or provision of such line or plant or meter.*

*(6) The consumer shall maintain with the licensee an amount at the rates specified below as security for the electricity supplied during the period of agreement:-*

(a) *three times the average monthly bill amount in case of consumers under bi-monthly billing system; and*

(b) *two times the average monthly bill amount in case of consumers under monthly billing system: Provided that the consumer shall not be required to furnish any security for supply of electricity if the consumer opts to take supply through pre-payment meter.*

(7) *A domestic consumer belonging to below poverty line category (BPL) shall not be required to provide security deposit so long as his monthly consumption does not exceed thirty units”.*

(2) Regulation 73 of the Kerala Electricity Supply Code 2014 which provides for the review of security deposit is quoted hereunder,-

**“Review of security deposit.-**(1) *During the first quarter of the financial year, the licensee shall review the consumption pattern of the consumer from April to March of the previous year, for assessing the adequacy of the security deposit.*

(2) *The consumer is required to maintain a security deposit as specified in sub-regulation (6) of regulation 67 of the Code, where ‘average monthly bill’ shall be equal to the average of the demand raised in the previous financial year.*

(3) *If on review, it is found that the security deposit available with the licensee is more than what is required, the excess amount shall be refunded to the consumer and such refund of security to the consumer by the licensee, as and when arises, shall be made without any other formalities, by way of adjustment in a maximum of two ensuing electricity bills.*

(4) *Based on the review, the licensee may demand for additional security deposit for making up the deficit if any, in the security deposit, by giving thirty days notice to the consumer (5) The consumer shall deposit the additional security deposit as per the demand raised by the licensee:*

*Provided that for a consumer whose electricity connection is less than one year old, the security deposit shall not be revised at the beginning of the ensuing financial year and subsequently, the security deposit shall be revised annually as per the procedure laid down in sub-regulation (1) above”.*

(3) The Regulation 67 (6) (b) specifies that the consumer shall maintain two times the average monthly bill as security deposit for the electricity supplied in case of consumers under monthly billing system. As per Regulation 73(2) the average

monthly bill shall be equal to the average of the demand raised in the previous financial year.

(4) Kerala State Electricity Board Ltd has computed the average consumption of energy and demand for the financial year 2014-15 and calculated the amount of additional security deposit by multiplying the average monthly consumption by the prevailing demand charges and energy charges as on June 2015 which is against the regulations in vogue. Kerala State Electricity Board Ltd has admitted that on reconciliation of accounts it is found that an amount of Rs. 83,928/- was lying as advance in favour of the consumer being the excess amount remitted on 03.04.2010 while clearing arrears under One Time Settlement Scheme (OTS). The same has been adjusted in the current charges payable in the month of January 2016. It is also noted that no interest has been allowed.

(5) The Commission has observed that Kerala State Electricity Board Ltd has not followed the procedure specified in the Supply Code in computing the average monthly bill and that it claimed a higher amount as additional security deposit from the consumer. Further KSEB Ltd has not allowed any interest for the excess amount remitted by the consumer while clearing the arrears under One Time Settlement Scheme.

9. The Regulation 139 of Supply Code 2014 deals with the procedure for disconnection.

*“(1) The licensee shall, in the case of disconnection proposed on the grounds mentioned in clauses (a) and (b) of sub-regulation (1) of regulation 138 above, issue a disconnection notice in writing, as per Section 56 of the Act, with a notice period of not less than fifteen clear days, intimating the consumer about the grounds for disconnection and directing him to pay the dues with penal charges within the notice period.*

*(2) If the consumer fails to remit the dues within such notice period, the licensee may disconnect the service of the consumer on the expiry of the said notice period, by cutting off the supply in the manner as the licensee may deem fit:*

*Provided that the licensee shall not disconnect the supply to a consumer under this sub-regulation, if the consumer deposits under protest, an amount equal to the sum claimed from him or equal to the electricity charges due from him for each month, calculated on the basis of the average charge for electricity paid by him during the preceding six months whichever is less, pending disposal of any dispute between him and the licensee:*

*Provided further that the supply shall not be disconnected after 1:00 PM on any day or on holidays so that the consumer is not deprived of a chance to remit the dues on the same day and get reconnection.*

*(3) The licensee shall disconnect the supply to the consumer immediately if the disconnection is on the grounds in clauses (c) and (d) of sub-regulation (1) of regulation 138 and the consumer may be given intimation to that effect soon after the disconnection.*

*(4) In the case of disconnection as per clauses (e) to (p) of sub-regulation (1) of regulation 138, the supply shall be disconnected only after giving a notice for a period not less than seven clear days and intimating the consumer about the grounds for disconnection.*

*(5) The supply shall be disconnected only if the grounds of the disconnection as mentioned in clauses (e) to (p) of sub-regulation (1) of regulation 138 are not removed or rectified within the notice period.*

*(6) The licensee shall, after disconnection on the grounds mentioned in sub-regulation (1) of regulation 138, give intimation to the consumer as per format given in Annexure - 18 to the Code, to remove the cause of disconnection within forty five days, failing which the supply may be dismantled.*

**10.** The licensee has disconnected the supply at 4:15PM on the eve of a bank holiday in spite of the assurance of consumer that the Additional Cash Deposit will be remitted by means of Demand Draft on the next working day. It should also be considered that such disconnection for delay in the remittance of additional cash deposit amounting to Rs.52,120/- was done when an amount to the tune of Rs. 83,928/- was available with KSEB Ltd, being the excess amount remitted at the time of one time settlement of the arrears of electricity charges. The callous action of the officers of the licensee is gross violation of sub-regulation 2 of Regulation 139 of the Supply Code.

## **11. Decision**

(1) Kerala State Electricity Board Ltd shall,-

- (i) revise the demand of additional security deposit by taking the average demand of the previous financial year;
- (ii) allow interest at bank rate from the date of remittance of arrears under one time settlement scheme till the date of adjustment of the excess advance amount remitted by the petitioner towards the arrears of electricity charges payable under the one time settlement scheme.



- (iii) the excess advance amount remitted by the petitioner towards the arrears of electricity charges payable under the one time settlement scheme along with interest at bank rate as ordered above shall be adjusted in the electricity bills payable by the petitioner on or before 31.03.2016.
- (2) The disconnection effected at 4:15PM on Saturday is violation of sub-regulation (2) of Regulation 139 of Supply Code 2014. Shri. P.K. Gopinathan, Special Officer, Revenue, Shri. P.K. Anil Kumar, Deputy Chief Engineer, Electrical Circle, Thodupuzha and Shri. K. Dileep Kumar, Assistant Engineer, Electrical Section, Vandiperiyar are hereby warned for the lapses on their part in this regard.
- (3) The mistakes and errors in the accounts that have occurred during the computerization process shall be corrected on or before 31.03.2016 and the compliance reported.

Sd/-

**S. Venugopal**  
**Member**

Sd/-

**K.Vikraman Nair**  
**Member**

Approved for Issue,

Santhosh Kumar K B  
Secretary