

No. 1488/Com.Ex/2016/KSERC

**THE KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**Present:** Shri. T.M. Manoharan, Chairman  
Shri. K. VikramanNair, Member  
Shri. S. Venugopal, Member

**C.P.No.07/2016**

**In the matter of** : Requirement of punitive action as per Section 142 of the Act, for the non-compliance of Regulation 123 of the Supply Code, 2014 and for harassment of the consumer initiating Section 126 of the Act without giving advance notice and without conducting inspection of the consumer premises as per Regulation 150 of the Supply Code, 2014.

**Petitioner** : Sri. Varkey Thomas, Karimpanakkal, Oorakkad,  
Malayidenthuruthu (PO)  
Ernakulam (Dist)

**Respondents** : 1. Secretary (Administration)  
KSEBL, Vydyuthi Bhavanam, Thiruvananthapuram  
  
2. The Asst. Engineer  
Ele. Section, KSEBL, Kizhakkambalam

**Order dated 24.11.2016**

**Background of the case:-**

1. The petitioner, Sri. Varkey Thomas, is running a Rice Mill with sanctioned load 94 kVA with LT IV (A) Tariff under Electrical Section, Kizhakkambalam. The consumer is remitting current charges under TOD tariff applicable to EHT, HT and LT industrial consumers. They are regularly remitting the current charges as demanded by KSEBL, even though KSEBL is not giving a detailed bill as envisaged in Regulation 123 of the Supply Code, 2014. While so, the APTS team of KSEBL along with officials of Electrical Section, Kizhakkambalam inspected the premises and the Assessing Officer issued a provisional assessment bill under Section 126 of the Electricity Act, 2003, for

Rs. 16,52,941/- based on the conclusion of site mahazar prepared by the Sub Engineer of Electrical Section Kizhakkambalam. Considering the objection of the petitioner, the Assessing Officer after hearing, issued a final assessment order on 12.08.2016 and the bill for a reduced amount of Rs. 5,66,212/-.

### **Petition.-**

2. The petitioner submitted that;

- (1) As per the site mahazar, the present total connected load is 193 kW, as against the sanctioned load (maximum demand) of 94 kVA. As per Regulation 11(2) of the Supply Code, 2014 the 100 kVA restriction is irrespective of connected load and hence the allegation of tariff misuse is totally wrong. Even if the connected load exceeded the Assessing Officer is bound to give a notice in writing intimating tariff change with a direction to go for HT connection or for reduction in consumption.
- (2) The 2<sup>nd</sup> respondent, being an Assessing Officer, has not given the advance notice when the consumption exceeded 100 kVA as alleged. If it was given, the consumer could have taken remedial measures, either by improving the power factor or by reducing the load or by converting to HT.
- (3) The KSEBL officials had never served a detailed bill to the petitioner and made the meter reading available on the website, as provided in Regulation 110(10) of the Supply Code 2014, to enable the consumer for taking remedial measures.
- (4) The Asst. Engineer, Electrical Section, Kizhakkambalam, had never given the Electricity bill detailing kVA, kWh in each zone and also average power factor, as provided in Regulation 123 of the Supply Code, 2014.
- (5) The 2<sup>nd</sup> respondent had never given a notice in writing to regularize the load. This notice should have been given if the additional load is in excess of sanctioned load to comply with their own Order B.O (FB) No. 2518/2013 dated 28.11.2013.
- (6) The penal charges are already taken care of by KSEBL by issuing the electricity bills to the petitioner as per the tariff order in force.
- (7) If KSEBL have not collected the penal charges as per the tariff order in force, then the penal charges as per the MRI report, will be as follows:-  
Fixed charges for 12 months – Excess kVA for 12 months X Rate of kVA  
ie 243 X 125 = Rs 30,375/-

The energy charges for 12 months ie proposed consumption X Average Consumption X Rate per unit  
 ie., 20.25 X (70720/12) X 5.2= Rs. 62056.80/-  
 Total = Rs. 92431.80/-

### **Relief Sought:-**

- 3 (1) The 2<sup>nd</sup> respondent may be punished under Section 142 of the Act for the non compliance of Regulation 123 of the Supply Code and for harassment of the consumer by initiating Section 126 of the Act, without giving an advance notice.
- (2) Direction may be given to the 2<sup>nd</sup> respondent to review the proceedings issued and to issue notice to the consumer in line with the provisions of Supply Code 2014.
- (3) An interim direction not to disconnect the supply till hearing and disposal of the petition.

### **Counter Statement of KSEBL:-**

4. In its counter statement, KSEB Limited submitted that,-
  - (1) The petition is barred by section 168 of the Electricity Act, 2003 in as much as the petition has been filed in respect of an assessment for unauthorized usage of electrical energy under section 126 of the Electricity Act, 2003. The final decision of the Assessing Officer under section 126 of the Electricity Act, 2003 is a quasi judicial decision. If any person is aggrieved by the final decision of the Assessing Officer the only remedy is to file appeal under section 127 of the Electricity Act, 2003.
  - (2) The Commission lacks jurisdiction to determine a dispute in respect of the final decision of the Assessing Officer under Section 126 of the Electricity Act, 2003 in as much as the Appellate Authority under Section 127 of the Electricity Act, 2003 has been constituted to hear the appeal from the consumer who is aggrieved by the decision of the Assessing Officer.
  - (3) The contention of the petitioner that the requirement of punishment, as per section 142 of the Electricity Act, for non compliance of the directive, for not serving detailed bill as envisaged in regulation 123 of Supply Code, 2014 and for harassment of the consumer initiating section 126 of the Electricity Act without giving advance notice on time and without conducting inspection in person as per regulation 150 of

Supply Code, 2014, is not correct and denied for the following reasons,-

- a) The second respondent in his capacity of the Assessing Officer, had issued a provisional penal bill under Section 126 of the Electricity Act, 2003 based on the conclusion of the site mahazer prepared by the competent authority. As per Section 168 of the Act, no suit, prosecution or other proceedings shall lie against the Assessing Officer for anything done or purporting to be done in good faith under this Act or the rules or regulations made thereunder.
- b) Electricity bills as per Section 123 of the Supply Code, 2014 were issued to the petitioner and the petitioner had remitted the electricity bills without any objection and not raised any dispute in the bill. The details available in the bill format provided by KSEBL was given to the consumer. The bill shall not be invalid only because of any one or more item of information being absent in the bill as per last para of Regulation 123 of the Supply Code, 2014. Hence there is no non compliance of the directive, as envisaged in Regulation 123 of Supply Code.
- c) *Vide Judgment on WP (C)No.31523 of 2013 dated 06.01.2014 Hon'ble High Court of Kerala has expressed that..... "Hence this Court is of the considered opinion that, provisions contained in Section 126 (1) cannot be construed in any manner narrowing down its scope against initiating assessment proceedings based on conclusion arrived depending on materials collected of an inspection conducted by any competent authority other than the Assessing Officer".* Hence there is no non compliance of Regulation 150 of Supply Code, 2014 for not conducting inspection in person by the Assessing Officer.

#### **Hearing of the case:-**

5. Hearing was conducted at 12 noon on 27.09.2016. Shri..K.T.Paul and Adv.B.Sakthidaran Nair appeared for the petitioner and respondents respectively. The representative of the petitioner submitted that,-

- (1) No detailed bill was served to them till the date of APTS inspection and therefore they were unaware of the fact that the contract demand was being exceeded continuously.

- (2) The petitioner consumer was remitting current charges as demanded by KSEBL, wherein penalization for excess demand has been included as per the tariff order in force.
- (3) No notice has been served by KSEBL with regard to the excess demand consumption as per the provisions of Supply Code.

Counsel for the respondents submitted that;

- (4) Since the recorded contract demand exceeded above 100 kVA to the extent of 160 kVA, the applicable LT tariff and category would change even if the purpose was unaltered. Hence the excess contract demand consumption can be construed as an offence under Section 126 of the Electricity Act, 2003.
- (5) The Assessing Officer has issued a final assessment order on 12.08.2016 after hearing the objections filed by the petitioner. If the petitioner consumer is aggrieved with the order of the Assessing Officer the legal remedy is to file appeal before the Appellate Authority under Section 127 of the Electricity Act, 2003.
- (6) There is no cause of action before the Commission to proceed under Section 142 of the Electricity Act, 2003.

The Commission enquired whether or not the consumer is being billed under demand based tariff. KSEBL confirmed that the consumer is being billed under demand based tariff wherein additional demand charges have been charged for their excess demand consumption.

Both the parties were allowed to file argument notes within 15 days.

6. Accordingly, KSEBL submitted their argument notes. It was submitted therein that,-

- (1) The Hon'ble Supreme Court in UP Power Corporation Ltd., And Others Vs Anis Ahamed (2013) 8 SCC 491 interalia held that after notice of provisional assessment of the person alleged to have indulged in unauthorized use of electricity, the final decision by an Assessing Officer, who is a public servant, on the assessment of unauthorized use of electricity is a quasi-judicial decision. The Hon'ble Supreme Court in Maharashtra Electricity Regulatory Commission Vs Reliance Energy Ltd (2007) 8 SCC 381 held that, where the state concerned had created a proper forum for redressal of grievances of consumers, the State Electricity Regulatory Commission had no jurisdiction to adjudicate upon

such matter. Section 168 of the Electricity Act, 2003 says that, no suit, prosecution of other proceedings shall lie against inter alia the Assessing Officer for anything done or in good faith purporting to be done under this Act or the rules or regulations made there under. Section 127 of the Electricity Act, 2003 provides that any person aggrieved by a final order made under section 126 may within 30 days of the said order prefer an appeal before the Appellate Authority after depositing one half of the assessed amount with the licensee. From the above provisions and the above decisions of the Hon'ble Supreme Court it is very clear that the Assessing Officer under section 126 of the Electricity Act, 2003 is a public officer appointed by the state government and after serving provisional assessment his final decision is a quasi-judicial decision. The word person "in Section 142 of the Act 2003 doesn't include quasi-judicial authority". No prosecution/proceedings shall lie against the assessing officer in view of the bar contained in Section 168 of the Electricity Act, 2003. If any consumer is aggrieved by the decision of the assessing officer his only remedy is to file appeal under section 127 of the Electricity Act, 2003 after depositing one half of the assessed amount with the licensee. The petitioner cannot circumvent the provisions of the Electricity Act, 2003 and the regulations framed thereunder. Thus the petitioner has no cause of action under section 142 of the Electricity Act, 2003 against the respondents.

- (2) Due to the unauthorized addition of the excess load in the low tension supply system, the consumer ceases to be in the LT category even though the purpose was unaltered. The maximum connected load or maximum demand applicable to the low tension category is limited to 100kVA as per regulation 11 (1) of the Supply Code, 2014. Thus there is change of category and change of tariff which is a clear case of unauthorized use of energy within the meaning of the explanation b (IV) of Section 126 of the Electricity Act, 2003.
- (3) Electricity bills as per Regulation 123 of the Supply Code, 2014 were issued to the petitioner and the amount remitted without raising any objection or dispute in the bill. The details available in the bill format provided by the KSEB Limited was given to the consumer. The bill shall not be invalid only because of any one or more item of information are absent in the bill as per last para of Regulation 123 of the Supply Code, 2014. The detailed bills are prepared separately and issued to the consumer after receipt of their complaint.
- (4) The additional demand charges levied at 50% as per tariff order is in respect of excess recorded maximum demand over the contract demand cannot be construed as penal charges. Vide judgment dated 18.10.2013

in WP (C) No.15673 of 2013, the Hon'ble High Court of Kerala held that....."*It is pointed out that, excess demand charges than the normal tariff were already levied at different multiplier on the basis of Maximum Demand recorded which has exceeded the Contract Demand. Hence it is contended that the excess load has already been penalized and there cannot be double penalization under section 126. But it is noticed that the demand charges at enhanced rate was collected only by virtue of terms of the contract. Therefore, it is evident that the enhanced rate of demand charges collected on the basis of Max. Demand exceeding the contract demand cannot be considered as a penalty imposed. Penalty under section 126 is contemplated as a penal action for unauthorized use of electricity*". Therefore contention in this regard cannot be countenanced.

- (5) The omission to issue notice in writing to the consumer to regularize the additional load is not violation of sub-regulation (1) of Regulation 64 of Supply Code, 2014. it is clear that the consumer could at any time, after the supply of electricity has been commenced, request the licensee and obtain approval for the scheme and extend, alter or renovate his installation on a temporary or permanent basis or in any way alter the position of the wiring therein. Notice was issued to the consumer after inspection to disconnect the additional load and to restrict the contract demand within the agreed limit as per Regulation 153 (12) of Supply Code, 2014.
- (6) The judgment dated 20.10.2011 in Civil Appeal No. 8850 of 2011 (*Executive Engineer Vs M/s. Seetaram Rice Mill 2011 STPL (Web) 942 SC*), the Hon'ble Apex Court had precisely concluded that "*The expression unauthorized use of electricity means as appearing in Section 126 of the Act 2003 is an expression of wider connection and has to be construed purposively in contract to contextual interpretation while keeping in mind the object and purpose of the Act. The cases of excess load consumption than the connected load inter alia would fall under explanation (b) (iv) to Section 126 (6) of the Act 2003, besides it being in violation of Regulation 82 and 106 of the Regulations and Terms of the Agreement*". This version is applicable in this case also.
- (7) Vide judgment dated 23.08.2016 in WA © No.1436 of 2016 in WP (C) 23506/ 2016, the Hon'ble High Court of Kerala held that,....."*After hearing both the sides, this Court finds that Regulation No. 153 (15) does not come to the rescue of the appellant/ petitioner, in so far as it will be attracted only if there in excess energy consumed in the same premises AND under the same tariff in the instant case, the connected load reflected at the time of inspection was much higher than the authorized*

*load and it will definitely take it to a different tariff level as applicable to the 'High Tension category'. This being the position, even though the excess energy consumed in the same premises, the 'second limb' of the Regulation 153 (15) with reference to the same tariff is not satisfied. If the load is to be taken to the next tariff level (HT category), it is quite obligatory for the consumer to get sufficient infrastructure installed including installation of transformer at the cost of the consumer. As such, the said contention is devoid of any merit".*

(8) Vide Judgment in WP (C) No. 31523 of 2013 dated 06.01.2014 Hon'ble High Court of Kerala has expressed that....."Hence this Court is of the considered opinion that, provisions contained in Section 126 (1) cannot be construed in any manner narrowing down its scope against initiating assessment proceedings based on conclusion arrived depending on materials collected on an inspection conducted by any competent authority other than the Assessing Officer".

(9) The Hon'ble High Court of Kerala in Syriac Kurian Vs. Union of India 2014 (3) KLT 557 held that it is not the law that the Assessing Officer himself should inspect and detect the irregularity. There is no illegality or irregularity in the Assessing Officer arriving at a conclusion regarding indulgence of unauthorized use of electricity based on reports or mahazer prepared by the inspection team.

### **Analysis:-**

7. The prayer of the petitioner is to initiate proceedings under Section 142 of the Electricity Act, 2003, against the Assessing Officer under Section 126 of the Act. Section 142 of the Act is quoted hereunder,-

*"142. Punishment for non-compliance of orders or directions.- In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any provisions of this Act or rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.*



From the above provision it can be seen that if the Commission is satisfied that any person has contravened any of the provisions of the Electricity Act, 2003, or the rules or regulations made thereunder or any direction issued by the Commission, the Commission is empowered to impose on such person, a penalty not exceeding Rs.1 lakh.

8. KSEB Ltd has submitted that the Assessing Officer under Section 126 of the Act is a quasi-judicial authority while he is performing his statutory functions under the powers conferred on him and therefore the Assessing Officer will not come in the ambit of the word 'person' as mentioned in Section 142 of the Act. Section 126 of the Act is quoted hereunder,-

*126 . Assessment.- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.*

*(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.*

*(3) The person, on whom an order has been served under sub-section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within 30 days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.*

*(4) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:*

*(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.*

*(6) The assessment under this section shall be made at a rate equal to twice the tariff rates applicable for the relevant category of services specified in sub-section (5).*

*Explanation.- For the purposes of this section,-*

(a) “ *assessing officer*” means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) “ *unauthorised use of electricity*” means the usage of electricity –

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

(iv) for the purpose other than for which the usage of electricity was authorized; or

(v) for the premises or areas other than those for which the supply of electricity was authorized.

From the explanation (a) under Section 126, it can easily be found that the Assessing Officer is an officer of the State Government or of the licensee who has been designated by the State Government for performing the functions under Section 126. Section 126 gives the detailed procedure to be adopted by the Assessing Officer for issuing orders under the said Section. It has been specified therein that the Assessing Officer shall provisionally assess to the best of his judgment the electricity charges payable by a consumer indulging in unauthorized use of electricity. Such provisional assessment can be based on his personal inspection of the premises of the consumer or based on inspection of relevant records. The consumer shall be given the provisional assessment order and the opportunity of being heard on the provisional assessment. Final order is passed subsequent to such statutory procedures. Therefore the Assessing Officer, while he is performing the functions under Section 126 of the Act is a quasi-judicial authority. The Hon'ble Supreme Court has also held in its judgment dated 01.07.2013 in Civil Appeal No.5466/2012 ((2013) 8 SCC) 491) as follows,-

*Therefore, it is clear that after notice of provisional assessment to the person indulged in unauthorized use of electricity, the final decision by an assessing officer, who is a public servant, on the assessment of “unauthorized use of electricity” is a “quasi-judicial” decision and does not fall within the meaning of “consumer dispute” under Section 2(1)(e) of the Consumer Protection Act, 1986.*

9. KSEB Ltd has further stated that being a quasi-judicial authority, who is performing the statutory functions under Section 126 of the Act, the Assessing Officer is entitled to get protection under Section 168 of the Act for anything done or in good faith purporting to be done under the provisions of the Act or the rules or regulations made thereunder. Section 168 of the Act is quoted hereunder,-

*168. Protection of action taken in good faith.- No suit, prosecution or other proceeding shall lie against the Appropriate Government or Appellate*

*Tribunal or the Appropriate Commission or any officer of Appropriate Government, or any Member, Officer or other employees of the Appellate Tribunal or any Members, officer or other employees of the Appropriate Commission or the assessing officer or any public servant for anything done or in good faith purporting to be done under this Act or the rules or regulations made thereunder.*

From the above provisions it can easily be found that the Assessing Officer will get protection under Section 168 when,

- (i) He is performing his functions under Section 126 of the Act in the capacity of a quasi-judicial statutory authority, or
- (ii) He is performing functions believing in good faith that such functions are purporting to be done under Section 126 of the Act.

When an officer designated as the Assessing Officer is taking any action willfully violating the statutory provisions or the rules or regulations made thereunder or the directions issued by the Commission, such officer is not performing his duties in accordance with law and therefore he is not entitled to get the protection under Section 168 of the Act for the illegal activities done by him. If an Assessing Officer is exercising the powers with malafide intentions misusing the provisions of law, such officer cannot be said to be performing the legally valid duties in a just and fair manner under Section 126 of the Act. In Kerala the Assistant Engineers in charge of the Electrical Sections of KSEB Ltd have been designated as the Assessing Officers. Only when the person who is holding the post of Assistant Engineer of the Electrical Section, is performing the functions under Section 126 of the Act, he is the Assessing Officer. The Assistant Engineer designated as Assessing Officer may have many other duties in his official capacity. But only the action taken by him under Section 126 of the Act will get protection under Section 168. Therefore no action can be initiated against the Assessing Officer under Section 142 of the Act unless willful violation of the statutory provisions or willful disobedience of directions or actions with malafide intentions are conclusively proved before the Commission.

10. KSEB Ltd has further submitted that the Commission has no jurisdiction to interfere in the proceedings of the Assessing Officer under Section 126 of the Act in view of the directions of the Hon'ble Supreme Court in Seetharam Mill case. It is true that the Commission has no jurisdiction to interfere in the proceedings of the Assessing Officer under Section 126 of the Act. The Hon'ble Supreme Court has made it clear that Sections 126 and 127 of the Act are Codes in themselves and no external authority shall interfere in the proceedings of the Assessing Officer under Section 126 of the Act and of the Appellate Authority under Section 127 of the Act. The petition under consideration of the Commission is not an appeal preferred by the petitioner under Section 127 of the

Act. The petition is for initiating action against the Assessing Officer under Section 142 of the Act for contravening the provisions in the Act or in the rules or regulations made thereunder or for the non-compliance of directions given by the Commission or any authorities in exercise of their statutory powers. As per the provisions in the Act, the Commission is the only authority which is empowered to take action under Section 142 of the Act. One of the most important objective of the Act is to protect consumer interest and public interest. Therefore the Commission has a statutory duty to examine any petition filed under Section 142 of the Act and to take appropriate decisions therein.

11. KSEB Ltd has taken a further contention that individual petitions shall not be entertained by the Commission. KSEB Ltd has quoted several decisions to substantiate their arguments in this regard. Few of them are quoted hereunder
- (1) Maharashtra Electricity Regulatory Commission Vs Reliance Energy Ltd and Others -Civil Appeal No. 2846 of 2006
  - (2) Maharashtra State Electricity Distribution Company Ltd Vs Lloyds Steel Industries Ltd. – Civil Appeal No. 3551 of 2006

The Commission has examined this contention carefully with reference to the scheme of law for redressing the grievances of the consumers. The scheme of law under the Electricity Act, 2003, gives paramount importance to the protection of consumer interest. Sub-section (5) of Section 42 of the Act provides for establishment of a Consumer Grievances Redressal Forum by the licensee. The Consumer Grievances Redressal Forum has to function in accordance with the guidelines issued by the Commission by way of regulations. Sub-section (6) of Section 42 of the Act provides for establishment of an authority namely Electricity Ombudsman, who is empowered to settle the grievances of the consumers, who do not get their grievances redressed from Consumer Grievances Redressal Forum. Therefore the consumers who have grievances against the licensee, with special reference to the provisions in the Kerala Electricity Supply Code, 2014, and the KSERC (Standards of Performance of Distribution Licensees) Regulations, 2015, are expected to approach either the CGRF or the Electricity Ombudsman for redressal. When special statutory bodies are constituted for the redressal of grievances of the consumers, the Commission is not expected to entertain any such grievance. Further as per clause (f) of sub-section (1) of Section 86 of the Act the Commission has been empowered only to adjudicate upon the disputes between the licensees and the generating companies. The judgments quoted by KSEB Ltd do also support the contentions of KSEB Ltd in this regard. At the same time it has to be specifically noted that the Hon'ble APTEL or the Hon'ble High Court or the Hon'ble Supreme Court has not prevented the Commission from initiating proceedings under Section 142 of the Act. As already stated the Commission is the only authority empowered to take action under Section 142 of the Act. Therefore the grievances redressed by the CGRF under sub-section (5) of

Section 42 of the Act and by the Electricity Ombudsman under sub-sections (6) and (7) of Section 42 of the Act are totally different from the petition under Section 142 of the Act. It has also been held by the Hon'ble Supreme Court in its judgment in Electric Supply and Transport Undertaking Vs Maharashtra Electricity Regulatory Commission (AIR 2015 SC 1224) that a public can approach the Regulatory Commission to enforce the obligation of a distribution licensee under the Act.

12. Regulation 123 of the Kerala Electricity Supply Code, 2014 is quoted hereunder,-

**123. Information to be provided in the bill.-** (1) *The following information shall be included in the bill:-*

- (a) *address and telephone number of the billing office or distribution centre;*
- (b) *bill number and period of bill;*
- (c) *name and address of the consumer and consumer number with location code;*
- (d) *pole number, or distribution pillar reference from which connection is served and name of sub-division or centre;*
- (e) *date of issue of bill;*
- (f) *tariff category of consumer (i.e. domestic, commercial, industrial etc.);*
- (g) *tariff, rate of electricity duty and cess applicable;*
- (h) *status of meter (OK /defective /not available);*
- (i) *billing status (regular/ assessed/ provisional bill/ special bill with reason);*
- (j) *supply details:-*
  - (i) *type of supply (i.e. single phase, three-phase LT, HT or EHT);*
  - (ii) *contracted load or connected load;*
  - (k) *meter number and identification details of meter (in case the meter was replaced during the billing period, the bill shall indicate the meter numbers of new as well as old meter, date of replacement, final reading of old meter and initial reading of new meter at the time of replacement of meter)*
  - (l) *opening meter reading with date;*
  - (m) *closing meter reading with date;*
  - (n) *multiplication factor of the meter if any;*
  - (o) *units consumed;*
  - (p) *maximum demand, power factor etc. if applicable;*
  - (q) *due date of payment;*
  - (r) *item wise billing details for the current month such as:-*
    - (i) *energy charges*
    - (ii) *fixed charges*
    - (iii) *meter rent, if any*
    - (iv) *capacitor surcharges*
    - (v) *other charges, if any*
    - (vi) *electricity duty*
    - (viii) *fuel cost adjustment charges*

- (ix) power factor adjustment charges, if any
  - (x) reactive energy charges, if any
  - (xi) time of use charges, if any
  - (xii) penal charge for delay, if any
  - (xiii) interest on instalments due
  - (xiv) total demand for the current month
  - (xv) arrears (with details)
  - (xvi) details of subsidy if any
  - (xvii) others (with details)
  - (xviii) total amount due
  - (xviii) adjustment
  - (xix) net amount to be paid
  - (s) modes of payment accepted;
  - (t) in case of cheques and bank drafts, the receiving authority in whose favour the amount shall be drawn;
  - (u) security deposit held and required;
  - (v) advance already paid;
  - (w) details of last six readings:
  - (2) The following information shall also be provided along with the bill:-
    - (a) address of collection centre and their working hours;
    - (b) schedule of collection by mobile collection centre if any, at different venues;
    - (c) designation and address of the authority with whom grievance or complaints pertaining to bills may be lodged;
    - (d) address and telephone number of the Consumer Grievance Redressal Forum and the Ombudsman constituted under Section 42 of the Act;
    - (e) tariff schedule applicable to the consumer;
    - (f) date of disconnection if payment is not made within the due date;
    - (g) complete address and telephone number of consumer service centre of the licensee, if any, for seeking clarification;
    - (h) additional information, if any, as desired by the licensee:
- Provided that the bill shall not become invalid only because of any one or more item of information are absent in the bill.

**13. Regulation 150 of the Kerala Electricity Supply Code, 2014 is quoted hereunder,-**

- 150. Inspections of the premises and electrical installations.-** (1) An 'Assessing Officer' under Section 126 of the Act or an 'Authorised Officer' under Section 135 of the Act, suomotu or on receipt of reliable information regarding unauthorised use or theft of electricity in any premises, shall promptly conduct inspection in such premises.
- (2) After such inspection, the assessing officer or the authorised officer as stipulated in sub regulation (1) above, shall prepare:-
- (a) an inspection report if no offence or other irregularity is detected; or

- (b) a mahazar if any theft or unauthorised use of electricity or any other irregularity is detected.
- (3) For inspection and for preparation of inspection report or site mahazar, the general provisions specified in regulation 151 shall be followed.
14. As per last para of Regulation 123 of the Supply Code, 2014, the electricity bill shall not be invalid only because of any or more item of information are absent in the bill. The detailed bills are prepared separately and issued to the consumer on receipt of their complaint. There is no non-compliance of the directive, in not serving detailed bill as envisaged in regulation 123 of the Supply Code.
  15. The Hon'ble High Court of Kerala in Syriac Kurian Vs. Union of India 2014 (3) KLT 557 held that it is not the law that the Assessing Officer himself should inspect and detect the irregularity. There is no illegality or irregularity in the conclusion arrived by the Assessing Officer regarding indulgence of unauthorized use of electricity based on reports or mahazer prepared by the inspection team.
  16. Due to the unauthorized addition of the excess load in the low tension supply system, the consumer ceases to be in the LT category even though the purpose was unaltered. The maximum connected load or maximum demand applicable to the low tension category is limited to 100kVA as per Regulation 11 (1) of the Supply Code, 2014. Thus there is change of category and change of tariff which is a clear case of unauthorized use of energy within the meaning of the explanation b (IV) of Section 126 of the Electricity Act, 2003.
  17. It is the duty of the consumer to request the licensee and obtain approval for the scheme to extend, alter or renovate his installation on a temporary or permanent basis or in any way alter the position of the wiring therein at any time, after the supply of electricity has commenced. The licensee has issued notice to the consumer after inspection to disconnect the additional load and to restrict the contract demand within the agreed limit as per Regulation 153 (12) of Supply Code, 2014.
  18. No proceedings under section 142 of the Electricity Act, 2003 can be initiated against the Assessing Officer in view of the bar contained in section 168 of the Electricity Act, 2003, unless willful violation of statutory provisions or willful disobedience of directions or actions with malafide intentions are conclusively proved before the Commission .
  19. If any person is aggrieved by the final decision of the Assessing Officer his only remedy is to file appeal under section 127 of the Electricity Act, 2003. Similarly if any person is aggrieved by the order of the Appellate Authority under Section

127 of the Act, the remedy is to move before the Hon'ble High Court of Kerala in a writ petition.

**Orders of the Commission:-**

20. In view of the facts, circumstances, and legal provisions discussed above, it is found that the petitioner has not made out a case for initiation of proceedings by the Commission under Section 142 of the Act against the respondents. The petition is therefore dismissed and it is ordered accordingly.

Sd/-  
K. Vikraman Nair  
Member (E)

Sd/-  
T.M. Manoharan  
Chairman

Approved for issue,

Santhosh Kumar.K.B  
Secretary.