

**BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION**

PETITION No. CP 02/17

In the matter of : Non implementation of the order dated 29.05.2017 in P/005/2016 of Kerala State Electricity Ombudsman.

Petitioner : Prof. G. Ravindran Nair,  
General Manager (Operation)  
Mata Amirtanandamayi Math,  
Amrita Institute of Medical Sciences & Research Centre  
Ponekkara, Kochi-682041

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.  
Panthalam, Pathanamthitta.

**The Petitioner respectfully submits as under :**

1. It is respectfully submitted that the petitioner is running a charitable institution called Amrita Vidyalayam at Kurampala, Panthalam, Pathanamthitta have an 3 phase connection vide Consumer No.1146142015447 (LT VI F Tariff) under Electrical Section Panthalam.

2. The Petitioner was availing a three phase electric supply with a sanctioned connected load of 10 kW

3. On 25.08.2009 the division squad with the officials of the Electrical Section Panthalam inspected the premises of the school and found that the equipments are connected in excess to the connected load already granted. A true copy of the site mahazar dated 25.08.2009 is produced here with and marked as Ext. P1. The respondent issued provisional bill assessment for short remittance for alleged unauthorised load of 40 kW dated 28.09.2009 as envisaged u/s 126 of Electricity Act, 2003. A true copy of the provisional bill demanding an amount of Rs. 2,73,162/- is produced as Ext. P2.

4. The Assessing officer after hearing the petitioner and the respondent has finalised provisional assessment vide order dt. 19.11.2009 marked as Ext. P3 along with the final assessment bill dt.25.11.2009 for an amount of Rs.1,19,202/- is issued as marked as Ext. P4. It is submitted that by Ext.P3 order the respondent has revised the demand made in Ext. P4 adopting LT VI A tariff and hence the amount demanded in Ext. P2 is modified to Rs.1,19,202/. But all other contentions raised by the petitioner in Ext. P5 objections were not at all considered by the respondent while passing Ext. P3 order. Aggrieved by the assessment bill issued by the respondent, the petitioner filed a petition before the Hon'ble High Court of Kerala as WP(C) 34744/09 praying to restrain the Assistant Engineer from initiating the penal charges and consequential proceeding for disconnection of the electric supply to the consumer.

5. It is submitted that to Ext. P2 order, the petitioner has preferred a detailed objection, a true copy of the same is produced herewith as Ext.P5, the petitioner has specifically contended that Ext. P2 provisional assessment is not in conformity to the provisions of the Supply Code 2005. It is specifically contended in Ext P5 objection that the wattage of computers stated in Ext.P1 site mahazar is wrong. The actual number of computers installed in the petitioner's premise is only 53. In Ext. P1 mahazar the wattage of each computer is calculated as 250 W and wattage of monitor is 300W, wattage of printer is 450W. It is also contended that Ext.P2 is issued adopting LT VII A tariff which is against the decision of the Hon'ble Court in 2009 (3) KLT 1022. It is also pertinent to note that as per section 77 (5) (C) Annexure 7 of Kerala Electricity Supply Code 2014, the maximum load of the computer is 100W. As such the petitioner liability if any (without admitting) must be limited to the above said provisions of the code.

6. The petitioner submitted the application with completion report with all necessary documents to regularise the additional load of 24 kW as Ext. P6.

7. It is submitted that the respondent has issued a letter dt. 26.09.2009, a true copy of the same is produced herewith as Ext. P7, in which it has been stated that the total load detected by the Division level Anti power theft squad was 40 kW. It was also directed to furnish reasons for applying to regularise only 24 kW as per Ext. P6 application. The respondent insisted to the consumer to apply to regularise the unauthorised additional load of 40 kW as per Ext. P7

8. Actually the respondent cannot insist the consumer to apply for specific connected load and cannot indefinitely delay the application of the consumer. The regularisation of the additional load was not done only due to the negligence of the duty of the respondent.

9. Finally the case was heard by the Kerala State Electricity Appellate Authority, The petitioner submitted the statement of facts as Ext. P8.

10 The Kerala State Electricity Appellate Authority as per order dt. 03.02,2016 in Appeal No.344/2015 has ordered that the unauthorised additional load was only 18182W (19 kW) and the respondent was directed to issue revised assessment under LT VI A tariff within 15 days. The order is produced herewith as Ext. P9

11. As per the order of the Appellate Authority, the respondent reassessed the bills by considering the unauthorised additional load as 19 kW and revised the bill and issued to the consumer vide Ext. P10. It is noted that the respondent claimed that a balance of Rs.15,597/-is the amount to be refunded to the respondent. The calculation of the respondent was wrong and the petitioner made it clear by their letter vide. Ext. P11. Actually the amount refunded to the petitioner is Rs. 71,910/-. But so far the respondent not refunded the amount of Rs. 71,910-. This is the contempt of verdict of the Appellate Authority.

12. The respondent informed to the petitioner vide. Ext. P12, that a huge sum of Rs1,79,940/ is to be remitted by the consumer as a pending arrears from 2009 onwards. This contains the fixed charges from12/09 onwards for 19 kW load, fixed charges from 10/2010 onwards for 25 kW load and fixed charges from 9/15 onwards for 54 kW.

13. The appellant has not connected any additional load and used energy without the sanction of the respondent. Without the physical verification on the connected load of the consumer's premises, the argument of the respondent is not fair to charge a huge amount of Rs. 1,79,940/ for such a long period from 2009. It is submitted that the petitioner has submitted a letter dt. 27.05.2016, a true copy of the same is produced herewith as Ext. P13. The petitioner has specifically contented that the bill amounting to Rs. 1,79,940/-is not sustainable in law. As per section 56 (2) of Electricity Act,2003 'no sum due from any consumer shall be recovered after the period of two years unless such sum has been shown continuously as recoverable as arrear charges". A true copy of the said provision in the Electricity Act 2003 is produced as Ext.P 14 Regulation 136(3) of Supply Code, 2014 also stated that, is produces as Ext. P15. No such sum due from any consumer on account of default in payment shall be recoverable after a period of two years from the date when such amount become first due, unless the sum has been shown as recoverable arrear of charges of electricity supplied. So the respondent restricted to claim any amount after two years unless such amount has been shown regularly in the regular bill, no such amount had been in any bill. Hence the petitioner is not bound to pay any such became arrears.

14. It is submitted that the respondent has issued a letter dt. 17.06.2016, a true copy of the same is produced herewith as Ext.P16. It has been stated by the respondent that the penal charges imposed up on the consumer is genuine and if it is not remitted within 15 days of the letter, the disconnection procedure might be implemented upon the petitioner. Also the respondent stated that the petitioner should have to remit an amount of Rs. 19,750/- as additional ECSC to regularise the additional load of 50 kW as per the application dt. 03.09.15

15 The petitioner had submitted the application with completion report to regularise the additional load of 55 kW. As per the letter dt. 09.03.2015 (Ext.P17) the consumer has deposited an amount of Rs.3,13,700/- vide DD No. 987062 dt. 19.03.2015 and receipt No. 2129905 dt.20.01.2015 (Ext. P18). This work pertains for installing a 100 kVA transformer and allied works to the premises of the petitioner, to regularise the additional load of 64 kW. But after the completion of the deposit work the respondent did not do any action to regularise the additional load. It could be seen that this is the clear violation of the respondent and the non-compliance of the rules and regulations 86 of the Kerala Electricity Supply Code,2014, which causes many hardships and financial losses to the consumer. The petitioner praying the Hon'ble Ombudsman to punish the respondent for violating regulation 153(15) of Supply Code,2014, by invoking section 142 of Electricity Act, 2003.

16. It could be seen that the verdict of the Appellate Authority has not been complied by the respondent. This is against the decision of the Appellate Authority. Moreover the respondent raised another amount of Rs. 1,79,940/- as the arrear bills during the period from 2009. Not only that the respondent had proceeded to disconnect the supply to the consumer premises and the respondent did not regularise the additional load even remitted the OYEC amount of Rs.3,13,700/-. For these and other grounds we had approached the CGRF Kottarakkara as OP No.132/16/5951 dt. 19.12.16 for arguing and granting the relieves of quash the penal bill for an amount of Rs 1,79,940/-,regularise the additional load, restrain the disconnection proceedings and punish the respondent for violating the regulation as Ext. 19

Finally the case was heard by the CGRF and a verdict was issued as shown below ( Ext.20 )

1. The petitioner shall remit the additional bill issued for Rs. 1,79,940/- on 28.04.2016 within one month from the date of receipt of this order.
2. The respondent is directed to allow suitable instalments to the petitioner without interest if he desires.
3. The respondent shall take necessary action to regularise the additional load in the premises of the petitioner.
4. No order as to cost.

Aggrieved by the decision of the CGRF, the appellant had submitted the appeal petition before the Electricity Ombudsman as Ext. 21

Then after the Electricity Ombudsman heard both parties and considering the whole facts and circumstances, issued order dt.29.05.2017 as Ext.22, In the order it can be seen that,

- i. The issuance of the short assessment bill for an amount of Rs.1,79,940/- is illegal and not sustainable and hence quashed.
- ii.. The respondent is directed to regularise the load of the appellant within a period of 30 days from receipt of this order.
- iii.. The order of the CGRF in OP 132/16 is set aside.

It is submitted that the petitioner facing many hardships and financial losses due to the laps and non-compliances of the rules and regulations, by the respondent. Even if the petitioner submitted the completion report dt.03.09.2015, the respondent did not regularise the additional load till date. This is the clear violation of Regulation 85 & 86 of Electricity Supply Code, 2014. If any licensee fails to comply with the time frame stipulated under regulation 85, he shall be liable to pay penal by accordance with sub section (3) of section 43 of the Act.

As per the Notification No.KSERC/2010/XVIII dt.17.02.2010, the respondent is liable to pay the amount to consumers for default of Rs. 100/ for each day of default in the case of erection of sub station for release of supply.

It is submitted that even if the Appellate Authority passed an order on 03.02.16 in Appeal Petition No. 344/15, in favour of the consumer for the assessment of the additional load and refund the balance amount to the consumer within 15 days after the date of the order. But so far the respondent did not comply the order of the Appellate Authority. This is the clear violation and punishable for non-compliance of the directions by appropriate commission as per section 142 of Electricity Act 2003.

It is again submitted that the Electricity Ombudsman issued a decision on 29.05.2017, regarding the additional load and the assessment of short remittance of Rs. 1,79,940/-. The Electricity Ombudsman directed to regularise the load of the appellant within a period of thirty days from the date of receipt of this order. But so far the respondent did not comply the order. This is the clear violation and punishable for the non-compliance of the directions by appropriate commission as per section 142 of Electricity Act 2003.

As per section 142, the respondent may be liable under this act, such person shall pay by way of penalty, which shall not exceed on lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extended to six thousand rupees for every day during the failure continues after contravention of the first such direction. So that it is requested that this Hon'ble Commission please intervene in this matter and necessary orders may please be issued in this regard.

We to submit the statement of facts and submitted the request for following relieves.

## **PRAYER**

**It is humbly prayed before the Hon'ble Kerala State Electricity Regulatory Commission for the relief of**

- 1. Praying to punish the respondent for violating regulation by invoking section 142 of Electricity Act 2003.**
- 2. Praying to comply the respondent for the order of Electricity Ombudsman and Appellate Authority.**

**Dated this the 24<sup>th</sup> day of August 2017**

**Sd/**

**Petitioner**