

**Before the Ombudsman**

**KPFC BHAVAN, C.V.Raman Pillai Road , Vellayambalam,  
Thiruvananthapuram-695 010.**

**Order Dated 4<sup>th</sup> January 2007.**

Present: M.Sivathanu Pillai, Ombudsman-in Charge.

Appeal petition No 3 of 2006.

CGRF order No.CGRF-CR/COMP.34/2006-07/917 DATED 11-10-2006.

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Sri.N.Krishnakumar

49/1052A,

Changampuzha Cross Road,

Edappally,Kochi 682 024.

Petitioner

Vs

Assistant Executive Engineer,

Electrical Sub Division, KSEB,

Palarivattom, Kochi.

Respondent

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**Date of hearing: 4<sup>th</sup> January 2007.**

The petitioner is availing power from Kerala State Electricity Board (hereinafter called "Board"). The petitioner has entered in to a lease agreement for a flat at Mamangalam, Kochi. The ground floor is occupied by the petitioner and it is stated that his son and family occupy the first floor. The consumer number allotted to the ground floor is 9639 and that for first floor is 10860 under Electrical Section, Edappally, Kochi -24.

Petitioner has stated that himself and his son were regular in remitting the current charges.

Petitioner has noted that on 01.04.06, a bill was served on Consumer No.10860 without any provocation. Petitioner has stated that on enquiry in Board's office, it was explained that the bill is due to change of tariff from

LT I (a) to LT VII (a). It is further stated that the change in tariff was made without serving any notice to him or to his son. Also it is stated that his son has left to Gulf country in connection with a job.

On a complaint filed by the petitioner, an officer of the Electrical Section, Edappally, conducted inspection of the premises on 12.4.06. After inspection, a mahazar was prepared. It is stated by the petitioner that the total connected load as per the mahazar is not correct. Petitioner has stated that the building was used only for domestic use and no office is functioning in the first floor. Petitioner has submitted a copy of the letter to Assistant Engineer, Electrical Section, Edappally to check the accuracy of the energy meter. It is further noted that the officers of Board declined to accept the testing fee. Thereafter Board connected a parallel energy meter. Petitioner has submitted main and check meter readings. As per the meter readings the main meter was showing double the consumption recorded by the check meter.

**Petitioner has sought for orders to set aside the order of CGRF and to restore tariff to LT-I(a) and for revision of entire bills w.e.f 07-04-2005 and for changing the present energy meter and for refund of excess amount collected.**

CGRF in his order-dated 11.10.06 has stated as follows:

The consumer was paying current charges under LT I (a) tariff till 02/06. The bill dated 01.04.06 was issued under LT VII(a) tariff on 04.04.06. The Senior Superintendent of the Section office informed the consumer that his tariff is changed to LT VII (a) due to use of energy for Office purpose.

As per the statement given by Assistant Executive Engineer, the spot biller has reported on 1.4.06 usage of energy for office purpose. The Sub Engineer who went for inspection was denied entry. But he reported that there is usage of energy for office purpose. It is further stated that the consumption of 2243 units for the bill of 4/06 is an indication of office use.

CGRF made an inspection on 3.10.06 and found that in the study room of the first floor, there were plenty of thick files all over the room. A fax machine has been installed. CGRF in the order has compared the consumption of consumer No. 10860 and 9639 and concluded that as the number of occupants in both floors were the same, higher consumption in Consumer No. 10860 was due to use for purpose other than domestic use.

The petition was posted for hearing on 6<sup>th</sup> December 2006. Petitioner requested for postponement of hearing as his counsel was indisposed. Hearing was postponed to 4<sup>th</sup> January 2007.

Petitioner's counsel argued that the letter dated 4<sup>th</sup> April 2006 from Senior Superintendent (hereinafter called SS) is not legally valid because SS is not authorized to take decisions on behalf of the Assistant Engineer. It was also pointed out that the check meter installed by Board also showed that the main meter was not working properly. Counsel further argued that proper notice should have been served as stipulated in clause 126.3 of the Electricity Act 2003. Counsel also stated that the request for testing the energy meter was rejected. Counsel for petitioner argued that denial of entry as claimed by Board is sufficient to prove that there was no office functioning. If an office was functioning it should have been remained open during working hours of the day. Counsel further stated that Chairperson of CGRF made a surprise inspection and found nobody working. Petitioner stated that Board officials have wrongly identified a scanning machine as a fax machine. It was further argued that there was no phone connection in the first floor so that a fax machine can work. When it was proposed whether the presence of a scanning machine in the place of a fax machine makes any difference, petitioner pointed out that this clearly shows that the conclusions of Board officials are not at all based on proper and accurate assessment. The presence of office staff is also one of such guesswork.

Respondent stated that there was clear evidence regarding the functioning of the office.

Petitioner pointed out that the energy meter is in the ground floor and meter reader cannot get an idea of what is going on in the first floor. Respondent did not agree with this. Respondent stated that from the ground floor movement of people can be judged. Petitioner argued that movement of people couldn't be taken as an evidence for functioning of office. Petitioner further stated that the accounts officer of his company came for discussions and is not stationed in the premises. The conclusion based on his presence in the ground floor cannot be taken as a proof for the functioning of an office in the first floor.

Respondent produced the results of testing the meter in Meter Testing Division. The test report was issued in December 2006. The error in KWH was 100% on the positive side. Thus the meter was showing 100% more than the actual consumption.

It is noted that two invoices issued bear the same date in the month of April 2006. In the invoice bearing No.R55440154470 served to the consumer by meter reader it is hand written that the consumer is using energy for office purpose. On the same day another invoice has been generated. This invoice bears the same number but the classification is under LTVII (a). Thus it can be concluded that revision of tariff has been done on the same day on the basis of increase in consumption noted during the process of meter reading. No responsible officer of Board has conducted any detailed enquiry before revising the invoices.

Petitioner stated that he owns two industrial units but they are not new units. The present house is occupied from 4/2005 only. The industrial units were run much before this. Also if office is functioning in the study room alone (as stated by CGRF) the chances of consumption increase by 100% does not arise. Petitioner also stated that presence of a few files and a fax machine cannot be taken as sufficient evidence for the functioning of an office. If this principle is accepted, then residences of all senior officials who take their office files to their houses for study should be brought under LT VII (a).

Considering the above facts and the fact that the meter was found faulty and was showing 100% error, it can be concluded that the sudden increase in consumption by about 100% as noted in 1<sup>st</sup> April 2006 is due to meter becoming faulty. Also, the conclusion of meter reader is not correct. Board has revised the tariff without proper enquiry. Respondent had no comments to offer on the authority of SS of the Section office.

Petitioner has applied for testing of the energy meter on 13<sup>th</sup> July 2006. But the request has not been accepted. The explanation given by respondent was that, as there were arrears to be paid, the computer in the Section Office would not accept the testing fee entry. This is an internal problem of Board for which petitioner is not responsible. The meter should have been tested in July itself and the condition of the meter would have become clear from that date. The stand taken by Board in changing the tariff from LT I (a) to LTVII (a) with effect from February 2006 is arbitrary and done in a haste and is not correct and the stand taken by petitioner that the energy meter was faulty was proved to be correct.

Board has to withdraw the revision of invoices issued at LTVII (a) rates. The invoices may be revised at LT I(a) rates on the basis of clauses on assessment of consumption in the case of energy meter becoming faulty specified in the Conditions of Supply in force and excess amount collected

has to be refunded with interest at the rates applied for security deposit collected from consumers. It is noted that Board has not followed the provisions of clause 126.3 of the Electricity Act 2003. Respondent offered no explanation. This should be avoided in future. The petition is disposed off.

**Sd/-**

**OMBUDSMAN**

**P3/2006/.....Dated**

Forwarded to

Sri.N.Krishnakumar,  
49/1052A,  
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Edappally,Kochi 682 024.

The Chief Engineer(Electrical)  
Distribution(Central), KSEB,  
Vytilla, Kochi.

Assistant Executive Engineer,  
Electrical Sub Division, KSEB,  
Palarivattom, Kochi.

Secretary-in-Charge.