

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Sri T.K.Jose, Chairman
Sri B Pradeep, Member

OP No 47/2023

In the matter of : Petition to set aside the proceedings and final invoice DB/ESD-KLSY/KSLY/HT Cons. No (CIPET, LCN- 24/9189)/236A dated 04.03.2023

Petitioner : Central Institute of Petrochemicals Engineering & Technology, KOCHI

Petitioner represented by : Sri Rajesh K.A, Joint Director & Head

Respondents : 1) Kerala State Electricity Board Limited,
Vydyuthi Bhavanam,
Pattom Palace P.O.,
Thiruvananthapuram: 695004

2) Executive Engineer
Electrical Division
Power House Junction
Aluva, Ernakulam
683101

3) Assistant Executive Engineer
Electrical Sub Division
HMT Colony P.O
Kalamassery,
Ernakulam-683104

Respondents represented by : Sri Edward P Bonafice, AEE, TRAC
Sri Rajesh R, AEE, TRAC
Sri Linson Johnson, AEE, Kalamassery

Date of hearing : 20.07.2023, 10.30 AM

Venue : Court Hall of the Commission

Daily Order dated 27.07.2023

1. The petitioner, Central Institute of Petrochemicals Engineering & Technology (CIPET), an education institution under the Department of Petrochemicals, Ministry of Chemicals & Fertilizers, Government of India (hereinafter referred as Petitioner) filed a petition dated 18.05.2023 before the Commission with the following prayers

“(a) Set aside the proceedings and final invoice DB/ESD/KLSY/HT/Cons no (CIPET, LCN-24/9189)236A dated 04.03.2023 issued by the 3rd respondent

(b) To call for the entire records regarding the Annexure A1 bill and direct the 2nd and 3rd respondent to conduct detailed enquiry.”

2. The Commission admitted the petition as OP 47/2023. Hearing on the petition was held on 20.07.2023 at the Court Hall of the Commission. Sri K.A Rajesh, Joint Director & Head, CIPET appeared on behalf of the petitioner. Sri Edward P Boniface, Assistant Executive Engineer represented the 1st respondent and Sri Linson Johnson, Assistant Executive Engineer represented the 3rd respondent. The deliberations during the hearing are summarized below.

(1) The petitioner submitted the following during the hearing

(i) The petitioner is the Joint Director & Head, Central Institute of Petrochemicals, an educational institution under Government of India operating from own campus at Kochi since 2019. The petitioner has received a penal bill amounting to Rs 61,83,802/- from KSEB Ltd on 04.03.2023 for unauthorized usage of electricity. CIPET had initially applied for a Contract Demand of 250 KVA but only 150 KVA of power had been allotted in the first phase.

(ii) The Government of Kerala had given sanction for vertical expansion of the building and the building construction is under progress from the year 2020 through CPWD. They have been using the electricity connection given to them within the allotted limits of 150 KVA of Contract Demand and 102.3 KW of connected load. The bills received from KSEB Ltd shows that they have not even exceeded 80 KVA of Contract Demand from the date of connection. As far as clause 17 of agreement of supply of energy is concerned, the petitioner has never exceeded the sanctioned Contract Demand of 150 KVA and there is no unauthorised usage of electricity

- (iii) Machinery received as part of fund support from Government of India require stable power supply. The internal electrification works are in progress which is expected to be completed by 15th of August 2023 as against the previous target of June 30th. They have installed a 500 KVA transformer and the additional loads will be regularized once the electrification works are completed. During inspection by KSEB officials, the construction works was going on. On a query from the Commission regarding connecting up of additional load to the supply system as alleged by KSEB Ltd, the petitioner informed that they have not connected the machinery to the supply system other than for checking the working of the equipments before releasing payments to the suppliers
- (iv) The petitioner has objection regarding the penal bill received to CIPET. The petitioner humbly requested the Commission to set aside the penal bill

3) During the hearing the Respondent KSEB Ltd submitted the following

- (i) The petition is filed against the provisions of Electricity Act 2003. Section 127 of Electricity Act, clearly states that if any person is aggrieved by the final order made under 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an Appellate Authority as may be prescribed
- (ii) The petitioner has approached the Appellate Authority on 5th April 2023 against the final assessment made under Section 126 of the Act. But the Appellate Authority has rejected the appeal on 11th April 2023 citing mainly the following defects a) The petitioner has not remitted the fee prescribed in Section 127(1) of the Act b) The petitioner has not deposited an amount equal to half of the assessed amount with the licensee as envisaged in Section 127(2) of the Act. The Appellate Authority has informed the petitioner to file a fresh appeal after rectifying the defects. But the petitioner has not filed the appeal yet.
- (iii) The respondent requested the Commission to direct the petitioner to approach the Appellate Authority to redress the grievances.

During the hearing, the Commission observed that there appears to be a need for KSEB Ltd to sensitise the inspecting officers and Assessing

Officers against indiscriminate use of legal provisions, often without a proper appreciation of the purpose of law and facts of the case. Further, prima facie, it appears that the assessing officer is carried away by the site mahazar and is not applying his independent mind as expected while discharging quasi-judicial responsibilities. The key attributes of neutrality, objectivity, fairness, evidence based assessment etc are not visible. During the hearing, officials of KSEB Ltd opined that if appropriate directions are issued by the Commission, KSEB Ltd shall be ready to put in place mechanisms to do away with arbitrary and indiscriminate use of penal provisions in the law and to ensure a just and fair discharge of quasi-judicial responsibilities by their officers.

4. Based on the deliberations during the hearing, the Commission hereby direct the petitioner, CIPET and the respondent KSEB Ltd to comply with the following

- (i) The petitioner shall submit the provisions in law that provides a jurisdictional authority to the KSERC to entertain the petition and intervene in the matter
- (ii) The respondent shall submit the number of similar disputed cases where penal bills were issued consequent to APTS inspections, with date of inspection, details of consumers, nature of abnormality detected, amount involved in each case, the authority before the disputes are pending and present stage of the cases
- (iii) The details shall be furnished within a period of two weeks
- (iv) The parties shall strictly comply with the time lines specified above

Sd/-

B Pradeep
Member

Sd/-

T K Jose
Chairman

Approved for issue

C R Satheeshchandran
Secretary