



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj. Electricity Ombudsman

Appeal Petition No. 35 of 2016

M/s Ayyanar Matriculation Higher Secondary School,
(Rep by Andiappa Udaiyar Trust),
Represented by its Correspondent Mr. A. Mohan),
Veppur Cross Road,
Veppur & Taluk,
Cuddalore District.

..... Appellant
(Rep by T. Ganesh, Advocate)

Vs

1) The Assistant Accounts Officer,
Vridhachalam Revenue Branch,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
Vridhachalam & Taluk, Cuddalore.

2) The Assistant Executive Engineer/O&M,
Veppur,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
110/11 KV Veppur SS Complex,
Veppur 606 304.

3) The Assistant Engineer/O&M,
Veppur,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
110/11 KV Veppur SS Complex,
Veppur 606304.

..... Respondents
(Rep by Tmt. Catherine Mangala Vathani, AAO.
Vridhachalam & Thiru. R. Dharmalingam, AE/R.S. Veppur
on 12.7.2016 & 18.8.2016)
Thiru Kumaresan, Asst. Exe. Engineer / Veppur on 18.8.2016)

Date of hearing: 12.7.2016 & 18.8.2016

Date of Order : 28.9.2016

The Petition dt. 20.4.2016 filed by M/s Ayyanar Matriculation Higher Secondary School, Veppur was registered as Appeal Petition No.35 of 2016. The above appeal petition came up before the Electricity Ombudsman for hearing on 12.7.2016. Upon perusing the appeal petition, counter affidavit of the Respondent and after hearing both sides, the Electricity Ombudsman passes the following order.

1. Prayer of the Appellant :

The Appellant humbly prays that this Hon'ble Ombudsman may be pleased to set aside the order passed by the Consumer Grievance Redressal Forum, Cuddalore in CGRF petition No.16/2016 dated 24.3.2016 which confirm the respondents demand in 3rd respondent in Lr.No.Asst.Engineer/O&M/Veppur/Ko.K.No.55/2015/30.5.2015 in another Lr.No.Asst.Engineer/O&M/Veppur/Ko.Ka./A.No.131/2015, 26.8.2015 and direct the 3rd respondent to refund the amount of Rs.1,08,299/- with interest and compensation to the appellant and pass such further or other orders as this Hon'ble Ombudsman may deem fit and proper in the facts and circumstances of this case and thus render justice.

2. Brief History of the case:

2.1 M/s. Ayyanar Matriculation Higher Secondary School, Veppur is a private education institution and has obtained service connection No. 090-002-1138, 090-002-1348, 090-002-1646 and 090-002-2395 under tariff II-B2.

2.2 An Audit slip was raised for a shortfall amount of Rs.2,68,196/- In SC No. 090-

002-1348 for the period from 11/2011 to 9/2014.

2.3 As per the request of the consumer, the consumer was permitted to pay the arrears in 5 instalments and the consumer has paid two installments totaling Rs.1,03,299/-.

2.4. The Appellant has filed a case before the Hon'ble High Court of Madras in WP No. 39703/2015 and the Hon'ble High Court has directed the Appellant to file appropriate application before the CGRF within 3 weeks and directed the CGRF to issue its order within 2 months of the conclusion of the personal hearing.

2.5 Accordingly, the Appellant filed a petition before the CGRF of Cuddalore EDC on 5.2.2016 and the CGRF has rejected the Appellant's petition vide its order dt. 24.3.2016.

2.6 The Appellant also paid a sum of Rs.25,800/- on 20.4.2016 towards the shortfall amount and filed this appeal petition before the Electricity Ombudsman.

3.0 Orders of CGRF :

The CGRF of Cuddalore EDC has issued its Order on 24.3.2016. The relevant para of the order is extracted below:-

"During the hearing the complainant had represented that the load in the SC 090-002-1348 had already shifted but the average for the defective period calculated without considering that, the opposite party had reported that there is no documents submitted by the complainant for the shifting of the load.

The forum had also informed the petitioner representative to submit the documents for the reduction of the load usage in the service connection SC 090- 002-1348 to the forum within 3 days, from the date of hearing.

The complainant has not submitted any document till the pronouncement of the judgment for the proof of reduction of load in the SC No. 090-002-1348 to the Forum.

Under the circumstances the Forum decided that the statement of the opposite

parties, that the average calculated as per TNERC regulations and Licensee has the right to replace the defective meter, but the Forum directed the licensee that the delay in replacing the defect meter should be avoided. The complainant has to pay the audit charges imposed in the SC No. 009-002-1348.

And directed the Licensee to take necessary action as per Honourable High Court Madras direction in WP. No. 40631 of 2015 dt. 22.12.2015."

4.0 Contentions of the Appellant furnished in the Appeal Petition :

4.1 The appellant submits that initially the appellant got single phase electrical service connection bearing No.090-002-1138 in the year 1999 from the 3rd respondent, thereafter got three Phase connection bearing No.090- 002-1348 in the year 2000 for the 'D' Block school building. After put up Hostels the appellant got three Phase connection bearing No.1646 and thereafter when the students strength was gone up, the appellant put up main building for school in the year 2011 and got three phase connection bearing 090-002-2395. Presently the appellant's school is having 7 blocks such as school Main buildings, separate Hostel for girls and boys, staff quarters and correspondence residence which are located in vast extent of 12.5 acres situated in various survey Numbers at Veppur Cross Road, Veppur & Taluk, Cuddalore District.

4.2 The appellant respectfully submits that after putup the main Building which consist of several class rooms, consisting of ground floor plus two floors, the appellant shifted all the classes in November, 2011 which are originally conducted in 'D' Block. Since the 'D' Block where the appellant got service connection 1348 was kept idle and only night watchman was occupied till it renovated in September 2014 for staff quarters.

4.3 After classes were shifted to new building in November, 2011, the appellant got new service connection No.2395 and using the said building as class rooms. It is

pertinent to submit that the shifting of classes within our campus from one building to another building does not require any ones permission but it was done to the convenience of the Management and school students with better facility and more space.

4.4 The appellant humbly submits that after shifting of classes the consumption of electricity is naturally reduced for connection No.1348.

4.5 The 3rd respondent also noted that the condition of the meter was normal. Only in November, 2012, the 3rd respondent on their own changed the old meter, into a new meter bearing No.589887 (High quality meter) on the ground of defective. The appellant was asked to pay the Meter Box charges which was paid on 17.11.2012. From November, 2012, upto April, 2014, the new meter was in normal condition which was also duly noted by the 3rd respondent.

4.6 However only in May, 2014, July, 2014, and August, 2014 the 3rd respondent found that the meter bearing No.589887 was defective. The very same meter 589887 was removed for repair on 24.9.2014 and re-installed on the same day i.e. 24.9.2014 after repair by the 3rd respondent.

4.7 The appellant respectfully submits that the very same meter 589887 was in normal condition till the 3rd respondent replace a new static electronic meter with MD recording Facility bearing No.26626706 on 26.3.2015. After re-modified the 'D' Block for staff quarters in September, 2014 automatically the electricity consumption increased from normal level. The increase in consumption is not because of change of meter, but due to the above said facts.

4.8 The old meter was never changed in September, 2014 but changed only on 26.3.2015. Therefore the question of "defective meter" from November, 2011 to September, 2014 does not arise. Further 3rd respondent made periodical visit to the school premises and there was no complaint or doubt from any source about the running condition of meter in respect of connection No. 1348.

4.9 The appellant respectfully submits that during the 1st week of June, 2015, under shock and surprise the 3rd respondent sent a letter in Lr. No. Asst. Engineer/O&M/ Veppur/Ko.K.No'/ A.No.55/2015/ dated 30.05.2015 calling the appellant to pay a sum of Rs.4,653/- apart from the regular bill for the Connection No.2395, towards wrong tariff calculation by E.B. officials and another sum of Rs.2,68,196/- apart from regular bill for the Connection No.1348 towards "under defective meter head" for the period November 2011 to September, 2014 based on an instructions or directions given by 1st respondent while auditing the accounts.

4.10 On receipt of such letter, the appellant immediately on 5.6.2015 sent a reply to the 3rd and 1st respondent stating that the alleged meter is not defective one and after shifting and getting the service connection 2395 in the year 2011, for new school building the consumption for service connection 1348 located in old building is lesser. If the entire units are calculated for all the meters in the vicinity of the appellant school, it could be seen that there is no shortage as alleged and the total units are more than the earlier usage.

4.11 The appellant respectfully submits that without considering the appellant's reply dated 05.06.2015, the 3rd respondent enclosing the 1st respondent's remark mechanically sent another Letter in Lr.No. Asst. Engineer/O&M/ Neppur /Ko. Ka./

A.No.131/2015 dated 26.08.2015, calling the appellant to pay a sum of Rs.2,68,196/-. Again the appellant sent another reply on 03.09.2015 to the 3rd and 1 st respondents with a request to consider the appellant's earlier reply dated 05.06.2015.

4.12 The appellant submits that without considering all the above explanations, the said demand amount is recorded arbitrarily by the 3rd respondent in the Electricity Consumption Reading Card for connection No.1348 stating the same has to be paid along with the regular bi-monthly charges, on or before 15.10.2015.

4.13 The appellant submits that in the mean time, the appellant approached the Chairman and Superintending Engineer of TANGEDCO, Cuddalore and explained the above facts and also made representation on 12.10.2015 to drop the improper claim, but they also did not consider and other hand, kept the Issue undecided.

4.14 The 3rd respondent official visited the school premises to disconnect all the E.B. service connections for non-payment and advised us to make payment by instalment. Hence, the appellant was finally to safeguard the welfare of school and students constrained to send a representation on 15.10.2015 expressing their readiness to pay the said demand by instalments, without prejudice to the appellant's right to agitate the demand before appropriate authority. Only after that, on recommendation by 3rd respondent the Superintending Engineer, on 17.10.2015, approved the proposal for payment by five instalments i.e. first instalment Rs.55,000 and remaining four instalments Rs.53,299/- equally till 28.02.2016 and based on which, with great difficulty, the appellant paid the first instalment of Rs.55,000/- on 23.10.2015 and paid the 2nd Instalment of Rs.53,299/- on 27.11.2015 and both amounts have been realized by the

respondents.

4.15 In the meantime, the 2nd respondent sent a letter dated 24.11.2015 rejecting appellant's bonafide request for dropping the claim, by simply stating that the appellant by admitting the claim already paid two instalments and hence the consideration of representation does not arise which was duly informed on earlier occasion.

4.16 The appellant submits that in the above circumstances the appellant has no other alternative efficacious remedy except to approach the Hon 'ble High Court by invoking the jurisdiction conferred under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the impugned orders In Lr.No.Asst.Engineer/O&M/Veppur/Ko.K.No.55/2015/30.05.2015, InLr.No.Asst.Engineer/O&M/Veppur/Ko.Ka'/A.No.131/2015 26.08.2015 issued by the 3rd opposite party and quash the same.

4.17 The appellant submits as directed by the Hon'ble. High Court, he filed petition before the Consumer Grievance Redressal Forum, Cuddalore vide No.16/2016 on 5.2.2016.

4.18 The Consumer Grievance Redressal Forum, Cuddalore without considering petition erroneously rejected the appellant's petition which was duly received on 31.3.2016.

4.19 The 3rd respondent ought not to have made the impugned demands, simply based on the instructions from the Auditing Department, when the 3rd respondent is well aware of the field situation of the appellant premises, in which the subject E.B. meter was not at all put in regular usage, except the minimum usage, as the appellant

has got other three connections and the total units recorded in all the meters altogether comes to more than the units that were used earlier. Hence, the demand is totally against the fact.

4.20 Except enclosing a working sheet of auditing department to arrive at the demand amount, no opportunity has been given to the appellant and no mandatory procedure has been followed as enumerated in section 26(6) of Indian Electricity Act, 1910, Electricity Act 2003, DERC supply code and performance standards regulations 2007, Tamil Nadu Electricity Supply code and Electricity Rules etc and hence, the impugned demands are unsustainable in law and against the said provisions of law.

4.21 The respondents raised the bill on the ground of defective meter without approaching the Electrical Inspector or without any records, evidence and get a finding that the meter was a defective during the relevant period.

4.22 The huge demand as arrears made in the Electricity Consumption Card No.1348 is totally violative of natural justice, when the appellant has submitted reply on 05.06.2015 itself and the same is not considered at all by the 3rd respondent.

4.23 The appellant is not at all liable to pay the demanded amount or any other amount, as there is no illegal consumption of electricity. The officials have been periodically checking up the E.B. meter and twice they changed the meter on their own and made the entries in the cards. Hence, there cannot be any sudden demand of such huge amount on the ground of defective meter, that too without sufficient opportunity to the appellant.

5.0 Contentions of the Respondent furnished in the Counter :

5.1 The Appellant Ayyanar Matriculation Higher Secondary School, Veppur is a private educational institution and has obtained service connection No.090-002-1138 under Tariff IIB2 initially and subsequently three service connections having numbers as 090-002-1348, 090-002-1646, 090-002-2395 have also been obtained under Tariff IIB2.

5.2 As the above educational institutions having multiple buildings such as classroom, office room, hostels and staff quarters, the purpose of the above are only for the functions of the above said educational institutions, which are said to have constructed in 12.5 acres of area having single premises.

As per the Regulation 27(3) of TNERC Distribution code one service connection (LT/LTCT/HT) shall be effected to a single establishment such as educational institution, hospital, Commercial or industries etc (Document No-I). Though the Institutions has been noticed for merging of above services (i.e.) four numbers of services into a single service. If the complainant opt for residential purpose in the same premises the supply may be fed off from the said single service connection as the case may be (LT/LTCT/HT) and the service may be obtained and the consumption may be calculated accordingly.

5.3 The Appellant had not reported the shifting of class room to the competent authority from "D- block to the main building and the change in the consumption due to non-usage of the load pertaining to SC No.090-002-1348 was also not reported. Further while reviewing the consumption pattern pertaining to the above service connection it seems to be very less when compared with previous year for the corresponding

assessment month.ie ,from 11/2011 to 09/2014 (Consumer Ledger Cards Document No-2) and thus audit slip was raised and the average shortfall levy was arrived as per instructions in vogue. Thus an amount of Rs.2,68,190/- (Rupees two lakhs sixty eight thousand one hundred and ninety only) towards shortfall assessment was noticed to the complainant.

5.4 As the meter was changed two times within the above audit period the revision of average shortfall become a must as per the instructions in vogue and thus raised. TANGEDCO has every right to inspect and replace the defective meter for the above service as per TNERC Distribution Standard of Performance Replacement of Meter "wherever the licensee receive complaints or the licensee found during inspection/meter reading, that the meter in a service connection is not correct or defective or burnt, the licensee shall replace the meter after collecting the charges as applicable" and thus the meter was replaced twice.

5.5 After replacing the defective meter second time the consumption pattern in the consecutive month seems to be in increasing trend which reveals the actual consumption in the said service and thus the shortfall was arrived.

5.6 But the remodification of D-Block for the use of extended classrooms in which the consumption can be increased was also not reported to the competent authority, thus the shortfall levied may be taken as correct.

5.7 The Assistant Accounts Officer/Revenue Branch, TANGEDCO, Virudachalam empowered to levy average shortfall for the meter defective period and other revenue oriented omissions and commissions throughout the division and levied the above said. average shortfall to a sum of Rs.2.68,190/- as per the directives followed by TNERC for

Assessment of billing in cases where there is no meter or Meter defective.

5.8 The consumer the Appellant Ayyanar Matriculation Higher Secondary School, Veppur through its correspondent Thiru A. Mohan has filed an objection to the Assistant Accounts Officer, through its Lr.No. AMHSS/5667/2015 dt. 12-10-2015 and its copies to the AE/Rural South, TANGEDCO, Veppur, the AEE/O&M/TANGEDCO/Veppur, the EE/O&MITANGEDCO, Virudachalam and the SE, Cuddalore Electricity Distribution Circle, Cuddalore which was duly replied by the EE/O&M. TANGEDCO, Virudachalam, vide his Lr.No. EE/O&M AAO/VRD/AS1/F.Audit/D.No.257/15 dt. 14-10-2015 (Tamil version) stating the reason for having not considering the plea and requested for immediate payment of the above demanded arrears to avoid loss to TANGEDCO.

5.9 The consumer the Appellant Ayyanar Matriculation High Secondary School Veppur approached the SE, Cuddalore Electricity Distribution Circle in person and made a oral request of the above said demanded amount and based on the request made by the consumer the SE, Cuddalore EDC accompanying the respondent 1 to 3 made a field inspection to the consumer's premises on 17-10-2015 and ascertained the consumer to pay the demanded amount.

5.10 As the consumer, the Appellant Ayyanar Matriculation Higher Secondary School, Veppur through its correspondent Thiru A.Mohan made an oral request to pay the arrears in ten installments the Superintending Engineer, Cuddalore EDC approved a Official Note Order on the spot allowing the consumer to pay the arrears in Five easy installments.

5.11 The complainant who had willfully accepted to pay the arrears in installments and without abiding the installment order based on the request made by the consumer, he had opted to approach the Hon 'ble High Court, Chennai which is against the norms stipulated by the TNERC code 56 of Indian Electricity Act 2003 when the consumer is to evade disconnection has not deposited" an amount equal to the sum claimed from him" under protest .(Document No-6) Hence the consumer's grievance is baseless and against the principles of natural justice.

5.12 Hence it is submitted, the consumer, the Appellant Ayyanar Matriculation Higher Secondary School, Veppur claim that the demanded amount for the Meter defective period is wrong and is against the principles of natural justice and all the procedure stipulated by the TNERC has been abided. The consumer is violating the TNERC and has directly approached the court without depositing the demanded amount as per section 56 of Indian Electricity Act 2003.

5.13 The short levy of Average shortfall raised for the detective period is based on the recorded evidence in the consumer ledger by the Illrd respondent the Assistant Engineer/O&M /South Veppur which is a recorded fact.

5.14 The Appellant, Ayyanar Matriculation Higher Secondary School. Veppur's claim that no mandatory procedures has been followed is baseless and the demanded amount of Rs 2,68,190/- was noticed to the consumer and duly acknowledged by the consumer and notice period and period for payment was admitted and without following the section 56 of Electricity act 2003 the consumers claim that the mandatory procedures as per section '26(6) of Indian Electricity Act 2003 has not been followed claim is wrong and baseless.

5.15 The Appellant, Ayyanar Matriculation Higher Secondary School, Veppur claim that the bill raised on the ground of defective meter without approaching the electrical inspector. As per the TNERC Distribution standard performance Regulations "wherever the licensee receive complaint or the licensee found during inspection / meter reading that the meter in a service connection is not correct or defective or burnt the licensee shall replace the meter after collecting the charges as applicable 'as the case may be. As per supply Code 8(9) if the consumer considers that the meter is defective he may apply to the licensee to have a special test carried out on the meter at any time, the cost of such a test shall be borne by the licensee or the consumer accordingly as the meter is found defective or correct as a result of "such test". Aforementioned special test for the disputed energy meters including the suspected/defective meters shall be carried out in third party testing laboratory accredited by the national accreditation board for testing and calibration laboratories (or) the licensee shall have the special test conducted by the chief electrical Inspector to Government of Tamil Nadu. The Appellant, Ayyanar Matriculation Higher Secondary School Veppur has not opted for such provision which was clearly pointed out by the Hon 'ble Chairman and the Members of the CGRF, Cuddalore in their order dated 31.03.2016.

5.16 The consumer only to evade payment and disconnection for a rightful claim made by the TANGEDCO is quoting wrong procedures which were clearly dismissed by the Hon'ble CGRF Cuddalore.

6.0 Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearings were held before the Electricity Ombudsman 12.7.2016 & 18.8.2016.

6.2 Thiru T. Gandhi, Advocate attended the hearing on behalf of the Appellant and putforth his side arguments on both the days.

6.3 Respondent-1 Tmt. Catherine Mangala Vathani, AAO Virudhachalam and Respondent-3 Thiru R. Dharmalingam, AE/RS, Veppur attended the hearing putforth their arguments on 12.7.2016 & 18.8.2016. Thiru K. Kumaresan, the Respondent-2, herein AEE/Veppur attended the hearing on 18.8.2016 and putforth his arguments.

7. Arguments putforth by the Representative of the Appellant on the hearing dates:

7.1 Thiru T. Gandhi, Advocate reiterated the contents of the Appeal petition.

7.2 The learned Advocate argued that they have paid the consumption charges claimed during the disputed period. Therefore, paying any shortfall does not arise.

7.3 The learned Advocate argued that no test was conducted on the meter to declare the meter as defective. In the absence of any test results, the claim of the respondent that the meter is defective is not correct.

7.4 The learned Advocate argued that after construction of the main Building, the classes which were conducted in D Blocks, (wherein the disputed service connection No. 1348 was available) were shifted to Main Building and the 'D' Block was kept idle and the night watchman alone occupied the Building till it was renovated in September 2014 for using as staff quarters. Hence, he argued that the utilization was reduced drastically and that is the reason for reduction in consumption. Hence the contention of the Respondent that the reduction in consumption is due to defect in the meter is wrong.

7.5 The learned Advocate also informed that after changing the meter on 26.11.2012, there was no changes in the meter till a static meter was installed on 26.3.2015.

7.6 The learned Advocate also argued that after changing the class rooms to the Main Building, the consumption of those classes have also been accounted In the SC No. 2395. Hence, there was reduction in consumption in SC No. 1348.

8.0 Arguments putforth by the Respondents on the hearing dates :

8.1 Tmt. Catherine Mangala Vathani, AAO, the Respondent-1 herein reiterated the contents of the counter.

8.2 She argued that the consumption which was recorded as 1330 units during 9/2011 assessment period has came down to 410 units during 11/2011 period and reduced further and the meter was declared as defective. During 2013 also the consumption recorded were 134, zero, etc. In the same service the consumption was recorded as 1550 units after changing the meter on 24.9.2014. As there was considerable reduction in consumption recorded it has to be construed that the meter is defective. Accordingly, the audit has directed to collect shortfall amount from 11/2011 to 9/2014.

8.3 The Assistant Engineer/Rural/South Veppur informed that the meter was changed on 26.11.2012 as the meter was burnt and the consumer has paid the meter charges.

8.4 The Assistant Engineer also informed that no information was given to the Board about shifting of classes by the Appellant to Main Building from 'D' Block by the School Authorities.

8.5 The Assistant Engineer also informed that the charges for 11/2012 assessment period was levied based on average calculation considering the consumption of 3/12 & 5/12 assessment period. The AE also informed that the meter may not be considered as defective in the previous assessment period as the meter change is due to burning of meter.

8.6 Regarding the meter change recorded in the consumer ledger on 24.9.2014, the Assistant Engineer informed that the meter of the service was found to be working alright and therefore the same meter was retained in the service. The meter was not actually changed on 24.9.2014. The meter which was changed on 26.11.2012 was in service upto 28.3.2015 the day on which a new static meter was fixed in the said service.

8.7 The AE also informed that the assessment staff has recorded the reading type as normal as they presume that the meter is working correctly and the reduction in consumption may be due to reduction of usage.

In the written argument dt. 15.7.2016, the AE has furnished the following :

(i) The average for the 11/2012 assessment period was recorded in the average register while checking the meter, it was noted that the meter was in burnt condition. Accordingly, the meter cost was collected from the consumer and a new meter was installed in the service on 28.11.2014.

(ii) As the meter was not working from 15.5.2014, the fact was recorded in the Average Register and average consumption was calculated and the amount was collected based on the above average consumption.

(iii) On enquiry with the Assessor and inspector of Assessment it was observed that

from 11.3.2013 to 10.3.2014, the utilization was found to be low. Due to utilization of more load, the meter has started functioning. The same meter was recorded as changed in the computer on 10.11.2014.

(iv) The consumer has not informed about the change of class rooms. Hence, the average claimed is reasonable.

9.0 Findings of the Electricity Ombudsman :

On a careful consideration of the rival submission, I find the following as issues to be considered.

- (i) Whether any reduction in consumption was noted in the disputed period?
- (ii) Whether the meters installed in the said service were defective during the disputed period ?
- (iii) Whether the shortfall claimed is correct ?
- (iv) Whether any compensation could be paid to the Appellant ?

10.0 Findings of the First issue:

10.1 The Appellant argued that after constructing a main Building consists of several classrooms, they have shifted all the classes which were conducted originally at 'D' block of the main Building during November 2011. Therefore, the consumption in the service connection No. 1348 effected in 'D' block has come down from 11/2011 onwards.

10.2 The appellant also argued that the 'D' Block Building was utilized as staff quarters, from September 2014. Therefore, the consumption has increased from September 2014 onwards.

10.3 In order to analyse whether any reduction in consumption is noticed in the service connection number 1348, I would like to examine the consumption pattern of the

said service. The details of consumption recorded in the said service from 2010 to 2014 is extracted below:

Assessment	2010	2011	2012	2013	2014	2015
1st month	2160	2380	360	134	50	1210
3	1570	2330	400	20	20	1210
5	2480	1670	260	0	40(Ave)	1763
7	2120	1680	230	10	40(Ave)	1810
9	2830	1330	280	0	40(Ave)	2040
11	1890.	410	380	10	1590	1590

10.4 On a careful analysis of the above consumption details it is noted that the consumption recorded from 11/2011 assessment period to 9/2014 assessment period varies from 0 to 410 units only whereas the consumption was more than 1330 units per assessment period prior to 11/2011 and more than 1210 after 9/2014 assessment period. It is also noted that during the year 2013 the total consumption was only 174 units and in the year 2014 also the total consumption leaving 11/2014 is only 190 units. Hence, it is a fact that the consumption recorded in the said service from 11/2011 to 9/2014 assessment periods are very low when compared with the consumption recorded in the said service in other period mentioned in the table above.

11. Findings on the second issue :

11.1. The reduction in consumption during the said period may be either due to defect in the meter installed in the said service or due to lesser utilization in the said service.

11.2. The Appellant argued that the reduction in consumption is due to shifting of classrooms from the said Building to main Building. But has not given any documentary evidence in support of the above information.

11.3 The Respondent argued that it is due to defect in the meter.

11.4 It is also noted from the consumer ledger entries that the meter was changed in the said service connection on 26.11.2012 and 24.9.2014 which falls within the disputed period.

11.5 In order to confirm whether the reduction in consumption is due to defect in the meter, we have to analyse whether the change of meter effected on 26.11.2012 & 24.9.2014 are due to defects? If so from which dates?

11.6 It is also noted that there is no test results to establish that the meter is defective the period in dispute. As there was recording of meter change in consumer ledger for two times (viz) one on 26.11.12 & another on 24.9.14, the period of defect has been splitted as from 11/2011 to 26.11.2012 and 26.11.2012 to 24.9.2014 and discussed below :

A. For the period from 11/2011 to 26.11.2012 :

11.7 In the consumer ledger copy submitted, it has been recorded as meter was defective while entering meter reading for the 11/2012 assessment on 15.11.2012 and meter was changed on 26.11.2012. The Respondent has furnished the copy of relevant page of average register and meter change register in support of the above fact. He also informed that the meter was changed as it has burnt.

11.8 10.11 The recordings noted In Page 3 of the Average register on 14.11.2012 is extracted below :

*"Dt. 14. 11. 12 090 002. 1348 TF IIB2 FR. 91880
Ayyanar Matric School
Reason Metre Burnt
1/2012 360 unit
3/2012 400
 760 units 380 units Rs.2994/-*

11.9 On a careful reading of the above entries made in the Average register, it is noted that on 14.11.2012 it was recorded that the meter was burnt and the final reading is 91880. The average adopted for the period is 380 units which is based on the consumption of 1/2012 & 3/2012 assessment period.

11.10 As per the above details, it is noted that the meter has burnt during 11/2012 assessment period, and it was come to the knowledge of the Respondents' staff on 14.11.2012. As the meter has found burnt, the Respondent has charged average consumption. Therefore, it is established that the meter was changed on 26.11.2012 as the existing meter has burnt and not due to defects in the meter.

11.11 It is also to be noted that the SC No. 2385 was effected only on 8.8.2011 and the consumption for 9/2011 is (i.e. from 8.8.2011 to 9.9.211) 1020 units. The consumption of 1330 units recorded in SC No.1348 is for the period from 8.7.2011 to 9.9.2011 (9/2011 assessment period). The above consumption is about 350 units less than the previous assessment period consumption of 1680 units for 7/2011 assessment period. The argument of the Appellant that the reduction is due to shifting of class rooms to main Building has some value since the new SC No.2385 was effected during mid way of the 9/2011 assessment period and the classrooms would have been shifted after 8.8.2011 to main building that might have resulted in reduction of consumption. After 11/2011 assessment period the consumption has come down to less than 410 units.

11.12 It is also noted that the licensee's assessment staff has recorded the consumption as 410 units during 11/2011. Though there was reduction of about 1000 units than the previous assessment, the licensee's staff have recorded the reading type as normal. During the hearing in response to Electricity Ombudsman question the AE

informed that the assessment staff might have recorded the reading period as normal as they may aware of the lesser utilization in the said service.

11.13 In view of the reasons in the forgoing paras, I am of the view that the meter was changed during 11/2012 assessment period because it has burnt and not due to any defect in the meter. Hence, the period previous to 11/2012 assessment could not be considered as meter defective period.

B. Period from 26.11.2012 to 24.9.2014

11.14 Regarding the meter change on 24.9.2014, it is noted in the consumer ledger that the meter was changed. It was also recorded in the consumer ledger that the meter was defective from 5/2014 assessment period as there was no change in meter reading. The meter reading was recorded as 120 on 11.3.2014, 6.5.2014, 11.7.14 9.9.14 & 24.9.14 as per the consumer ledger.

11.15 In the average meter register on 15.5.2014 it was recorded that the meter was not functioning. The relevant extract of the page 106 of the Average Meter Register is furnished below :-

"15.5.2014
SC No. 090. 002.1348 அய்யனார் School
Metre ஓடவில்லை
1/2014 50 70 35(or) 40 யூனிட்
3/2014 20
70

11.17 As per the above details the meter was not working. Therefore average consumption was charged for 5/14 & 7/14 assessment period . I have examined the entries on the same register in page 135 also. The same is extracted below :

"(4) 8.9.2014

090.002. 1348
TF II-B 2

அய்யனார் மெட்ரிக் பள்ளி
FR,01116, Ph 3

மீட்டர் ஓடுகிறது.

அதே மீட்டர் கழற்றி அந்த மீட்டர் கணினியில் மாற்றம் கொள்வது தொடர்பாக "

11.17 As per the above recorded details it is noted that the meter was working alright. Hence same meter was continued to be in the service with proper entry in the computer.

11.18 The AE during the hearing also confirmed that the same meter was retained in the service as it was working alright. He also informed that the above meter was in service till 28.3.2015. On 28.3.2015 only a new static meter was installed.

11.19 On a careful examination of the consumer ledger entry, it is noted that on 27.2.2015, a routine inspection was made and the meter condition was recorded as normal. The check reading noted was 3750.

11.20 The above details furnished in para 11.16 to 11.19 established that the meter was in good working condition and no change of meter has taken place on 24.9.2014 in the said service as recorded in the consumer ledger and the entry made is only a dummy entry.

11.21 The AE in his written argument dt. 15.7.2016 has also stated that the Assessor and the Inspector of assessment on enquiry have informed that from 11.3.2013 to 10.3.2014 the usage in the said service connection was less and the usage has increased only from 24.9.2014.

11.22 As the meter changed on 26.11.2012 was kept in the service and was changed only on 28.3.2015 and the condition of meter was recorded as normal in the inspection conducted on 27.2.2015 and as the AE in his written argument has informed that the usage was less in the service from 11.3.13 to 10.3.2014, I am of the view that the said

meter was not defective. Therefore, it is held that the meter in the said service is not defective from 26.11.2012 to 24.9.2014 period and the consumption recorded is correct.

12. Findings on the Third issue :

12.1 As per my findings on the second issue in para 11.13, the meter was only burnt during 11/2012 and was not defective in the previous periods. For 11/12 assessment period, the average consumption was arrived and levied and there was no dispute over the average consumption levied. Therefore, no short fall has to be Claimed for the period from 11/2011 to 26.11.2012.

12.2 As per my findings in para 11.22 of the second issue the meter installed in the service on 26.11.2012 is in good working condition upto 28.3.2015. As the meter is in good working condition, the consumption recorded in the meter has to be taken as correct only. Therefore, the CC charges already collected are the consumption charges for the said service and claiming of shortfall amount does not arise.

13. Findings on the Fourth Issue :

13.1 The Appellant prayed for payment of compensation also.

13.2 In this connection, I would like to refer regulation 7(11) of the Regulations for CGRF and Electricity Ombudsman. The same is extracted below :

“(11) In respect of grievances on non implementation of standards of performance of licensee on consumer service specified by the Commission under section 57(1) of the Electricity Act 2003, if the forum finds that there was default of the licensee, it shall only hold that the consumer is entitled to the compensation and shall state that, the consumer if agreed, can accept the compensation prescribed by the Commission in the relevant Regulations.”

13.3 On a careful reading of the said Regulation 7(11) of the Regulations of CGRF & Electricity Ombudsman, it is noted that in respect of grievances on non implementation of the Standards of Performance of licensee on consumer services specified by the Commission under section 57(1) of the Electricity Act, 2003 alone CGRF & Electricity Ombudsman can hold that the consumer is entitled for compensation.

13.4 As there is no provision to order compensation other than the one discussed in previous para, I am of the view that the Electricity Ombudsman cannot issue any order on the above prayer, as it is outside the purview of the forum and Electricity Ombudsman.

14. Conclusion:

14.1 In view of my findings in third issue, the shortfall claimed by the Respondent considering the meter as defective is not correct. Therefore, the Respondents are directed to refund/adjust the amount already collected towards the shortfall amount in the future bills of the Appellant.

14.2 With the above findings the AP No. 35 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To
1) M/s Ayyanar Matriculation Higher Secondary School,
(Rep by Andiappa Udaiyar Trust),
Represented by its Correspondent Mr. A. Mohan),
Veppur Cross Road,
Veppur & Taluk,
Cuddalore District.

2) The Assistant Accounts Officer,
Vridhachalam Revenue Branch,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
Vridhachalam & Taluk, Cuddalore.

3) The Assistant Executive Engineer/O&M,
Veppur,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
110/11 KV Veppur SS Complex,
Veppur 606 304.

4) The Assistant Engineer/O&M,
Veppur,
Cuddalore Electricity Distribution Circle,
TANGEDCO,
110/11 KV Veppur SS Complex,
Veppur 606304.

5) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Virudhunagar EDC,
TANGEDCO (FORMERLY TNEB),
65/1 Ramamoorthy Road,
Virudhunagar-626 001.

6) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

7) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.

8) The Assistant Director(Computer) – **Hosting in the TNEO website please,**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
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