

**IN THE CONSUMER GRIEVANCE REDRESSAL FORUM (CGRF)  
NORTHERN REGION AT KOZHIKODE**

(CONSTITUTED AS PER SECTION 42 (5) OF THE I E ACT 2003 AND KSERC REGULATION 2005)

PRESENT

Hon'ble Mr. T.R. Murukesan, B.Sc. Engg. (Ele.), M.E., LL.B., FIE, Chairperson  
Hon'ble Mr. K.V. Ahamad Kutty, B.Sc. Engg. (Ele.), Member (Tech)  
Hon'ble Mr. K.P. Radhakrishnan, BA (Sociology), Member (NGO)

**SATURDAY** The 5th day of July 2008  
The 14th day of Ashadha 1930 S.E

OP No.04 of 2008

**IN THE MATTER OF:**

Petitioner: - T.P.V.Surendran (Dr.), Proprietor M/s. Leo X-rays & CT Scan Centre,  
Leo Buildings, Kalpetta, Waynad District. (Consumer No.4925)

- Respondent: - 1. The Secretary, KSE Board, Vydyuthi Bhavanam, Pattom Palace (PO),  
Thiruvananthapuram-695004
2. The Deputy Chief Engineer, Electrical Circle, KSEB, Kapetta, Wayanad
- 3 The Assistant Executive Engineer, Kerala State Electricity Board,  
Electrical Sub-Division, Kalpetta, Wayanad District.
4. The Assistant Engineer, Kerala State Electricity Board, Electrical  
Section, Kalpetta, Wayanad District.

This Original Petition having been finally heard on 05-07-2008 and the Forum on the same day delivered the following.

**ORDER**

This petition has been filed under section 42 (5) of the Indian Electricity Act 2003 praying that this Hon'ble Forum may be pleased to pass an order or direction commanding the Respondents to consider and allocate the additional power requirement of 20KVA applied for by the Petitioner for Consumer No.4925 from the existing transformer to which it is presently connected or from the 100 KVA Transformer situated in the Leo Hospital New Block compound by enhancing its capacity suitably on OYEC Work Deposit Scheme of the KSE Board.

1. The Petitioner's averments are as follows.

The Petitioner is an LT Industrial Consumer under Electrical Section, Kalpetta, Wayanad District. He has started the factory at Building No.KP184/A in Kalpetta Panchayat (New Building No.881 / XIII of Kalpetta Municipality) named Leo Building during the year 1990 with the concurrence of the Department of Industries and Commerce, as the District Industries Centre, Government of Kerala, Wayand vide **Exhibit A1** Certificate No.G1567/86 has registered the proprietary concern, M/s.Leo X-Rays and CT Scan Centre as a Small Scale Industrial Unit under the Directorate of Industries and Commerce with effect from 24-03-1986 and allotted registration

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No.09/12/00525-PMT-SSE for the Factory Location at KP184/A Kalpetta Panchayat for the X-Rays product manufactured servicing activity. Upon receipt of sanction from the Industries Department, the Petitioner approached the Electrical Section Office at Kalpetta and applied for electric connection observing all formalities of the Board and the Petitioner got service connection to his SSI Unit vide Consumer No.4925 for a connected load of 51KW (60KVA) under LT Industrial Tariff on 03-04-1990. The Petitioner further stated that a hospital named Leo Hospital is also functioning in that building with effect from April 1985. The Leo hospital and Leo buildings are in the name of Smt.P K.Suma. The said hospital is provided with electric connection bearing consumer No.3355 for a connected load of 33KW and the supply is used for the general purpose of the hospital only. The X-rays and CT Scan Unit is installed as a separate unit within the Leo Hospital Building with separate power connection and separate wiring. The Leo Hospital has an expansion in the year 2003 and a new block was constructed adjacent to the existing hospital and it was required to increase the power supply, for which an electric connection bearing Consumer No.13494 was provided by the Board after installing a 100 KVA transformer in the Hospital compound at the expenses of the consumer as M/s Leo Hospital was required to pay Rs.3,67,654/- towards the cost of the Transformer alone. But since the connected load of the new consumer is only 69KW, there is unutilized capacity in the above transformer. In so far as Consumer No.13494 is concerned, it is in a separate building. The Consumer Nos.3355 and 4925 are in the same building but in the name of different persons for different purpose and under different tariff .As it can be seen from the monthly bills for 2/91 and 8/88 issued vide **Exhibits-A1 (i) & A1 (ii)** by the respondent electricity Board.

The Petitioner further submitted that in the entire district of Wayand, the CT scan facility is available in M/s.Leo X-rays and CT Scan Centre only and the present equipment installed is very old and it requires replacement in view of modernization and technological advancement of CT scan. Further the existing equipment is outdated so its spares are not available in the market. So it was decided to replace the CT Scan with an advanced one which requires a power supply of 50KVA. So the Petitioner submitted **Exhibit -A2** application for additional power allocation for enhancing the power requirement of Consumer No.4925 from 51KVA to 71KVA for CT Scan to the 4<sup>th</sup> Respondent on 19-09-2006. In response to the above, the 4<sup>th</sup> Respondent vide **Exhibit-A3** letter dated :04-11-2006 has directed the petitioner to submit application for 11KV service connection stating that as per the requirement the connected load in the premise would be enhanced to 119KVA.. Upon receipt of that intimation, the Petitioner vide **Exhibit- A4** revision petition dated:11-11-2006 ,the 4<sup>th</sup> Respondent was appraised of the fact that the communication giving emphasis to premises is not correct and that the installation for connection of consumer no4925 has nothing to do with consumer No.3355. Since there was no action forth coming from the 4<sup>th</sup> Respondent an appeal petition vide **Exhibit-A5** dated:08-01-2007 was submitted to the 2<sup>nd</sup> Respondent being the supervisory superior Officer of the Electricity Board in Wayanad

District and Kalpetta Circle. Since no action on the above was not forthcoming from the 2<sup>nd</sup> Respondent, the Petitioner had approached the Honourable High Court of Kerala seeking appropriate relief from the Respondents. The Honourable High Court vide **Exhibit-A6** Judgment in WP(C) No.14161 of 2007 dated: 02-05-2007 has directed the 2<sup>nd</sup> Respondent to consider and pass orders on Exhibit-A5 application. On the basis of the Judgment, the 2<sup>nd</sup> Respondent heard Petitioner and has passed an order vide **Exhibit-A6(i)** on issues which are totally irrelevant in terms of the application and terms of directions given in the judgment. The 2<sup>nd</sup> Respondent further issued direction to the 4<sup>th</sup> Respondent to issue notice for clubbing the connections of Consumer Nos.3355 and 4925 or in alternate to disconnect the power supply to the Petitioner. Aggrieved over the said notice, and challenging the order of the 2<sup>nd</sup> Respondent the Petitioner approached the Hon'ble High Court of Kerala and the Honourable High Court vide **Exhibit- A7** Judgment in WP(C) No.19790 of 2007 dated: 27-03-2008 was pleased to set aside the order passed by the 2<sup>nd</sup> Respondent and directed the Petitioner to approach the authority constituted under the Indian electricity Act'2003 and hence this Petition. The Petitioner prays that this Hon'ble Forum may be pleased to pass an order or direction commanding the Respondents to consider and allocate the additional power requirement of 20 KVA applied for by the Petitioner for Consumer No.4925 from the existing transformer to which it is presently connected or from the 100 KVA Transformer situated in the Leo Hospital New Block compound by enhancing its capacity suitably on OYEC work deposit scheme, as per the provisions contained in the terms and condition of supply of the KSE Board.

2.The Respondents filed written statement contending as follows:

That the Petitioner, the Proprietor of M/s Leo X-rays &CT Scan Centre, Leo Building, Kalpetta had submitted an application to the 4<sup>th</sup> Respondent for an additional power allocation of 20KVA to Consumer No.4925, the Leo X-rays and CT Scan Centre, Kalpetta. The present connected load of the consumer is 51KW (60KVA) and the connection was effected in the Building No.881/XIII of the Kalpetta Municipality in the name of the Petitioner on 03-04-1990 for the purpose of X-rays and CT Scan. There is another connection existing in the same building viz Consumer No.3355 with a connected load of 33KW(38.8KVA), which is registered in the name of Smt.P.K.Suma, the wife of the Petitioner was effected on 16-04-1985 for the purpose of Leo Hospital, Kalpetta and the Consumer Smt.P.K.Suma owns the building.

On receipt of Application for additional power allocation, the 4<sup>th</sup> Respondent had given a reply dated 04-11-2006 intimating the Petitioner that, if the additional power allocation is sanctioned, the total connected load of the Consumer Nos.3355 and 4925 existing in the premise would be enhanced to 119 KVA and that as the prescribed supply voltage of 119KVA connected load is 11KV, so the Consumer has to apply for 11KV service connection. The communication given by them is only as per rules, as both the service connections are effected under the same tariff, i.e LTVIB, in the same building. The provisions laid down in the condition of supply of

electrical energy were in force during the above period. The respondents further deposed that the Lighting Load of the rooms of the Leo X-rays & CT Scan Centre are fed from the circuit of Consumer No.3355 and that the installation of Consumers 3355 and 4925 are erected and wired so that, it can be operated simultaneously. The wiring installations of the above consumers are crossing and mixed up for services in the same rooms. And the service connections are not given in separate part of the building. And not assigned separate building numbers. And so these two connections cannot be treated as separate. The Respondents stated that another connection was given to the Leo Hospital vide Consumer No.13494 but which was given to a separate building having separate building number from a separate 100KVA Transformer and that Consumer No.4925 has nothing to do with the connected load of Consumer No.3355 is utterly against the fact. as the above connections are given in the same building having only one building number. And that whether CT scan facility is available in the Center of the District of Wayanad at the Leo CT Scan Centre only or not, is not having any relevance with the core issue of the case.

The Respondents contended that as per judgment in WP (C) No.14161 of 2007 dated: 02-05-2007 of the Honourable High Court of Kerala, the 2<sup>nd</sup> Respondent heard Exhibit-A5 application of the Petitioner at Electrical Circle ,Kalpetta on 22-05-2007 and passed **Exhibit-B1** order which covered all the areas within the scope of consideration of the matter in issue ,which states that the Petitioner managed to get electric connection vide consumer No.4925 in Building No.881/XIII of Kalpetta Municipality wherein the electric connection vide consumer No.3355 in the name of Smt.P.K.Suma was existing. These service connections were effected about 15 years before and the same are illegal as per the prevalent rules in force. The total connected load of these two service connections close in 99KVA, which come under the purview of LT connection. And as such the above connections could not be treated as separate entity. Hence it was held that the service connection vide Consumer No.4925 under electrical section, Kalpetta was treated as one obtained by malpractice/misrepresentation, so as per clause 18h of the condition of supply of electrical energy, disconnect the supply after giving 24 hrs notice to the party who obtained the connection. As per the above order ,the 4<sup>th</sup> Respondent was directed to issue notice to consumer No.4925, requiring him to merge the service connection with that of Consumer No.3355 and to remit the cost of installation of a separate transformer for availing additional power allocation, failing which the service connection vide consumer No.4925 is liable to be disconnected. Accordingly notice was issued to the Petitioner. The Respondents prayed that the above petition may be dismissed with a direction to the Petitioner to comply the Exhibit-B1 order of the 2<sup>nd</sup> Respondent.

The final hearing of the Petition was held at Kalpetta, Wayanad District on 05-07-2008. During the pleadings the following points arise for consideration of the Forum.

1. Whether the Proceedings of the 2nd Respondent vide Exhibit-B1 issued in compliance of the Judgment dated 02-05-2007 of the Honourable High Court of Kerala is in Order?

2. If yes, whether the orders issued are in accordance with I.E supply act& rules, records etc.?
3. If not, Whether the Petitioner is entitled to get the relief as prayed for?
4. If yes, whether the Petitioners additional power allocation for consumer No.4925 can be entertained as such? If not what would be the remedy to sort out the issue?

The Evidence in this case consist of the oral testimony of the Petitioner witness (PW1, PW2 & PW3) and Petitioner's Exhibits A1 to A7 and the Respondents' witness (RW1,RW2 & RW3) and Respondents Exhibit-B1

On points 1 to 4, the Forum conducted a detailed examination of the oral testimony and documentary evidence (Exhibits) of both the parties.

During the oral examination the Petitioner averred that he received the electric connection vide Consumer no.4925 under the Industrial Tariff during April'1990.He has applied for additional power allocation of 20KVA for this Unit during September'2006.At no stage during the last 16 ½ years, the Respondents did direct the Petitioner to club his connection with that of some other independent individual Consumer having separate legal entity. They have done it only during 2007, when the Honourable High Court of Kerala has directed the 2<sup>nd</sup> Respondent to dispose of the memorandum submitted to 2<sup>nd</sup> Respondent by the Petitioner. The Petitioner argued that the Respondent do not have power to deprive the petitioner, his legitimate right to have an electric connection simply because he has applied for more power. And that the Respondent do not have power to direct the Petitioner to merge his connection with that of some other separate individual and independent legal entity. The Petitioner sought to consider enhancing the Transformer situated within the Leo Hospital compound to 160KVA or next higher size, if found necessary by the licensee to grand his additional power requirement of 20KVA to Consumer No.4925.The Petitioner contented that he is not particular that the connection shall be transferred to the Transformer situated within the Leo Hospital Compound ,but he once again express his willingness to remit the required money under deposit work scheme to enhance the capacity of the transformer to enable the Board to give additional Power allocation to ConsumerNo.4925.

The Respondents argued that the Consumer Nos.3355, 4925 and 13494 are meant for Leo Hospitals only. The Building itself is a single entity, out of which Consumer Nos.3355 and 4925 are fed from 160 KVA Mahavir Transformer located at NH 212 Road side and Consumer No.13494 is fed from a Transformer of 100KVA Capacity installed in the premises of Leo Hospital by the owner of the Hospital and wife of the Petitioner. The Consumer Nos.3355 and 4925 are situated in a single building at two different locations and Consumer No.13494 is in another building known as new building. But these two buildings are interconnected together by a corridor commonly used by all patients and staff of the building. So one can clearly understand that the two buildings are exclusively used for hospital activity. As this being a single entity all the loads in the buildings are to be clubbed together. The Respondents Stated that presently Consumer No.3355 is having a connected load of 39KVA and ConsumerNo.4925 is having a

connected load of 60KVA and Consumer No.13494 is having a connected load of 82KVA. Thus the entire premises load worked out to 181KVA. Now with an additional 20KVA power requested, the total connected load of the premise may shoot up to 201KVA. As per the terms and condition of supply code clause 13(2)b, If Consumers essential loads in the building is 100KVA and above, separate Transformer with HT metering arrangement shall be installed exclusively for such loads by the consumer/promoter at the building premise at his/her own cost.

The Forum has examined the oral and documentary evidence of both the parties on points 1 to 4 in detail and finds no justification in denying the additional power requirement of 20KVA applied for by the Petitioner for running the X-rays and CT Scan Centre, having valid registration as an SSI Unit from the District Industries Centre, Kapetta. The Petitioner states that he is willing to meet the additional cost for enhancing the capacity of the Transformer Situated at the Leo Hospital Compound to 160KVA or any other capacity which the Licensee find deem fit to grant his additional power requirement of 20KVA to Consumer No.4925 and ready to make payment on OYEC work deposit Scheme up on receipt of intimation from the Licensee. The Petitioner also states that the allegation of the respondents regarding crossing and mixed up Lighting Load wiring installations of Consumer Nos.3355 and 4925 has been noted and the same will be set right within 15 days.

Having considered the above, the Petition is allowed and the 3<sup>rd</sup> and 4<sup>th</sup> Respondents are directed to take appropriate action in accordance with law to grant additional power allocation of 20KVA to Consumer No.4925 after enhancing the transformer situated in the Leo Hospital Compound to 250KVA on work deposit scheme. The Petitioner Shall make necessary representation for the same within a period of one month from the date of order and on making such representation, the respondent shall consider the same within three months thereafter. A copy of the action taken report shall be forwarded to the Forum for records. The Petition is disposed of accordingly.

Pronounced in the open court on this the 5<sup>th</sup> day of July 2008.

Sd/-	Sd/-	Sd/-
( K.P.Radhakrishnan)	(K.V.Ahammad Kutty)	(T.R.Murukesan)
MEMBER (NGO)	MEMBER (Tech.)	CHAIRPERSON (Tech. & Legal.)

#### **APPENDIX**

#### **Petitioner's Exhibits:**

A1 - 24-03-1986	: Copy of the SSI Registration Certificate No.G1567/86 issued to M/s.Leo X-Rays by the District Industries Centre, Kalpetta.
A1 (i) -17/04/1991	: Copy of Elec.Bill No.91658 for 2/91 issued to Consumer No.4925 from Elec. Section, Kalpetta under LTIV Tariff.

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- A1 (ii) -06/05/1989 : Copy of Elec.Bill No.26806 for 8/88 issued to Consumer No.3355 from Elec.Section, Kalpetta under LT VI Tariff.
- A2- 19-09-2006 : True copy of application for additional power allocation filed before the Ele.Section, Kalpetta for ConsNo.4925
- A3- 04-11-2006 : True copy of reply from the 4th Respondent in respect of Additional power allocation to Cons. No.4925
- A4- 11-11-2006 : True copy of Revision Petition filed before the 4th Respondent in respect of Cons. No.4925
- A5- 08-01-2007 : True copy of Appeal filed before the 2nd Respondent
- A5 (i) - 15-03-2007 : True copy of Invoice issued to Consumer No.4925
- A5 (ii) -15-03-2007 : True copy of Invoice issued to Consumer No.3355
- A6- 02-05-2007 : True copy of Judgment of the Hon'ble High Court of Kerala inWP(C) No.14161 of 2007
- A6 (i) - 07-06-2007 : True copy of the order passed by the 2<sup>nd</sup> Respondent
- A7- 27-03-2008 : True copy of Judgment of the Hon'ble High Court of Kerala inWP(C) No.19790 of 2007

**Petitioner's Witness:**

- PW1- 05-07-2008 : T.P.V.Surendran (Dr.), Proprietor, M/s.Leo X-rays
- PW2- 05-07-2008 : T.G.David, Thandanvalil House, Kalpetta
- PW3- 05-07-2008 : M.Rajan, Manager, M/s.Leo Hospital, Kalpetta

**Respondent's Exhibits:**

- B1- 07-06-2007 : Proceedings of the Dy.Chief Engineer, Electrical Circle, Kalpetta No.GB4/WP©No.14161/2007/2007-2008/310

**Respondents Witness:**

- RW1- 17-06-2008 : Arun. P.S, Assistant Engineer I/c, KSE Board, Electrical Sub Division, Kalpetta
- RW2- 05-07-2008 : Brown.K.S, Assistant Engineer I/c, KSE Board, Electrical Sub Division, Kalpetta
- RW3 -05-07-2008 : Sudheesh.C.P, Sub Engineer, KSEBoard, Electrical Section, Kalpetta

Sd/-  
Chairperson (Tech&Legal)