

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

Review Petition No. 15 of 2025 in Appeal No. 222 of 2017
Review Petition No. 16 of 2025 in Appeal No. 226 of 2017
Review Petition No. 17 of 2025 in Appeal No. 222 & 226 of 2017

Dated: 16th December, 2025

Present: Hon'ble Ms. Seema Gupta, Technical Member
Hon'ble Mr. Virender Bhat, Judicial Member

In the matter of:

Review Petition No. 15 of 2025
In
Appeal No. 222 of 2017

Kerala State Electricity Board
Represented by its Resident Engineer
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram – 695004
Email: trac@kseb.in

... Petitioner(s)

Versus

- 1. The Kerala High Tension and Extra High Tension
Industrial Electricity Consumers Association**
Represented by its Secretary
Productivity House
Jawaharlal Nehru Road
Kalamassery – 683104, Kerala
Email: keralahtehtassociation@gmail.com
- 2. Kerala State Electricity Regulatory Commission**
Represented by its Secretary

KPFC Bhavanam, CV Raman Pillai Road
Vellayambalam

Thiruvananthapuram – 695010 Kerala

Email: kserc@erckerala.org

... Respondent (s)

Counsel for the Petitioner(s) : Prabhas Bajaj
Priyanshu Tyagi
Rishav Rai
Harsh Chauhan
Rithvik Mathur
for App. 1

Counsel for the Respondent(s) : M.P. Vinod
Atul Shankar Vinod
for Res. 1

M.T. George
For Res. 2

Review Petition No. 16 of 2025

In

Appeal No. 226 of 2017

Kerala State Electricity Board

Represented by its Resident Engineer

Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram – 695004

Email: trac@kseb.in

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for Res. 1

M.T. George
For Res. 2

Review Petition No. 17 of 2025

In

Appeal No. 222 & 226 of 2017

Kerala State Electricity Regulatory Commission

Represented by its Secretary

CV Raman Pillai Road,

Vellayambalam

Thiruvananthapuram – 695010 Kerala

Email: mtgeorgeadvocate@gmail.com

... Petitioner(s)

Versus

**1. The Kerala High Tension and Extra High Tension
Industrial Electricity Consumers Association**

Represented by its Secretary

Productivity House, Jawaharlal Nehru Road

Kalamasseri – 683104, Kerala
Email: keralahtehtassociation@gmail.com

2. The Kerala State Electricity Board Limited

Represented by its Secretary

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Email: cmdkseb@kseb.in

... Respondent (s)

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Counsel for the Respondent(s) : M.P. Vinod
Atul Shankar Vinod
for Res. 1

Prabhas Bajaj
Priyanshu Tyagi
Harsh Chauhan
Rithvik Mathur
For Res. 2

ORDER

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. Review of the common judgement dated 16th June, 2025 passed by this Tribunal in Appeal Nos. 222 & 226 of 2017 has been sought by way of captioned three review petitions. Review Petition Nos. 15 & 16 have been filed by Kerala State Electricity Board (in short KSEB) which was Respondent No. 2 in the appeals whereas Review Petition No. 17 of 2022 has been filed by Kerala State Electricity Regulatory

Commission (hereinafter referred to as “the Commission”) which was Respondent No. 1 in the appeals.

2. Since a common ground has been taken in all the three Review Petitions to seek the review of the above said common judgement of this Tribunal dated 16th June, 2025, we heard all the three Review Petitions together and propose to dispose off the same by way of this common order.

3. We may note that during the hearing of the two appeals, allegation of bias was raised on behalf of the Appellant, the Kerala High Tension and Extra High Tension Industrial Electricity Consumers Association with regards to Shri S. Venugopal who was Member of the Commission at the relevant time and who has signed the Commission’s orders impugned in these two appeals. It was submitted on behalf of the Appellant that Shri S. Venugopal was in direct control of finances of KSEB when the truing up petitions were prepared and presented before the Commission and the petitions had been presented to the Commission by Shri S. Venugopal. Thus, it was argued that in these circumstances, Shri S. Venugopal was an interested party to the truing up petitions holding a bias in favour of KSEB and, therefore, the

impugned orders to which he is a signatory cannot be sustained on this very score.

4. We heard the parties on this aspect in detail and upon consideration of the submission made on behalf of the parties as well as perusal of the relevant record, we came to the conclusion that the allegation of bias against Shri S. Venugopal has force, and, therefore, the impugned orders of the Commission are hit by the principle of *“Nemo Judex in Causa Sua”*.

5. Accordingly, both the appeals were allowed and the truing up petitions in both the cases were remanded back to the Commission for fresh consideration as per law. The relevant portion of the judgment under review is extracted herein below:-

“23. The facts and circumstances of this case narrated herein above clearly show that Shri Venugopal was completely involved in preparation and submission of truing up petitions on behalf of KSEB before the Commission in which the Impugned orders have been passed. Therefore, he had complete knowledge of the matter in question and ought to have recused himself from hearing the petitions. It was

absolutely wrong and against the cardinal principles of natural justice on the part of Shri Venugopal to sit in judgement over the truing up petitions which he himself had prepared and submitted to the Commission on behalf of KSEB. In such a situation, any reasonable and fair minded person would get a serious apprehension of bias against Shri Venugopal.

24. Hence, in our considered opinion, the allegation of bias raised by the Appellant against Shri Venugopal has force and cannot be brushed aside lightly. Shri Venugopal having himself prepared and submitted the truing up petitions before the Commission at one point of time was having full knowledge of the case beforehand and therefore, was disqualified to hear the petitions and pass orders thereon after becoming the Member of the Commission. The conduct of Shri Venugopal shows that he has acted as a judge in a case which he himself at once brought to the Commission as the concerned officer of KSEB.

25. In view of the above discussion, we are of the firm view that the impugned orders of the Commission are hit by the

principle of “Nemo Judex in Causa Sua”. These cannot be sustained and are hereby set aside. The truing up petitions in both the cases are remanded back to the Commission for fresh consideration as per law. In view of the pendency of these appeals before this Tribunal for a very long duration, we think it appropriate to direct the Commission to pass a fresh order within three months from date of this judgment.”

6. In the Review Petitions, it is contended that Shri Venugopal who was Member of the Commission at the relevant time and signatory to the impugned orders and Shri Venugopal who was an officer i.e. Chief Engineer (Commercial and Tariff) of KSEB are two different individuals. It is submitted that Shri S. Venugopal was Member of the Commission who has signed the impugned orders whereas Shri N. Venugopal was the officer of the KSEB at the relevant time.

7. In pursuance to the order dated 29th October, 2025 passed by the Tribunal in these Review Petitions a detailed affidavit dated 18.11.2025 has been filed on behalf of the Commission by its Secretary wherein it is stated that Shri S. Venugopal was appointed as Member (Finance) in KSEB vide G.O. dated 1st January, 2011 on deputation basis and was

ultimately relieved of the said post on 18th April, 2015. It is further stated that Shri S. Venugopal was appointed as Member of the Commission vide G.O. dated 4th April, 2015. As far as Shri N. Venugopal is concerned, it is stated in the affidavit that he had entered in the service of KSEB on 27th February, 1990 as Assistant Engineer and superannuated from the service of KSEB on 31st May, 2020 as Director (Transmission, System Operation). It is further stated that he was holding the post of Chief Engineer (Commercial & Operation) for the period from 11th June, 2015 to 26th June, 2016 in KSEB. It is stated that Shri N. Venugopal has never been appointed as Member of the Commission.

8. The service Identity Cards/service records in respect of both these individuals namely Shri S. Venugopal and Shri N. Venugopal have been annexed to the affidavit.

9. Upon perusal of the contents of the said affidavit as well as the documents annexed to the same, it is manifest that Shri S. Venugopal who was Member of the Commission and who was a signatory to the impugned orders of the Commission is different individual than Shri N. Venugopal who was posted as Chief Engineer (Commercial &

Operation) in KSEB at the relevant time. Therefore, Shri S. Venugopal in no way involved or concerned with the preparation and filing of truing up petitions before the Commission on behalf of KSEB, which were disposed off by the Commission vide the orders assailed in the two appeals before this Tribunal.

10. However, we find it very regretful and disconcerting to note that these facts were not brought to the notice of this Tribunal by any of the parties particularly the Commission and KSEB during the hearing of the two appeals when the allegation of bias was raised by the Appellant against Shri S. Venugopal. Had the contents of the affidavit dated 18th November, 2025 (filed by the Commission in pursuance to the Tribunal's order dated 29th October, 2025 as noted herein above) been conveyed to us along with the supporting documents during hearing of the two appeals, we would have considered and decided the issue of bias accordingly and the judgement would not have been in the manner as it stands today. On account of lack of proper assistance on this aspect on behalf of KSEB and the Commission, we were constrained to accept the allegation of bias against Shri S. Venugopal which has resulted into a patent error in the judgement under review.

11. We are satisfied that a patent and glaring mistake has occurred in the judgement dated 16th June, 2025 which not only undermines its soundness but also has resulted in serious miscarriage of justice. The error is very material and stares in the eye, which is not only difficult but impossible to ignore. This is a fit case in our opinion where the power of review must be exercised to correct the patent mistake in the judgement under Review. There is no escape from the conclusion that our view and observations in the judgement dated 16th June, 2025 are not borne out from the record and need to be corrected.

12. We may note here that we would be failing in our duties and would be perpetuating the glaring mistake in case we don't review the judgement dated 16th June, 2025 by making much needed corrections in it. To rectify in the compulsion of judicial conscience. In saying so, we derive strength and support from the wise and inspiring words of Justice Bronson in Pierce Vs. Delameter 1 NY3 (1847), "a judge ought to be wise enough to know that he is fallible and therefore ever ready to learn; great and honest enough to discard all mere pride of opinion and follow truth wherever it may lead; and courageous enough to acknowledge his errors".

13. We have no hesitation in acknowledging that this Tribunal has erred in passing the judgement dated 16th June, 2025 under review as the same is based upon mis-conception of facts on account of lack of proper assistance on the part of the Commission and KSEB.

14. Hence, we allow the Review Petitions and set aside the judgement dated 16th June, 2025.

15. The two appeal Nos. 222 & 226 of 2017 be now listed for hearing on **08.01.2026.**

Pronounced in the open court on this 16th day of December, 2025.

(Virender Bhat)
Judicial Member

(Seema Gupta)
Technical Member (Electricity)

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REPORTABLE / NON-REPORTABLE

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