



Government of Kerala
Power(A) Department
NOTIFICATION

No:83/A1/2022/PD

Dated, Thiruvananthapuram, 20 /09/2022

Sub:- Filling up the post of Chairperson in Kerala State Electricity
Regulatory Commission- Applications invited.

Read : 1.G.O(Ms)No.1/2006/PD dated 03.02.2006.
2.G.O(Ms)No.9/2016/PD dated 22.04.2016.

Applications are invited by the committee for selection of Chairperson of the Kerala State Electricity Regulatory Commission constituted Under Section 85 of Electricity Act, 2003, for filling up post of Chairperson in Kerala State Electricity Regulatory Commission .

As per Section 84.(Qualifications for appointment of Chairperson and Members of State Commission) (1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.

In terms of section 89(1) of the Electricity Act, 2003, The Chairperson or other Member shall hold the post for a term of five years from the date he/she joins the office. Provided further, that no Chairperson or Member shall hold office as such after he/she has attained the age of sixty five years.

As per section 84(3) of the Electricity Act, the Chairperson or any other Member shall not hold any other office during this period. The term of office and conditions of service of Members are governed by section 89 of the said Act.

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The pay fixed for the Chairperson shall be Rs.2,25,000/- (Two Lakhs Twentyfive Thousand Only) per month. Allowances and other conditions of service of the Chairperson shall be as per Rules. If the incumbent draws pension, then he/she will be entitled to pay after deduction of the pension amount.

Applications in the prescribed format with biodata and details of experience superscribing the envelope "Application for appointment as Chairperson , Kerala State Electricity Regulatory Commission" should reach the following address within 21 [Twenty One] days from the date of publication of this notification.

Principal Secretary[Power] to Government
Government of Kerala
Government Secretariat, Thiruvananthapuram- 695 001, Kerala

Those who are now working in State/Central Government, Public Sector undertakings, Autonomous bodies, judicial positions etc shall submit their application through proper channel. Such persons if selected shall resign or take voluntary retirement before taking up appointment as Chairperson.

Applications forwarded otherwise and belated applications will not be considered on any ground. Formal appointment will be made by Government from the panel/select list prepared and recommended by the Selection Committee.

The application form and other details are also made available in www.kerala.gov.in, www.kseb.in, www.erckerala.org.

K R JYOTHILAL
PRINCIPAL SECRETARY
For Selection Committee

Application for the post of Chairperson, Kerala State Electricity Regulatory Commission

Photo of the applicant

1. Name of the applicant:
2. Age and Date of Birth
3. Postal Address
4. Contact details including phone number, Mobile number, email id etc.,
5. Position now held
6. Details of posts previously held with experience
7. Academic Qualification
8. Special Qualification, if any
9. Languages known
10. If working in State/Central Government, Public Sector Undertakings Autonomous bodies, Judicial positions name, designation, address and contact details of cadre controlling authority, who will forward the application form along with Vigilance clearance and ACR for last three years

I hereby certify that note(iv) below is not attracted in my case. The details in respect of note(iv) are attached.

I further certify that I do not have any financial or other interest which may likely affect prejudicially my function as Chairperson KSERC.

I also undertake that in case I am selected, I shall resign/take VRS from the Central/State Government, Public Sector Undertakings Autonomous body, Judiciary positions etc where I am presently working.

Place:

Date:

Signature of the applicant
Name

Notes

- i) The applicant who are now working in State /Central Governments, Public Sector Undertakings, Autonomous bodies, judiciary positions etc. shall resign/take VRS before joining the post of Chairperson, KSERC, if selected. An undertaking in this regard shall be submitted along with the application.
- ii) The applicants who are in the service of State/Central Governments, Public Sector Undertakings, Autonomous bodies, judicial positions etc shall arrange for their Controlling officer to submit the ACRs for the last three years and document regarding Vigilance Clearance along with the application separately.
- iii) The applicants who have retired from the service of State/Central Government, Public Sector Undertakings, Autonomous bodies etc within the last two years shall also arrange to submit ACRs for the last three years of their service.
- iv) The applicant shall also furnish the details of any office, employment or consultancy agreement or arrangement which he has in his own name or in any firm association of persons or body corporate or in the names of any relative, carrying on any of the following business or any financial interest therein.
 - (a) generation, transmission, distribution or supply of electricity.
 - (b) manufacture, sale or supply of any fuel for generation of electricity
 - (c) manufacture, sale, lease, hire, supply or otherwise dealing in machinery, plant, equipment, apparatus or fitting for the generation, transmission, distribution, supply or use of electricity, and
 - (d) any entity providing professional services to any of the business referred to in (a), (b) and (c) above
- v) Applicant should not have any financial or other interest which is likely to affect prejudicially his/her function as Chairperson KSERC. A declaration to this effect shall also be furnished.

84. Qualifications for appointment of Chairperson and Members of State Commission.—(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

(3) The Chairperson or any other Member of the State Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the State Commission.

This clause provides for qualifications for appointment of Members of State Commission. The Members shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in dealing with the problems relating to engineering, finance, commerce, economics, law or management. This clause provides that notwithstanding any prescribed qualifications, the State Government may appoint any person as the Chairperson from amongst persons who is or has been a Judge of a High Court. (*Notes on Clauses*).

85. Constitution of Selection Committee to select Members of State Commission.—(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of—

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| (a) a person who has been a Judge of the High Court | —Chairperson; |
| (b) the Chief Secretary of the concerned State | —Member; |
| (c) the Chairperson of the Authority or the Chairperson of the Central Commission | —Member: |

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

(2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within three months from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member, as the case may be.

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

This clause provides for constitution of Selection Committee consisting of a person who is or has been a High Court Judge as Chairperson, Chief Secretary of the State and the Chairperson or a Member of the Central Electricity Authority as Members. This clause also

provides, *inter alia*, that the Selection Committee shall recommend a panel of two names for every vacancy referred to it. It also provides that before recommending any person for appointment the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially its function as Member. (Rules in Clauses).

86. Functions of State Commission.—(1) The State Commission shall discharge the following functions, namely:—

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State;

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act.

(2) The State Commission shall advise the State Government on all or any of the following matters, namely:—

(i) promotion of competition, efficiency and economy in activities of the electricity industry;

(ii) promotion of investment in electricity industry;

(iii) reorganisation and restructuring of electricity industry in the State;

(iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

(3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions, the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3.

This clause lays down the functions of the State Commission. The mandatory functions, *inter alia*, are to promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person; and also specify for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee to specify by regulations the terms and conditions for determination of tariff for supply, transmission and wheeling of electricity within the State to regulate electricity purchase and procurement process of distribution licensees including the price at which the electricity shall be procured; to facilitate intra-State transmission and wheeling of electricity; to issue licences to persons seeking to act as distribution licensees, transmission licensee and electricity traders; to adjudicate upon disputes and the differences between the licensees and generating companies and refer any dispute for arbitration; to levy fees for the purposes of the proposed legislation. The advisory functions, *inter alia*, include giving advice on promotion of competition efficiency, investment in electricity industry reorganisation and restructuring of electricity industry. (Notes on Clauses).

COMMENTS

S. 86(1)(f) is not violative of Art. 14 of the Constitution of India: *Gujarat Urja Vikash Nigam Ltd. v. Essar Power Ltd.* (2008) 4 S.C.C. 755.

S. 86(1)(f) is a special provision and, hence, will override the general provision in S. 11 of the Arbitration and Conciliation Act, 1996 for arbitration of disputes between the licensee and generating companies. Hence, S. 11 of the Arbitration and Conciliation Act, 1996 has no application to the question who can adjudicate/arbitrate disputes between licensees and generating companies, and only S. 86(1)(f) shall apply in such a situation: *Gujarat Urja Vikash Nigam Ltd. v. Essar Power Ltd.* (2008) 4 S.C.C. 755.

It may be noted from a perusal of S. 86(1)(f) that the State Commission has only power to adjudicate upon disputes between licensees and generating companies. It follows that the Commission cannot adjudicate disputes relating to grievances of individual consumers. The adjudicatory function of the Commission is, thus, limited to the matter prescribed in S. 86(1)(f): *Maharashtra Electricity Regulatory Commission v. Reliance Energy Ltd.* A.I.R. 2008 S.C. 976; (2007) 8 S.C.C. 381, *Maharashtra State Electricity Distribution Co. Ltd. v. Lloyds Steel Industries Ltd.* A.I.R. 2008 S.C. 1042.

87. State Advisory Committee.—(1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson of the State Commission shall be the *ex officio* Chairperson of the State Advisory Committee and the Members of the State Commission and the Secretary to State Government in charge of the Ministry or Department dealing with Consumer Affairs and Public Distribution System shall be the *ex officio* Members of the Committee.

This clause provides for the establishment of State Advisory Committee consisting of not more than twenty-one Members to represent the interest of commerce, industry, transport, agriculture, labour consumers, non-governmental organisations, academic and research bodies in the electricity sector. The Chairperson of the State Commission shall be the *ex officio* Chairperson of the State Advisory Committee and the Members of that Commission and Secretary to the State Government in-charge of the Ministry or Department dealing with the Consumers Affairs and Public Distribution System shall be Members of the Committee. (Notes on Clauses).

88. Objects of State Advisory Committee.—The objects of the State Advisory Committee shall be to advise the Commission on—

(i) major questions of policy;

(ii) matters relating to quality, continuity and extent of service provided by the licensees;

(iii) compliance by licensees with the conditions and requirements of their licence;

(iv) protection of consumer interest; and

(v) electricity supply and overall standards of performance by utilities.

This clause provides that the objects of the State Advisory Committee shall be, to advise the State Commission on major questions of policy, matters relating to quality, continuity and extent of service provided by the licensees, compliance by licensees with the conditions and requirements of their licence, protection of consumer interest and electricity supply and overall standards of performance by utilities. (*Notes on Clauses*).

Appropriate Commission—Other provisions

89. Term of office and conditions of service of Members.—(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Appropriate Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

(3) Every Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), a Member may—

(a) relinquish his office by giving in writing to the Appropriate Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 90.

(5) Any member ceasing to hold office as such shall—

(a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(b) not represent any person before the Central Commission or any State Commission in any manner.

Explanation.—For the purposes of this sub-section, “commercial employment” means employment in any capacity in any organisation which has been a party to the proceedings before the Appropriate Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an adviser or a consultant.

This clause provides for the term of office, salary and allowances and other conditions of service of Chairperson and Members of the appropriate Commission. This clause *inter alia*, provides that the Chairperson or other Member shall hold office for a term of three years