



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated Under the Companies Act, 1956)

Corporate Identity No.U40100KL2011SGCO27424

Vydyuthi Bhavanam, Pattom, Thiruvananthapuram- 695004, India,

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Abstract

Supply of PSC Poles to various Electrical Circles by M/s.Pooja Industries, Kottayam – settlement of contracts – pending issues – Decision Sought for - Sanctioned – Orders issued.

Corporate Office (Supply Chain Management)

B.O.[FTD]] No.264/2019 (PSB.5/2004-05/Pooja/KTYM/PALA) Dated, Thiruvananthapuram 03/04/2020

- Read:-
- 1) P.O.No.TCM.15/2005-06/322 dated 20/04/2005 of Chief Engineer (T,C&M) placed with M/s.Pooja Industries, Vrindavanam, Nattakom, Kottayam.
 - 2) P.O.No.TCM.185/2005-06/4642 dated 24/12/2005 of Chief Engineer (T,C&M) placed with M/s.Pooja Industries, Vrindavanam, Nattakom, Kottayam .
 - 3) Additional P.O.No.TCM.75/2010-11/3305 dated 19/08/2010 to the original P.O.No. TCM.15/05-06/322 dated 20/04/2005.
 - 4) Note No.WAD/GI/Pooja Industries/Penalty Assessment/2013-14 dated 28/04/2014 of the Chief Internal Auditor, KSEBL.
 - 5) Petition before the Hon'ble Minister for Electricity vide No.4026/KTM CIRCLE/02/17/01/2020 in Vydyuthi Adalath 2020 (Kottayam District).
 - 6) Note No. PSB.5/2004-05/Pooja/KTYM/PALA/9011 dated 25/02/2020 of the Chief Engineer (SCM) submitted to the Full Time Directors (Agenda Item No.38/3/20).

ORDER

Purchase Order was placed with M/s.Pooja Industries, Vrindavanam, Nattakom, Kottayam for the supply of PSC Poles, 7m – 60,000 Nos., 8m- 15,000 Nos and 9m - 36,000Nos to Electrical Circle, Kottayam and 7m – 40,000 No.s, 8m – 39,000 No.s and 9m -25,000 No.s to Electrical Circle, Pala as per order read as 1st above with scheduled date of commencement as September 2005 and scheduled date of completion as August.2010.

Also, as per order read as 2nd above, Purchase Order was placed with M/s.Pooja Industries, Kottayam for the supply of PSC Poles, 8m-30,000 No.s and 9m – 60,000 No.s to Electrical Circle, Thodupuzha with scheduled date of commencement as May 2006 and scheduled date of completion as May 2011.

As per B.O.(FB)No.1440/08 (PSB.5/2004-05) dated 09/06/2008, the K.S.E.Board had decided to accord sanction to re-fix the date of commencement of supply as June 2006 instead of September 2005 as per the delivery schedule of the Purchase order read as 1st above after canceling the monthly schedule fixed for the supply of poles for the period from September 2005 to May 2006 and to reduce the total quantity in the Purchase Order accordingly and to refund the penalty recovered for the period from September 2005 to May

2006 (Rs.7,58,250/- by the Deputy Chief Engineer, Electrical Circle, Kottayam and Rs.7,33,230/- by the Deputy Chief Engineer, Electrical Circle, Pala).

Also, as per B.O.(FB)No.1077/2007 (PSB.4/2005-06) dated 07/05/2007, the Board has decided to cancel the monthly schedules fixed for the supply of 8m and 9m PSC Poles for the period from 5/2006 to 12/2006 in respect of Purchase Order dated 24/12/2005 without any financial commitment to either side. The total quantity of poles to be supplied by the firm, M/s.Pooja Industries as per Purchase Order read as 2nd above was to be reduced by the number equivalent to the total scheduled quantity for the period from 05/2006 to 12/2006.

Based on the above decision taken by the Full Board, the revised quantity to be supplied by the firm and the actual quantity supplied are as follows:

Sl.No.	Electrical Circle	Revised ordered Quantity			Total Quantity supplied		
		7m	8m	9m	7m	8m	9m
1)	Kottayam	51,000	12,750	30,600	9,458	3,485	8,586
2)	Pala	33,970	33,150	21,220	27,536	19,330	17,682
3)	Thodupuzha	-	26,000	52,000	-	8,414	14,806

The Purchase Committee meeting held on 12/02/2008 had decided to refund the penalty levied for the supply of poles as per the Purchase Order in cases where the non supply was due to non issue of allocation by the Deputy Chief Engineer, Electrical Circle, Thodupuzha during the period from 01/2007 to 12/2007. It was also decided not to impose penalty in future also if non supply was due to non issue of allocation to the PSC Poles suppliers by the Deputy Chief Engineers of the respective Electrical Circles.

As per B.O.(FM)No.2399/2008 (PSB.4/2005-06) dated 27/09/2008, it was decided to freeze the penalty to be imposed on future supplies by M/s.Pooja Industries until further orders are issued by the Board. It was also decided to accord sanction to release payment to M/s.Pooja Industries on account of price variation.

Thereafter, Board as per B.O.(FM)No.2745/2008 (PSB.4/2005-06/Pooja) dated 11/11/2008, had decided not to levy penalty to M/s.Pooja Industries for the short supply of poles from 01/2008 to 03/2008, till 03/2009.

Again, based on the requests made by the firm, the Purchase Committee held on 26/06/2009 had decided to:

- i) intimate M/s.Pooja Industries that their request to refund the penalty already recovered from them will be considered by the Board on merits, after satisfactory completion of the contract with them as per Purchase orders read as 1st and 2nd above.
- ii) defer recovery of penalty against any short supply upto 31/08/2009.
- iii) to treat the 1st year Bank Guarantee as 2nd year Bank Guarantee provided the Bank Guarantee furnished for the 1st year should be renewed and kept valid for the period covering 2nd year supply, after getting Non Liability Certificate from concerned Electrical Circles for the supply of poles for the first year.

The Purchase Committee held on 03/11/2009 had decided to maintain the status quo until further orders from the Board. However this will apply only for the short supply of poles for the period from 01/01/2008 to 31/08/2009. After this date the agreement conditions will apply.

When the contract period for Kottayam and Pala Circles expired, an additional Purchase Order was also placed with the firm as per order read as 3rd above for 25% of the original ordered quantity against Purchase order read as 1st above. The date of commencement of supply of poles was from 11/2010. The firm has supplied poles as per this additional Purchase Order till the extended delivery period as per order B.O.(FB)No.520/2011 (PC/Gen/Addl.P.O/Claim/2010-11) dated 16/02/2011. The firm has not supplied full quantity against the additional order also. The details of poles supplied by the firm against the additional order is given below.

Sl.No.	Electrical Circle	Size of Poles	Ordered quantity	Quantity supplied
1)	Pala	7m	10,000	8,465
		8m	9,750	6,890
		9m	6,250	5,100
2)	Kottayam	7m	15,000	8,855
		8m	3,750	3,040
		9m	9,000	7,365

The Chief Engineer (T,C&M) had submitted a proposal to the Full Time Members as per notes dated 20/04/2011 and 11/05/2011, requesting decision on the issue of placing Purchase Order with M/s.Pooja Industries, for the supply of 30% of the ordered quantity to Electrical Circle, Thodupuzha as per the Purchase Order dated 24/12/2005, at the same rate, terms and conditions therein.

As per B.O.(FM)No.1295/2011 (PSB.4/2005-06/Pooja/Thodupuzha) dated 21/05/2011, the Board had decided that additional supply orders can be considered only after at least 90% of the original supply is completed. Based on the above Board order, M/s.Pooja Industries had been directed from the Office of the Chief Engineer (T,C&M) as per letter dated 30/05/2011, to continue the supply of balance quantity of poles as per the Purchase Order dated 24/12/2005. But the firm had not supplied any pole to Thodupuzha Circle even after repeated requests.

Penalty has been levied for the short supply of poles after 31/08/2009 as reported by the concerned Deputy Chief Engineers.

The liabilities reported by the Deputy Chief Engineers of Electrical Circles, Kottayam, Pala and Thodupuzha against M/s.Pooja Industries were forwarded to the Chief Internal Auditor, KSEBL for an audit at the above Electrical Circles.

Based on this, the Chief Internal Auditor as per letter read as 4th above had furnished the Audit report. The Audit team calculated the penalty on the basis of the short supply of poles arrived based on the allocation or quarterly target whichever is less on the ground that the penalty cannot be imposed when no requirement or allocation is made by the Deputy Chief Engineers.

The price escalation allowed for the firm till 10/2011 were considered by the Audit team in calculating penalty. The Audit team assessed the penalty as Rs.46,59,379/- for the

deferred period (for Kottayam Circle as Rs.22,63,359/- and for Pala Circle as Rs.1,71,984/- and that for Thodupuzha Circle as Rs.22,24,036/-).

The balance amount of penalty as per the Chief Internal Auditor's report is Rs.39,45,572/- after adjusting the retention amount of Rs.7,94,250/- at Electrical Circle, Kottayam.

Seven Nos. Bank Guarantees total amounting to Rs.87,10,200/- valid upto 31/03/2020 are available in the Office of the Chief Engineer (SCM).

The matter of deciding whether the penalty for the deferred period is to be recovered or not, for finalizing the accounts of contract was placed before the Purchase Committee and the Purchase Committee meeting held on 15/04/2016 had decided to defer the matter.

M/s.Pooja Industries was served notice from the office of the Chief Engineer (SCM) as per letter dated 17/12/2019 informing that the penalty outstanding against them as assessed by the Audit Wing of KSEBL is Rs.39,45,572/- towards short supply of PSC Poles to the Electrical Circles, Kottayam, Pala and Thodupuzha. The firm was requested to remit the amount in order to close the contract and to release the Bank Guarantees in lieu of Security Deposits after effecting necessary deductions towards liabilities.

Another issue was pending in the case of M/s.Pooja Industries regarding the recovery of additional transportation charges amounting to Rs.11,58,181/- paid to the firm for the supply of 8 m and 9m PSC Poles to Electrical Circle, Thodupuzha as per Purchase order read as 2nd above, the details of which are explained as follows.

As per the Purchase Order dated 24.12.2005, the rates were as follows.

P.O. No.	Circle	Size of pole	Basic Price (Rs.)	Transportation Charges within the Circle (Rs.)	Transportation Charges for outside Circle (Rs.)
TCM.185/2005-06/ 4642 dated 24/12/2005	Thodupuzha	8m	860	170	No quoted rate
		9m	1400	250	

Even though originally the purchase order was for the supply of 30,000 Nos. 8 m and 60,000 Nos. 9 m PSC Poles, as per B.O (FB) No. 1077/2007 (PSB.4/2005 – 06) dated 07/05/2007, the ordered quantity was revised to 26,000 Nos. of 8m and 52,000 Nos. of 9m poles.

Later as per the decision taken in the Purchase Committee Meeting held on 24/09/2008, M/s. Pooja Industries as per letter dated 07/10/2008 had requested to supply as per the revised allocation and the rate of transportation of poles outside circle shall be the same as that as per Purchase order read as 1st above (Kottayam & Pala Circle Contract, as there was no agreed rates for the transportation of poles outside circle for Thodupuzha Circle contract.).

M/s. Pooja Industries as per letter dated 17.09.2009, had represented that the charges fixed for transportation, loading and unloading for 8m and 9m poles does not cover the actual expenditure incurred in transporting poles to various sections in Thodupuzha, many of which are located very far from their yard.

The matter was placed before the Purchase Committee and the Purchase Committee Meeting held on 27/01/2010 examined the matter and since the Purchase Order was meant for Thodupuzha & Kattappana Divisions, it was decided to give per pole per km rate beyond 80 Km, in addition to the fixed transportation charges within the circle as per Purchase Order No.TCM.185/2005-06/4642 dated 24/12/2005, for supplying poles to Adimali and Peerumedu Divisions only. For supplying poles to Thodupuzha & Kattappana Divisions, the agreed rates as per Purchase Order (within the Circle) shall hold good.

Later, the Deputy Chief Engineer, Electrical Circle, Thodupuzha as per letter dated 03/03/2010 has reported that at the time of tender, there were only two Divisions (Thodupuzha & Kattappana) under the Electrical Circle, Thodupuzha which covered the entire Idukki district. Electrical Divisions, Peerumedu and Adimali were formed only in the month of 08/2006 by bifurcation of the existing Kattappana Division and all the section offices under these Divisions were under Electrical Division, Kattappana before 08/2006. In essence, there is no change in the area of Electrical Circle, Thodupuzha. The Deputy Chief Engineer had requested clarification on whether the per pole per km rate beyond 80 Km can be given for the supply of poles to Electrical Divisions, Peerumedu and Adimali.

The matter was placed before the Purchase committee and the Purchase Committee Meeting held on 13/05/2010 after detailed discussion decided not to review the decision taken by the Purchase Committee held on 27/01/2010. However, it will be open to review based on the performance.

M/s. Pooja Industries had supplied only 8414 Nos. (i.e 32.36%) of 8m poles out of the revised ordered quantity of 26000 Nos of 8m poles and 14806 Nos. (i.e 28.47%) of 9m poles out of the revised ordered quantity of 52000 Nos. of 9m poles to Electrical Circle, Thodupuzha as on 31/05/2011.

Based on the Board Order B.O (FM) No. 1295/2011 (PSB. 4/2005 - 06/Pooja/Thodupuzha) dated 21/05/2011, the Chief Engineer (T,C&M) as per letter dated 30/05/2011, had directed M/s.Pooja Industries, to continue the supply of balance quantity of poles as per the Purchase Order dated 24/12/2005. But, the firm has not supplied any pole since June 2011.

It has to be decided whether the decision taken by the Purchase Committee held on 27/01/2010 is to be reviewed and hence the matter was placed before the Purchase Committee and the Purchase Committee Meeting held on 15/04/2016 had decided to defer the matter.

This matter was also to be settled, while finalizing the issue of closing of contracts with M/s.Pooja Industries.

Recently in the Vidyuthi Adalath 2020 held in Kottayam District on 18/01/2020, M/s.Pooja Industries has filed a petition before the Hon'ble Minister for Electricity requesting to waive the penalty for the penalty deferred period (01/2008 to 08/2009) for the two contracts as per Purchase Orders read as 1st and 2nd Papers above and to release the Bank Guarantees submitted in lieu of Security Deposit for the Purchase Orders cited 1st, 2nd and 3rd Papers above. The firm has also requested to release the retention amount of Rs.7,94,250/- with Electrical Circle, Kottayam.

The matter was placed in the Full Time Directors meeting held on 12/03/2020 as per note 6th above to decide whether the request of M/s.Pooja Industries, Kottayam to waive the penalty amount of Rs.46,59,379/- for the penalty deferred period from 1/2008 to 8/2009 as assessed by the Chief Internal Auditor, KSEBL in respect of Purchase Orders read as 1st, 2nd and 3rd above can be considered and Bank Guarantees amounting to Rs.87,10,200/- towards Security Deposit for these Purchase Orders may be released.

It was also to be decided whether the decision taken by the Purchase Committee meeting held on 27/01/2010 to give per pole per km rate beyond 80 Km in addition to the fixed transportation charges within the circle as per Purchase Order No. TCM 185/2005 – 06/4642 dated 24/12/2005, for supplying poles to Adimali and Peerumedu Divisions is to be reviewed and an amount of Rs.11,58,181/- paid to M/s. Pooja Industries, Kottayam as additional transportation charges be recovered.

The Full Time Directors meeting held on 12/03/2020 resolved to reject the request of M/s.Pooja Industries, Kottayam to waive the penalty amount of Rs.46,59,379/- for the penalty deferred period from 1/2008 to 8/2009 as assessed by the Chief Internal Auditor, KSEBL in respect of Purchase Orders read as 1st, 2nd and 3rd above.

It was further resolved, not to review the decision taken by the Purchase Committee meeting held on 27/01/2010 to give per pole per km rate beyond 80km in addition to the fixed transportation charges within the circle as per Purchase Order read as 2nd above placed with M/s.Pooja Industries, Kottayam, for supplying poles to Adimali and Peerumedu Divisions.

Orders are issued accordingly.

BY ORDER OF THE FULL TIME DIRECTORS

Sd/-

Lekha.G

Company Secretary in charge

To

The Chief Engineer (SCM)

Copy to:-

- ◆ The Legal Advisor & Disciplinary Enquiry Officer.
- ◆ The Chief Engineer (Distribution) South/ Central
- ◆ The Deputy Chief Engineer, Electrical Circle, Kottayam/ Pala/ Thodupuzha
- ◆ The Deputy Chief Engineer (IT), KSEB Limited
- ◆ TA to Chairman & Managing Director/ Director (Distribution, IT &HRM)/
Director (G-E & SCM)/ Director (Transmission, System Operation & Safety)/
Director (Generation-Civil)
- ◆ PA to Director (Finance)/Senior C.A. to Secretary(Administration)
- ◆ The Fair Copy Superintendent, Board Secretariat
- ◆ The Library, KSEB Limited/Stock file.

Forwarded/ By Order

Assistant Engineer