**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

**PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI).**

**APPEAL NO. 15/2018**

**Date of Registration : 12.02.2018**

**Date of Hearing : 09.08.2018**

**Date of Order : 10.08.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Sukhdev Rice Mills,

 Naudhroni Road,

 Malerkotla,

Distt.Sangrur.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division, PSPCL,

Malerkotla.

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Harmandeep Singh,

 Petitioner.

 2. Sh.Satnam Singh,

 Petitioner

Respondent : 1. Er. Gafoor Mohammed,

 Additional Superintending Engineer.

 2. Sh.Chetan Mahajan,

 Revenue Accountant.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 08.01.2018 of the Consumers Grievances Redressal Forum (Forum), in Case No. CG-313, of 2017, deciding that:

*“To uphold the decision of the Zonal Dispute Settlement Committee (ZDSC) South Patiala, PSPCL”.*

2. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having a Medium Supply Category connection,

for the Rice Sheller, in the name of Sukhdev Rice Mills, bearing Account No.L36MS360126, with sanctioned load of 84.820 kW.

1. The Petitioner made written request on 21.05.2009 to disconnect its

connection from 31.05.2009 as the Petitioner was no more in need of the same. On the basis of the said request, SJO No.078/42514 dated 21.05.2009 was issued and the seasonal load was disconnected on 31.05.2009 with reading of 483986 kWh, 578708 kVAh and MDI 70.41kVA. Monthly bills issued thereafter to the Petitioner were paid by it.

1. On 14.12.2009, the Petitioner filed an application in Sub-Urban Sub

Division, Malerkotla that paddy was not allotted to it by the Government, so there was no need of seasonal load and requested that the seasonal connection be treated as closed to save it from any type of charges and that Monthly Minimum Charges (MMC) for seasonal period be not recovered.

1. Due to defaulting amount pending against the Petitioner, its

connection was permanently disconnected vide PDCO dated 08.04.2010 and it was charged the Monthly Minimum Charges (MMC) of Rs. 1,21,888/- for the period from 01.09.2009 to 08.04.2010 on account of MMC for 4½ months.

1. The Petitioner did not agree with the charges raised and represented

to the Zonal Dispute Settlement Committee (ZDSC), which after hearing, decided on 12.10.2017 that MMC amounting to Rs. 1,21,888/- were not refundable. However, Security Deposit of Rs. 33,375/-, which was adjusted against the energy bill for billing month 03/2013 for another Account No. MS-203 was refundable alongwith interest thereon from 2010-2011 to 2016-2017 as per provisions of Supply Code, subject to pre-audit.

1. Aggrieved with the decision of ZDSC, the Petitioner filed a Petition

on 07.12.2017 in the Forum, who, after hearing, upheld the decision of ZDSC (Reference: Page 2, Para 1).

1. Not satisfied with the decision of the Forum , the Petitioner

preferred an Appeal in this Court and prayed that the Monthly Minimum Charges (MMC) had been recovered illegally. Regulation 18 and 18.4 were not applicable in this case and no request was made for renewal of electric connection, so, the amount of Rs. 1,21,888/- should be refunded alongwith interest in compensation for mental harassment and in the interest of justice.

3. **Submissions made by the Petitioner and the Respondent**:

 Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner in the Appeal and reply of the Respondent as well as the oral submissions of the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

The Petitioners submitted the following for consideration of this Court:

1. The Petitioner was having a Medium Supply Category connection

for Rice Sheller, in the name of Sukhdev Rice Mills, bearing Account No.L36MS360126, with sanctioned load of 84.820 kW. It was a seasonal connection of Rice Sheller Category.

**(ii)** A written request was made to the Respondent to disconnect its connection on 21.05.2009, as the Petitioner was no more in need of the same. On the basis of the said request, SJO No.078/42514 dated 31.05.2009 was issued and the seasonal load was disconnected on 31.05.2009.

**(iii)** The Rice Sheller was banned, vide letter No.QC.7/CHG-2006-A-0001/2004-05/31 dated 07.08.2009, for five years. The Manager, Food Corporation of India, Sangrur and District Manager, PUNGRAIN, Sangrur confirmed that the said Mill had not been allotted Jiri from 2009-2010 to 2015-2016. FCI was the only Agency which took rice from the Millers. As FCI was not taking Rice from the Petitioner’s Mill, so it could not run the Sheller in any way.

**(iv)** The Petitioner could not take and did not take any service for supply of electricity from the PSPCL, so, no amount should be recovered from it.

**(v)** The Petitioner verbally told the local office many times that appropriate action should be taken, so that no monthly minimum charge (MMC) should be recovered from it. At last, the Petitioner gave a written application on 14.12.2009 regarding the same.

**(vi)** As the Mill was closed, the Petitioner had already informed that it had no need of connection from 31.05.2009, so no minimum charge should be recovered from it. But the monthly minimum charges (MMC) was recovered illegally from the Petitioner’s Mill.

1. Regulation 18 and 18.4 of General Conditions of tariff was not

applicable in this case as the Petitioner never demanded electric connection. So, justice demands that the amount of Rs.1,21,888/- should be refunded to the Petitioner alongwith interest.

1. **Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court**:**

1. Sukhdev Rice Mill, Naudhrani Road, Malerkotla was having a Medium Supply category connection under Sub-Urban, Sub- Dvision, Malerkotla bearing Account No.L36MS360126. It was a seasonal connection of Rice Sheller Category and was fed from 11 KV Naudhrani Cat-II feeder from 66 KV Naudhrani Grid Sub Station.
2. On 21.05.2009, the Petitioner submitted an application in the Sub- Urban Sub-Division, Malerkotla to disconnect its connection and in compliance of same, SJO No.78/42514 dated 21.5.2009 was issued for disconnection of seasonal load.
3. The seasonal load of the Petitioner was disconnected on dated 31.5.2009, as requested by it.
4. According to Regulation 18.4 of General Condition of Tariff and Schedule of Tariff, seasonal consumer had to pay for minimum period of 4½ months, as such, the Petitioner was charged MMC of Rs.1,21,888/- for 110 days because the Petitioner’s connection was disconnected vide PDCO dated 08.04.2010 due to defaulting electricity dues. So, Billing Cell charged MMC to the Petitioner from 01.09.2009 to 08.04.2010. As per Rules ibid, it did not matter as to whether seasonal customer had consumed any demand or not, but seasonal MMC had to be recovered from the consumer.
5. On 14.12.2009, the Petitioner submitted an application in the Sub- Urban Sub-Division, Malerkotla that paddy was not allotted to it by the Goverment, so it did not want to run its seasonal load. The said application did not mention about disconnection of the connection permanently as the Petitioner had the intention to get relief from payment of MMC. As per Commercial Circular (CC) No.29/2009 and as per instruction of the Department, there was no provision for not to charge MMC if consumer was not running its seasonal load. Therefore, no action on the application of the Petitioner was taken. As per above stated Rule, it did not matter whether seasonal consumer had consumed any demand or not, but seasonal MMC had to be recovered from the consumer for minimum period of 4½ months.
6. The Forum decided the matter as per rules and regulations of the PSPCL.
7. Keeping in view the submissions made. Appeal may be dismissed.

4. **Analysis:**

 The issue requiring adjudication is the legitimacy of the amount of Rs.1,21,888/- charged to the Petitioner on account of MMC for the seasonal period from 01.09.2009 to 08.04.2010.

 *The points in this case emerged are analysed and deliberated as under:-*

1. Petitioner’s Representative (PR) contended that the

Petitioner, having a Medium Supply Category connection in the name of Sukhdev Rice Mills, requested the Sub Divisional Officer (Assistant Executive Engineer), Sub-Urban, Malerkotla, vide letter dated 21.5.2009 as under:-

*“Now we have no need of electric connection of M/S Sukhdev Rice Mills, Naudhroni Road, Malerkotla from 31.05.2009. Kindly disconnect it”.*

Petitioner’s Representative (PR) added that the electric connection of the Petitioner was disconnected on 31.05.2009, hence, no amount should be recovered after that.

The Respondent, in its defence, contested the plea of the Petitioner’s Representative (PR) and stated that the Petitioner submitted application dated 21.05.2009 in the Sub-Urban Sub Division, Malerkotla to disconnect the seasonal connection and not permanently. Accordingly, necessary compliance was made vide SJO No.78/42514 dated 21.05.2009 which was also signed by the representative of the Petitioner Representative. Besides, the Petitioner never objected that its connection had not been disconnected permanently. Rather, the Petitioner gave an application dated 14.12.2009 in the Sub-Urban Sub-Division, Malerkotla stating as under:

 “p/Bsh j? fe ;kvk P?bo pzd j?, pj[s e"fPP eoB d/ pkti{d ;kB{z gzikp ;oeko B/ ihoh nbkN Bjh ehsh . fJ; eoe/ ;kB{z ;hiBb b'"v dh io{os Bjh j? .

 feqgk eoe/ ;hiBb e{B?ePB B{z pzd ;wfMnk ikt/ sK i' jo fe;w d/ you/ s'A pfunk ik ;e/ ns/ fe;/ fe;w dk Minimum ukoi Bk t;{b ehsk ikt/ .”

The Respondent argued that the Petitioner, in its application ibid, did not mention about the disconnection of the connection permanently. Apparently, the Petitioner intended to get relief from payment of MMC. The Respondent added that as per Commercial Circular (CC) No.29/2009 and instructions of the PSPCL, there was no provision for not charging MMC, if the consumer was not running its seasonal load. As such, no action on consumer’s application ibid was taken. Thus, it did not matter whether seasonal consumer had consumed any demand or not implying thereby that seasonal MMC had to be recovered.

*I observe that the Petitioner, by submitting application dated 14.12.2009, proved its bonafides that it had not requested on 21.05.2009 for permanent disconnection of the connection and had instead, intended to get seasonal load disconnected and for getting relief from payment of MMC for the seasonal period of running of its Unit.*

**(ii)** Petitioner’s Representative (PR) next contended that

Regulation 18 and 18.4 of General Conditions of Tariff was not applicable in the case of the Petitioner’s Firm which did not take electric supply service from the PSPCL after 31.05.2009.

 I observe that Petitioner’s Firm was a Seasonal Industry and covered under Regulation 18 of General conditions of Tariff . As per Reg. 18.1, Industry mean industries/factories, which by virtue of nature of their production, work during part of the year upto a maximum of 9 months during the period of September 01 to May 31 next year. I would like to reproduce here the Regulation 18.4 of General Condition of Tariff providing that:

*“For exclusive seasonal industries, MMC as applicable in respective schedules of tariff shall be levied on full sanctioned load for the period these industries work during seasonal period of 9 months (from Ist September to 31st May next year). However, this working period shall be taken as minimum of 4½ months for the purpose of billing/levy of MMC on month to month basis. Industries which work for more than 9 months and upto 12 months, billing shall be done/monthly minimum charges levied on full sanctioned load as mentioned below for the seasonal period of 9 months and for the remaining 3 months ( i.e. 1st June, to 31st August) billing shall be done as per tariff applicable to general industries consumers tariff rate/rate of MMC shall be as given in schedule of tariff for Large*

*Supply/Medium Supply/Small Power and as applicable depending upon the sanctioned load.”*

I am of the view that the connection of the Petitioner remained under seasonal industry till it was permanently disconnected vide PDCO No.043/66483 dated 08.04.2010 on account of non payment of electricity dues (MMC etc) by the Petitioner’s Firm due to which, Billing Cell charged MMC charges to the Petitioner from 01.09.2009 to 08.04.2010 (220/2= 110 days).

(iii) During the course of hearing, the Petitioner informed that it

had submitted application dated 21.05.2009 for disconnection of its electric connection as the Food Corporation of India (FCI) had banned its Rice Sheller for a period of five years. In response, the Respondent disconnected the seasonal load on 31.05.2009, but did not inform the Petitioner that Monthly Minimum Charges (MMC) for the seasonal load will be leviable on the Petitioner. The Petitioner suggested for setting up a mechanism to guide and help the consumers who contribute significantly towards the revenue of the Distribution Licensee. The Respondent said that the letter of Food Corporation of India (FCI) banning the Rice Sheller for five years was never brought to its notice and the Petitioner never objected to seasonal load disconnection since it signed the Sundry Job Order (SJO) dated 21.05.2009 where it is clearly mentioned that only seasonal load shall be disconnected w.e.f. 31.05.2009. The Respondent further added that the Petitioner never applied for permanent disconnection and even in the Petitioner’s letter dated 14.12.2009, it is mentioned that “seasonal load is not required by it” and that the connection was permanently disconnected due to defaulting amount.

*As per record presented and discussed in this case, it is proved beyond doubt that the facts presented by the Respondent are correct to the extent that the Petitioner neither applied for permanent disconnection nor informed the Respondent about the five years ban imposed on its Rice Sheller by the Food Corporation of India (FCI). However, it is observed that the consumer was not guided properly by the concerned officers of the Respondent. I have already suggested in the meeting held on 12.7.2018 with the Hon’ble PSERC that setting up a Consumer Advocacy Cell will go a*

*long way in building a consumer friendly environment and also mitigating the hardships of the consumers in understanding the implications of the issues involved. I find that the matter is under process at appropriate level. In the meantime, Respondent-PSPCL should direct its officers to be courteous towards the consumers and keep a positive and helping attitude towards them.*

 From the above analysis, it is concluded that MMC charged to the Petitioner for the seasonal period (01.09.2009 to 08.04.2010) is as per General Conditions of Tariff and Schedule of Tariff approved by the Hon’ble PSERC and already deposited by the Petitioner as intimated by the Respondent during oral hearing.

5. **Decision:**

 **As a sequel of above discussions, the order dated 08.01.2018 of the Forum, in case No.CG-313 of 2017, is upheld.**

**6.** The Appeal is disposed off accordingly.

**7.** In case, the Petitioner or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

 (VIRINDER SINGH)

August 10, 2018 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab