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

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

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

 **APPEAL NO. 68/2018**

**Date of Registration : 20.11.2018**

**Date of Hearing : 17.01.2019 and 29.01.2019**

**Date of Order : 31.01.2019**

**Before:**

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

**In the Matter of :**

Divisional Engineer(Electrical),

PUDA Office Complex,

Bhagu Road,Bathinda

 ...Petitioner

 Versus

Addl. Superintending Engineer,

DS Division ,

 PSPCL , Malout.

 ...Respondent

**Present For:**

Petitioner : 1. Sh. R.S.Dhiman,

 Petitioner’s Representative (PR).

 2. Sh.Sajan Walia, SDE (E), PUDA,

 Petitioner’s Representative (PR).

Respondent : 1. Er. Sukhdarshan Kumar,

 Additional Superintending Engineer,

 DS Division,

 PSPCL, Malout.

 2. Sh.Gourav Gupta,

 Upper Division Clerk (Accounts)

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 25.10.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-290 of 2018 deciding that :

*“Amount charged to the Petitioner Rs.14,71,730/- (i.e. Rs.10,47,962/- plus Interest amounting to Rs.4,23,768/-) is justified & recoverable ”.*

**2*.* Facts of the Case*:***

 The relevant facts of the case are that:-

1. The Petitioner was presently having a Street Light Category

connection with sanctioned load of 12.360 kW.

1. The Petitioner had applied for Electric connection under Non

Residential Supply (NRS) Category on 17.10.2008, vide Application & Agreement No.32639 which was released on 25.10.2008 and subsequently converted into Street Light (SL) by the Respondent.

1. The Petitioner was served a supplementary notice vide letter no.623

dated 13.03.2018, to deposit a sum of Rs.10,47,962/- for the period from 25.10.2008 to 31.03.2014 as no energy bill was issued during this period.

1. Subsequently, Internal Audit Party, vide Half Margin No.503

dated 21.11.2017, charged the Petitioner for Rs.4,23,768/- on account of interest for the period from 09.09.2015 to 30.09.2017 plus late payment surcharge.

1. Not satisfied with the above charges, the Petitioner filed a Petition

dated 31.07.2018 in the Forum, who, after hearing, passed the order dated 25.10.2018. (Reference Page-2, Para-1).

1. Aggrieved with the decision of the Forum, the Petitioner preferred

an Appeal in this Court and prayed that the undue charges raised against the Petitioner may be set aside 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 and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent along with material brought on record by both the sides.

1. **Submissions of the Petitioner**:

 The Petitioner made the following submissions for consideration of this Court:

1. A Street Light Connection of 12.360 kW, bearing Account No.3003011853, in PUDA’s Residential Colony Green Field Enclave, was released on 25.10.2008 to the Petitioner.
2. The connection was required for Street Light, but the Respondent got it applied under NRS Category. The tariff was subsequently changed to Street Light (SL) category.
3. No energy bill was issued to the Petitioner for 6-7 years despite the fact that the Petitioner continued to follow up the matter regularly with the Respondent.
4. The Petitioner received the Energy Bill amounting to Rs.12,98,358/- for the month of 03/2015. The amount was shown recoverable under the column “ Sundry Charges”. The Petitioner, on receipt of energy bill, vide letter no.169 dated 13.04.2015 asked for the details of the amount shown in the energy bill from the Respondent, so that it could obtain approval of its higher authorities for payment of this huge amount. Payment of the current energy bill was , however, made to avoid disconnection.
5. The Petitioner had been pressing the Respondent by writing various letters to provide month-wise details of the Sundry Charges, but no response was received from the Respondent. Instead, a sum of Rs.4,23,768/- was added to the debits, on account of interest @ 1.5% per month.
6. Finally, the connection was disconnected in March 2018.
7. The details of the disputed amount, so sought by the Petitioner right from the beginning, were provided by the SDO, City Sub-Division, vide memo no.623 dated 13.03.2018.
8. Aggrieved with the said energy bill, the Petitioner filed a Petition

 dated 31.07.2018 in the CGRF and as per its directions, the

 connection of the Petitioner was restored after deposit of Rs. Five Lac.

1. The Forum, after hearing, decided that amount charged to the

Petitioner for Rs.10,47,962/- plus interest amounting to Rs.4,23,768/- was justified and recoverable.

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

an Appeal in this Court and prayed that the undue charges raised against the Petitioner may be set aside in the interest of justice.

1. The Petitioner’s Energy Bill did not exceed Rs.15000/- per month

 but swelled to more than Rs. 10 Lac for no fault on its part.

1. The Respondent, in utter violation of Regulation 30.3 of the Supply

Code 2014, did not generate any bill for more than six years despite repeated requests and personal visits.

1. Once the arrears swelled to more than ten years, it was not possible

for the Petitioner to arrange for the funds and make payment without the approval of the competent authority of its Department.

1. The details sought for by the Petitioner were supplied only after

 disconnecting the power supply of its Street Light connection.

1. The Petitioner had been making payment of the current energy bills

regularly which clearly showed that the Petitioner had no intention to withhold legitimate dues of the Respondent.

1. Under the circumstances, the Petitioner was not responsible for

delay, if any, to make payment to the Respondent for the amounts due.

1. Inclusion of arrears relating to the previous 6-7 years in the Current

Energy Bill of the Petitioner was in violation of Regulation 30.1.2 of the Supply Code-2014, which clearly showed that such arrears should not be clubbed with the current bill of the Petitioner.

1. In view of the submissions made above, the Appeal may be

allowed.

1. **Submissions of the Respondent:**

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

1. An electricity connection, bearing Account No. 3003011853, was running in the name of Divisional Engineer (Electrical), PUDA, Malout.
2. The Petitioner applied for Public Lighting (Street Light) category connection of 12.360 kW load on 17.10.2008 vide Application &Agreement No.32639, but was allotted NRS category on 25.10.2008. However, the Petitioner used the connection for Street Lighting purpose. No energy bill was raised to the Petitioner either in Public Lighting or in NRS Category, for the period from 25.10.2008 to 31.03. 2014.
3. At the time of migration of document in SAP System in 09/2014, balance amount was Rs.11,77,102/- which included Rs.10,47,962/- of amount recoverable for the period from 25.10.2008 to 31.03.2014 on account Stipulated Units in Pubic Lighting Billing. As the Petitioner stated that when Arrears exceeded more than Rs.Ten Lac, approval of higher authorities was required. From 09/2014, Arrears of Rs.11,77,102/- and surcharge amount was shown in every bill issued by the Sub Division. If the Petitioner wanted to pay the amount of arrears, then it should have got approval from its higher authority, prior to 09/2014.
4. Due to having no balance amount in the SAP System, interest for the period from 09.09.2015 to 30.09.2017 was to be charged, which was not charged by the SAP system. During the scrutiny of the account, having not charged the amount of interest, the Internal Audit Party of DS Division, vide Half Margin No.503 dated 21.11.2017, charged an amount of interest on the outstanding balance amounting to Rs.4,23,768/-. Assistant Engineer/City Sub- Division, Malout issued Notice No.623 dated 13.03.2018 to the Petitioner for depositing the said amount.
5. The amount charged to the Petitioner due to overhauling by the Audit Party, was initially intimated by the Respondent to the Petitioner in time. Once the same was intimated, there was no need to inform the Petitioner in detail every time when the subsequent bills were issued.
6. The Energy bills were issued regularly and delivered by the Bill Distributor at the office of the Petitioner. In March 2018, the connection of the Petitioner was disconnected because old outstanding amount of Rs.10,47,962/- was not paid by the Petitioner. After disconnection, an amount of Rs. 5,00,000/- from the outstanding balance was deposited by the Petitioner.
7. Keeping in view the submissions made, the Appeal may be

 dismissed.

4. **Analysis:**

 The issue requiring adjudication is the legitimacy of the amount of Rs.10,47,962/- charged on account of energy consumption for Street Light, vide Notice bearing letter no.623 dated 13.03.2018, for the period from 25.10.2008 to 31.03.2014 and of the surcharge and interest amounting to Rs.4,23,768/- charged (on the balance recoverable amount) from 09.09.2015 to 30.09.2017.

*The issues emerged in the case are deliberated and analysed as under:-*

1. In the present dispute, the connection was released on 25.10.2008,

but no Energy bill was raised to the Petitioner (PUDA) for the period from 25.10.2008 to 31.03.2014 by the Respondent. In fact, the Petitioner applied for NRS Category load, but the Respondent subsequently converted it into Street Light (SL) connection, as the connection fell under the category of Street Light. The energy bill dated 30.09.2015 was generated amounting to Rs.12,00,540/- (i.e. Current Energy Charges Rs.23,435/- plus Arrear of current Financial Year Rs.11,77,102/-) against consumption of 2,763 units for the period from 10.08.2015 to 11.09.2015. The Petitioner deposited only the current energy bill. Thereafter, only current energy bills were paid by the Petitioner. In view of less payment made by the Petitioner, the Audit Party charged a sum of Rs.4,23,768/- as a surcharge and interest on outstanding electricity dues vide Half Margin dated 21.11.2017.

I find that no bill was issued to the Petitioner from the date of release of electricity connection i.e. 25.10.2008 upto 31.3.2014 i.e. for a period of about 5½ years..

I observe that once the bill was issued to the Petitioner in 03/2014, it was its duty and responsibility to either deposit the bill or approach the appropriate dispute Committee or Forum, but the Petitioner deposited only the Current charges.

1. During the course of hearing dated 17.01.2019, the Respondent

intimated that the Petitioner was requested, vide letter No.1729 dated 29.12.2014, to deposit the arrears from the date of installation of the connection till 31.03.2014. Accordingly, the Respondent was directed to bring on record of this Court, the letter ibid for verification. In response, the Respondent instructed its staff at Malout office to send scanned copy of the said letter through e-mail, but the Divisional Staff sent only the copy of Despatch Register showing despatch of the aforesaid letter.

 Petitioner’s Representative (PR), then, submitted an application desiring to see the aforesaid letter and Despatch Register, in original, showing the proof of despatch.

 The Court , then, directed the Respondent to bring its office letter No.1729 dated 29.12.2014 referred to above, relevant Despatch Register and Case File on the next date of hearing i.e. 29.01.2019.

1. During the hearing dated 29.01.2019, the Respondent brought on

record of this Court, letter no.1729 dated 29.12.2014, in original, and also Dispatch Register as an evidence of dispatch of the said letter to the Petitioner’s office. Petitioner’s Representative, then, contested the said plea of the Respondent and stated that the Petitioner’s office had not received any such letter from the Respondent. Petitioner’s Representative added that the Petitioner’s office had made reference on 13.04.2015 and afterwards to the Respondent to intimate the details of the Sundry charges/arrears of the amounts billed, but no response was received from the Respondent.

 I have perused the letter no.1729 dated 29.12.2014 issued by the Assistant Engineer, PSPCL, City Sub Division, Malout to Divisional Engineer, PUDA enclosing therewith month-wise details of the amount of Rs.10,47,962/- on account of outstanding dues for energy consumption from 25.10.2008 to 31.03.2014.

 *I observe that, though, the Petitioner’s Representative denied about the receipt of any reference regarding details of payment of electricity bills during the period from 25.10.2008 to 31.03.2014, the Petitioner can not absolve itself of the responsibility of not fulfilling its obligation for keeping a watch on and ensuring payment of electricity bills for the energy consumed by it as per provisions contained in Regulation 30.11 of the Supply*

*Code-2007, which reads as under:*

“ *The Licensee will issue the first bill for a new connection released during a billing cycle before the end of the next billing cycle. In case a consumer does not receive the first bill by the end of the next billing cycle, he will inform the officer/functionary incharge of notified office of the Licensee who will arrange for issue of the bill within ten days*.”

In view of the regulation ibid, the Petitioner should have informed the Officer of the notified Office of Licensee, but it failed to do so. Thus, the Petitioner was responsible for not following up the matter of issue of the first bill and consuming the electricity,

 I also observe that the Petitioner also did not explore other alternatives including bringing the matter, of non-receipt of electricity bills, to the notice of higher functionaries of the PSPCL. Had the Petitioner made sincere and fruitful efforts, it would have been provided the requisite electricity bills/details by the licensee. At the same time, the Respondent is also responsible for the laxity/negligence in issuing the energy bills to the Petitioner’s office at the right moment. Had the Respondent been vigilant, the present litigation could have been avoided.

From the above analysis, it is concluded that the Petitioner is required to be charged arrears of outstanding dues of Rs.10,47,962/- for the period from 25.10.2008 to 31.03.2014 as decided by the Forum in its order dated 25.10.2018. Besides, the Petitioner is also liable to be charged surcharge and interest on the recoverable dues from 29.12.2014, keeping in view the fact that the Respondent relied on the first reference made (giving details of the outstanding payments) vide letter no.1729 dated 29.12.2014 issued to the Petitioner’s office.

5. **Decision:**

**As a sequel of above discussions, the order dated 25.10.2018 of the CGRF in case No. CG-290 of 2018 is partially modified. The Petitioner shall be charged Rs.10, 47,962/- (on account of pending energy bills from 25.10.2008 to 31.03.2014) plus surcharge and interest for the period from 29.12.2014 till the date of making the final outstanding payment. Accordingly, the Respondent is directed to recalculate and recover the amount due after adjusting the amounts deposited by the Petitioner for filing the Appeal.**

**6.** The Appeal is disposed of 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)

January 31, 2019 Lok Pal (Ombudsman)

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