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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 09/2018**

**Date of Registration : 29.01.2018**

**Date of Hearing : 16.07.2018**

**Date of Order : 24.07.2018**

**Before:**

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

**In the Matter of :**

 Lambodar Polyplast Industries,

 Rajla Road,

 Samana,

Distt.Patiala.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Division, PSPCL,

 Samana.

 ...Respondent

**Present For:**

Petitioner : Sh.Sukhminder Singh,

 Petitioner’s Representative(PR).

Respondent : 1. Er. Vipin Goel,

Addl. Superintending Engineer.

 2. Sh. Mahesh Kumar,

 Revenue Accountant.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 20.12.2017 of the Consumers Grievances Redressal Forum (Forum) in Case No. CG-304 of 2017 deciding that :

 *“Peak load violations charges amounting to Rs.2,23,880/- for the period of 01.06.2016 to 30.07.2016 are justified and recoverable from the Petitioner”.*

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

 The relevant facts of the case are that:-

1. The Petitioner was having a Large Supply Category

connection with Sanctioned Load of 249.800 kW and Contract Demand (CD) as 250.330 kVA, bearing Account No. 3002999469. The Petitioner got the connection converted from Medium Supply (MS) to Large Supply (LS) Category on 24.12.2015 for Polyplast Industries.

1. The Petitioner received the bill for the period from

24.02.2016 to 31.03.2016 amounting to Rs.14,16,640/- containing an element under the head ‘Voltage Surcharge’ of Rs.98,764/- and again in the bill for the period from 31.03.2016 to 30.04.2016 to the tune of Rs.36,424/-. Thereafter, in the bills issued for the period from 31.05.16 to 30.06.2016, 30.06.2016 to 28.07.2016 and 28.07.2016 to 31.08.2016, amounts of Rs.1,08,182/-, Rs.92503/-and Rs.23197/- respectively were charged under the head “ Violation Penalties” without any information to the Petitioner regarding Peak Load Hours Restrictions (PLHR) applicable. Thus, total amount of Rs.2,23,882/- was charged under the head “Violation Penalties” directly in the bills..

1. The Petitioner did not agree with the said amounts raised in the bills andfiled a Petition in the Forum who, after hearing, passed order dated 20.12.2017 (Reference: Page 2, Para-1).
2. Not satisfied with the decision of the Forum, the

Petitioner preferred an Appeal in this Court to set aside the decision of the Forum upholding the demand raised for Rs.2,23,882/- on account of Peak Load Violation (PLV) charges in the interest of natural justice. The Petitioner also prayed that ‘Voltage Surcharge’ amounting to Rs.98,764/- and Rs.36,424/-, charged in the bills for the period 24.02.2016 to 31.03.2016 and 31.03.2016 to 30.04.2016 respectively be ordered to be adjusted/refunded.

**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 Representative of the Petitioner and the Respondents alongwith 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. The Petitioner was having an electric connection under

Large Supply Category, bearing Account No.3002999469, with Sanctioned Load of 249.800 kW and Contract Demand (CD) as 250.330 kVA.

1. The connection was converted from Medium Supply to

Large Supply Category on 24.12.2015 for Polyplast Industries and the supply from the connection was being used for this purpose only, till date.

1. The energy bills issued in 04/2016 ( for the period

24.02.2016 to 30.03.2016) and 05/2016 (31.03.2016 to 30.04.2016) contained an element under the head “Voltage Surcharge” of Rs. 98,764/- and Rs. 36,424/- respectively, but the concerned office could not explain the levy of Voltage Surcharge.

1. Thereafter, in the bills issued in 07/2016 (31.05.2016

to 30.06.2016), 08/2016 (30.06.2016 to 28.07.2016) and 09/2016 (28.07.2016 to 31.08.2016), amounts of Rs.1,08,182/-,Rs.92,503/-and Rs.23,197/- respectively were charged under the head “Violation Penalties” without any other details and without any information to the consumer regarding Peak Load Hour Restrictions (PLHRs) applicable to the consumer. Thus, total amount of Rs. 2,23,882/- was charged under the head “Violation Penalties” directly in the bills. No detail was provided to the Petitioner but the bills were accepted after adjusting “Violation Penalties”.

1. The Petitioner was left with no option but to file a case in the Forum for adjudication, as the demand so raised was unjustified and illegal in view of instructions issued by the PSPCL. However, the Forum did not consider the genuine pleadings of the Petitioner and decided, vide Order dated 20.12.2017, that Peak Load Violation charges amounting to Rs.2,23,880/- (actually Rs. 2,23,882) for the period from 01.06.2016 to 30.07.2016 were justified and recoverable from the Petitioner.
2. The Petitioner was not satisfied with the decision of the Forum, hence, the present Appeal had been preferred.
3. The connection was converted from Medium Supply to Large Supply category on 12.12.2015 after extension in load. Peak Load Hours Restrictions (PLHRs) were not applicable to the consumer when the connection was under Medium Supply category. Being new consumer under Large Supply category, the Petitioner was not aware that Peak Load Hours Restrictions (PLHRs) were applicable and concerned office of the PSPCL also did not provide any information/notice regarding Peak Load Hour Restrictions (PLHRs) applicable to its connection from 24.12.2015 after conversion of the connection from Medium Supply to Large Supply category.
4. The Petitioner was not even told by the concerned office about levy of “Violation Penalties” for connection being under Large Supply category and that Peak Load Hour Restrictions (PLHRs) were not being observed by the consumer. As and when the Petitioner came to know about the Peak Load Hour Restrictions applicable and about charging of Peak Load Violation (PLV) penalty, the Petitioner started observing Peak Load Hours Restrictions (PLHRs).
5. It was the duty of the concerned office of the PSPCL to get noted Peak Load Hour Restrictions (PLHRs) timings as applicable to any new consumer under Large Supply category. However, huge penalty had been charged for Peak Load Violations (PLVs) without any prior information to the Petitioner and was, thus, liable to be quashed..
6. The Petitioner was very genuine consumer of the PSPCL and paying the energy bills well in time and believed in compliance of instructions/rules of all the Departments including the PSPCL. Had the concerned office got noted Peak Load Hour Restrictions (PLRHs), or consumer had been otherwise aware of applicability of Peak Load Hour Restrictions (PLHRs) on its conversion from Medium Supply to Large Supply Category or if concerned office of the PSPCL had given proper details/guidelines, then, the Petitioner would have observed regulatory measures as applicable to its Industry and no question of dispute would have been there.
7. The Forum, in its observations, had also mentioned that “ the connection of the Consumer was converted from Medium Supply to Large Supply category w.e.f 24.12.2015. The Peak Load Violations were not applicable on the Medium Supply Category, whereas it was applicable on the Large Supply Category. It is possible the consumer may not be aware of the same”.
8. The Respondent did not provide any evidence regarding giving any information/getting noted Peak Load Hour Restrictions (PLHRs) applicable to the Petitioner. The Forum was, thus, convinced that Peak Load Hour Restrictions (PLHRs) was not got noted from the consumer, However, inspite of all this, the Forum did not provide any relief and decided the case against the Petitioner.
9. It was very much clear that the Petitioner had not deliberately violated regulatory measures of the PSPCL. The concerned office failed to get noted the Peak Load Hour Restrictions (PLHRs) timings from the Petitioner. As such the decision of the Forum may be set aside and the demand of Rs.2,23,882/- raised on account of Peak Load Violation (PLVs) charges may be quashed in the interest of natural justice. Further, the “Voltage Surcharge” of Rs.98,764/- & Rs.36,424/- charged in the energy bills issued in 04/2016 ( for the period 24.02.2016 to 30.03.2016) and 05/2016 ( 31.03.2016 to 30.04.2016) may also be ordered to be adjusted/refunded.
10. **Submissions of the Respondent**:

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

1. The Petitioner got its Medium Supply Category

connection converted into Large Supply Category connection on 24.12.2015.

1. The Voltage Surcharge for the months of 04/2016 and

05/2016 to the tune of Rs. 98,764/- and Rs.36,424/- respectively had been adjusted on 23.12.2016. The charges on account of Peak Load Violation for the billing months of 07/2016, 08/2016, 09/2016 amounting to Rs.1,08,182/-, Rs.92,503/- and Rs. 23,197/- respectively totalling to Rs.2,23,882/- had been legally charged. The Forum also confirmed the validity of charges levied by the PSPCL vide its order dated 20.12.2017.

1. The Petitioner was initially having Medium Supply Category connection and there was no need to inform it about observance of Peak Load Violation restrictions, but, when the Petitioner’s connection was converted into Large Supply Category, the peak load violation Restrictions, as applicable, were required to be observed by the Petitioner. But the ignorance of law was no excuse. The consumer was duty bound to visit the website of the PSPCL regularly to update itself about the latest instructions. In this regard, PR Circular No.01/2014 dated 11.07.2014 hosted on the website of the PSPCL was relevant.
2. In the Application and Agreement Form signed by the

consumer (Para No.14-a), a specific mention was made about Peak Load Violation Restrictions.

1. The Petitioner was charged Rs.1,08,182/- as Peak Load

Violation charges in the bill for the month of 07/2016 in the first instance. But the violation (Peak Load) were made repeatedly by the Petitioner, due to which, Rs.92,503/- and Rs.23,197/- were charged as Peak Load Violation charges in the bill for the month of 08/2016 and 09/2016 respectively

1. The Appeal of the Petitioner may be dismissed.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of the amount charged on account of Peak Load Violation (PLV) charges amounting to Rs.2,23,880/- for the period from 01.06.2016 to 30.07.2016.

*The points emerged are analysed and deliberated as under****:***

Petitioner’s Representative (PR) submitted that the dispute arose after the Medium Supply Category connection of the Petitioner was converted into Large Supply Category with effect from 24.12.2015 against Application and Agreement No.10385 dated 30.09.2015. The energy bills issued in 04/2016 (24.02.2016 to 30.03.2016) and in 05/2016 (31.03.2016 to 30.04.2016) included “Voltage Surcharge” of Rs.98764/- and Rs.36424/- respectively without any explanation for levy of this surcharge. Petitioner’s Representative (PR) added that subsequently, in the bills issued in 07/2016 (31.05.2016 to 30.06.2016), 08/2016 (30.06.2016 to 28.07.2016) and 09/2016 (28.07.2016 to 31.08.2016), amounts of Rs.1,08,182/-,Rs.92,503/-and Rs.23197/- respectively were charged under the Head “Violation Penalties” without any other details and without any information to the consumer regarding Peak Load Hour Restrictions (PLHRs) applicable to the consumer. Thus, total amount of Rs.2,23,882/- was charged under the head “Violation Penalties” directly in the bills. No details were provided to the Petitioner but the bills were accepted after adjusting “Violation Penalties”.

I find that in compliance to order dated 30.03.2015 of the Hon’ble PSERC, PSPCL, vide PR Circular No.01/2015 dated 31.03.2015, circulated instructions/Schedule for observance of ‘Peak Load Hour Restrictions” by Large Supply Category consumers effective from 01.04.2015. The Circular ibid provided that instructions contained therein may be got noted from all the consumers well in time and timings of Peak Load Hour Restrictions (PLHRs) may be permanently displayed at all the Complaint Centres, Grid Sub Stations and ‘OP’ Sub Divisions/Divisions.

I would like to reproduce Clause No. 14 of the said

A&A, is as under:

 “*a) The consumer shall agree to restrict or regulate*

*consumption of electricity under this agreement during peak hours as may be directed by the Commission/State Govt. or any other appropriate authority.*

*b) The consumer shall agree to the supply of electricity under this agreement being curtailed, staggered or cut off altogether by the PSPCL if the power position or any other emergency in power system warrants such a course of action.*

*c) The PSPCL would have the right to temporarily discontinue power to the consumer at any time, whenever it becomes necessary for the purpose of testing plant, equipments etc. and for this no compensation will be payable to the consumer”.*

I observe that the Petitioner, by signing Application

and Agreement dated 30.09.2015 for conversion of its connection from Medium Supply into Large Supply Category, undertook to abide by the rules/regulations of the PSPCL governing the Large Supply Category Connection, **but the timings of the Peak Load Hour Restrictions (PLHRs) were not mentioned in A&A Form or got noted from the Petitioner as per provisions contained in PR Circular No.01/2015**.

I further observe that the Petitioner, having a Large Supply Category connection, ought to have behaved responsibly and should have kept itself posted with the changes in Peak Load Hour timings made by the PSPCL and posted on website of PSPCL. At the same time, the Distribution Licensee also defaulted in getting complied with its own instructions dated 31.03.2015 (PR No.01/2015) requiring that:

“ *These Peak Load Hour Restrictions (PLHRs) shall be applicable on Large Supply consumers only and the above charges may be got noted from all the concerned consumers well in time*”.

According to the Peak Load Hour Restriction (PLHR) timings should have been got noted from the Petitioner when it came under Large Supply Category. I also noted that Respondent failed to inform the Petitioner regarding Peak Load Violation (PLV) period and details in the bills. This has also been observed by CGRF (Forum) in its decision dated 20.12.2017

 ( Page No.4, Para 2).

From the above analysis, it is concluded that Petitioner violated the Peak Load Hour Restrictions (PLHRs), but at the same time, the Respondent was also responsible for not intimating the timings at the time of conversion of category of the connection. Hence, the Petitioner should be charged for Peak Load Violations at single rate as per provisions contained in Instruction No.132 of ESIM.

**5. Decision:**

**As a sequel of above discussions, the order dated 20.12.2017 of the Forum in Case No. CG-304 of 2017 is modified and the Respondent is directed to recalculate the Peak Load Violation Charges as per directions given in para 4 above and refund/recover he excess/short payment, if any, without any interest /surcharge.**

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

**7.** In case, the Petitioner or the Respondent (Licensee) 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.

 July 24,2018 (VIRINDER SINGH)

S.A.S.Nagar (Mohali) LokPal (Ombudsman)

 Electricity, Punjab.