**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 45/2019**

**Date of Registration : 07.08.2019**

**Date of Hearing : 27.09.2019**

**Date of Order : 07.10.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity.**

**In the Matter of:**

 Sukhwinder Singh,

 H.No.B-11/303,

 Gobind Colony,

 Street No.1,

Barnala

. ...Petitioner

 Versus

 Sr.Executive Engineer,

DS City Division,

PSPCL, Barnala

 ...Respondent

**Present For:**

Petitioner : Sh. R.S. Dhiman ,

 Petitioner’s Representative (PR).

Respondent : 1. Er. Gangandeep Singh,

 Senior Executive Engineer,

DS City Division,

PSPCL, Barnala

 2. Er.Vikas Singla,

 AEE, City Sub division,

 PSPCL, Barnala

 3. Er.Harish Vinayak,

 AEE/ME Laboratory,

 PSPCL, Sangrur.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 22.07.2019 in Case No. CGP-126 of 2019 of the Consumers Grievances Redressal Forum (Forum), Patiala stating as under:

* “ *(a) The Petitioner has been correctly billed for an amount of Rs 3,43,920/- for an actual consumption of 40,890 units which has been concealed consistently for almost three years (47,145 Final Reading as per DDL-6255 Final Reading upto which Petitioner was billed=40890 units). The amount charged to the Petitioner on account of actual consumption of 40890 units is justified and is recoverable.*
* *(b) Further, amount charged to the Petitioner may be recovered in 15 equal monthly instalments without charging any interest/surcharge.*
* *(c) Further, suitable disciplinary action may be taken against the officials responsible for not recording of correct readings and interest/surcharge due from the Petitioner be recovered from the officials responsible for the same for causing a huge loss to the corporation.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having Domestic Supply (DS) Category

connection with sanctioned load of 7.080 kW for which, the Metering was done by providing Single Phase, Two wire, 10-60 Amp, Energy Meter.

1. The connection was checked by the AEE, City Sub division,

PSPCL, Barnala, vide Inspection Register No 042/38 dated 10.11.2018 whereby, it was reported that there was no display on the Energy Meter and directions were given to get the Energy Meter checked from M.E Laboratory. During the said checking at site, the connected load was found to be 16.326 kW.

1. The Single Phase defective Energy Meter was replaced with Three

Phase Four Wire, Whole Current, 10-60 Amp Energy Meter of Flash Make vide Device Replacement Application No. 100006959724 dated 12.11.2018, affected on 12.11.2018.

1. The defective Single Phase Energy Meter was got checked in M.E

Lab, Sangrur on 26.02.2019 **.** DDL was taken and from DDL, the Final Reading was noted as 47,145 kWh.

1. Earlier, the Energy Meter was replaced, vide Device Replacement

Application No 100001852123 dated 19.04.2016, at initial Reading of 00001.

1. Thereafter, the Petitioner’s account was overhauled from

19.04.2016 to 09.11.2018 by taking final Reading of 47, 145 kWh as per DDL.

(**vii)** The Respondent overhauled the account of the Petitioner and charged a sum of Rs.3,43,920/- as Sundry Charges in the Energy bill dated 08.04.2019, amounting to Rs 3,70,290/-

1. The Petitioner did not agree with the amount charged in the said

Energy Bill and filed a Petition dated 30.04.2019 in CGRF, Patiala who, after hearing, passed the order dated 22.07.2019. (Reference Page-2, Para-1).

**(ix)** Aggrieved with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed that 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 Representative of the Petitioner and the Respondents 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. The Petitioner was having DS Category connection with sanctioned

load of 7.080 kW .

1. The Energy Meter of the Petitioner was replaced by the Respondent

 in November 2018 for reasons best known to it.

1. The Petitioner was asked to attend ME Laboratory, Sangrur for

checking of the disputed Energy Meter, but the Petitioner, being busy in Goverment Service affairs, could not find time to attend the Laboratory on the appointed date. As such, the testing was done in the M.E Laboratory, Sangrur in the absence of the Petitioner.

1. The Petitioner was not supplied any test report of the ME

laboratory or any other document regarding change of the Energy Meter.

1. Thereafter, the Petitioner was served Energy Bill dated 08.04.2019

wherein, a sum of Rs.3,43,920/- was shown as Sundry Charges. No details of the debits raised regarding the period or basis of charging were provided.

1. The Petitioner visited the office of the SDO, City Sub division,

PSPCL, Barnala to get the undue charges waived off, but to no avail.

1. Aggrieved against the inaction of the Respondent, the Petitioner

filed a Petition in the CGRF, Patiala who, after hearing both the parties, decided the matter in favour of the Respondent.

1. The Petitioner’s bimonthly consumption for the last more than 5

years was of the range of 400 kWh units. This pattern continued upto July 2018.

1. Thereafter, the Energy Meter got defective and was replaced by the

Respondent on 12.11.2018 for ‘D’ Code. Consumptions of 41,775 kWh units recorded by this defective Energy Meter from 07/2018 to 12.11.2018 was unimaginable with a load of 7.080 kW and required to be set-aside.

1. The Respondent contended that the connected load of the

Petitioner was checked on 10.11.2018 and found to be 16.326 kW, therefore, the consumption of 41,775 kWh units was not justified, even with this connected load.

1. The Forum completely ignored the contention of the Petitioner that

it had made some additions and alterations to its house a few months back and as a result, it installed some additional load and applied for a separate connection for the purpose. Accordingly, the separate connection for the additional load was released on 13.02.2019, but the Forum, while deciding the case, had completely ignored this fact.

1. The consumption of 41,775 kWh units recorded by the disputed

Energy Meter in four months was not justified even for 16.326 kW

connected load.

1. The decision of the Forum was based on presumption that the Meter

Reader had been taking wrong readings during the last six years. There was no evidence on record to support this assumption of the Forum.

1. The Forum relied upon the DDL of the Energy Meter which was

replaced by the Respondent itself on the ground of being **defective**.

1. The new Energy Meter, installed at the premises, after release of a

separate connection i.e. after 13.02.2019 proved that huge undue demand of Rs.3,43,290/- was totally wrong and unjustified.

1. Many Meter Readers must have been transferred during the last 6-7

years and it could not be believed that all the Meter Readers were taking wrong readings with the aim of doing so till the Energy Meter got defective.

1. In view of the submissions made above, the undue charges raised

 against the Petitioner be set aside in the interest of justice.

1. **Submissions of the Respondent:**

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

1. The Petitioner was having a Domestic Supply (DS) Category

 connection with sanctioned load of 7.080 kW.

1. The connected load was checked by the AEE/City Sub division,

PSPCL, Barnala on 10.11.2018 and found to be 16.326 kW. The site of the Petitioner’s connection was checked to verify the ‘D’ Code status of Energy Meter.

1. On checking, it was found that display of the Energy Meter was not

visible. The Energy Meter of the Petitioner was replaced, vide Device Replacement Application No.100006959724, on 12.11.2018. The Energy Meter was seal packed in the presence of the Petitioner (after having signature of the Petitioner) and a new Energy Meter, bearing Sr.No.158449 (Flash make Three Phase Four wire 10-60A) was installed, by replacing the old one.

1. The replaced disputed Energy Meter was taken to ME Laboratory,

Sangrur for further investigation, for which, a Notice, bearing No.147 dated 31.01.2019, was sent through Registered Post to the Petitioner, which was received by the Petitioner, but it did not turn up at the M.E Laboratory.

1. Final Registered Notice, bearing No.210 dated 18.02.2019, was

issued to the Petitioner to attend M.E Laboratory on 26.02.2019, but again, the Petitioner did not turn up.

1. The Energy Meter was checked by the AEE/Enforcement, Patiala,

AEE/ M.E Laboratory, Sangrur in the presence of AEE, City Sub division, PSPCL, Barnala vide Store Challan No.29 dated 26.02.2019.

1. The Final Notice dated 18.02.2019 was received back from Postal

Department on 01.03.2019 with the remarks that “ Addressee was not available at home even after repeated visits”.

1. From the DDL Report, it was evident that the Petitioner had average

consumption of about 1200 kWh units/month in the last year. Even the new Energy Meter installed at site showed a consumption of about 26 kWh units per day (Reading 7517 as on 29.08.2018 and Energy Meter was installed on 12.11.2018). Also, another connection availed by the Petitioner on 13.02.2019 in the same house had average consumption of 7.33 units/day (Reading 1453 as on 29.08.2019 and Energy Meter was installed on 13.02.2019). As such, the total household consumption came out to be 35 kWh units/day (approximately).

1. The decision of the Forum was not challengeable as the same was

based on the DDL Report.

1. The amount was charged only due to difference in reading as

 detected in DDL Report of the Energy Meter.

1. The Appeal may be dismissed and the Petitioner be directed to

deposit the entire amount alongwith interest/surcharge so that financial loss to the Respondent-PSPCL could be saved.

4. **Analysis:**

The issue requiring adjudication is the legitimacy of the Sundry Charges of Rs. 3,43,920/- charged for the consumption of 40,890 kWh units in the bill dated 08.04.2019 ( after overhauling its account from 19.04.2016 to 09.11.2018) due to difference in reading of the Energy Meter as per DDL dated 26.02.2019 taken by M.E Laboratory, PSPCL, Sangrur for the period from 19.04.2016 to 09.11.2018.

 *The points emerging in the case are deliberated and analysed as under:*

1. The present dispute arose after the connection of the Petitioner was

checked by the AEE, City Sub-division, PSPCL, Sangrur, vide Inspection Register No 042/38 dated 10.11.2018 whereby, it was reported that there was no display on the Energy Meter and direction were given to get the Energy Meter checked from M.E Lab. During the said checking, the connected load was found to be 16.326 kW. The Single Phase defective Energy Meter was replaced with Three Phase Four Wire, Whole Current, 10-60 Amp Energy Meter of Flash Make vide Device Replacement Application No. 100006959724 dated 12.11.2018, affected on 12.11.2018. The defective Single Phase Energy Meter was got checked in M.E Lab, Sangrur on 26.02.2019 where DDL was taken and from DDL, the Final Reading was noted as 47,145 kWh. Earlier, the Energy Meter was replaced vide Device Replacement Application No 100001852123 dated 19.04.2016 at Initial Reading of 00001. Thereafter, the Petitioner’s account was overhauled from

19.04.2016 to 09.11.2018 by taking final Reading as per DDL as 47,145 kWh.

A study of the report dated 26.02.2019 of the M.E Laboratory revealed that accuracy of the Energy Meter was not checked/tested there and only DDL was taken. The said action of the M.E Laboratory was not correct as the disputed Energy Meter was brought to M.E Laboratory after it was noticed during checking at Site that display of the Energy Meter was not visible. But the M.E Laboratory did not declare, after checking, as to whether the Energy Meter was defective or O.K. Keeping this in view, the AEE, M.E Laboratory, Sangrur was directed to attend the hearing dated 27.09.2019 in this Court.

1. Accordingly, during the course of hearing dated 27.09.2019, the AEE, M.E laboratory, PSPCL, Sangrur stated orally and in writing as under:

“ *A Single Phase Meter having Serial No.8712601 of Avon Make (capacity 10-60A) was brought to M.E laboratory on dated 26.02.2019 with Challan No.29. As the consumer after getting 3 notices from the office of AEE, City Sub division, Barnala, could not visit M.E Laboratory and after getting the attestation from AEE/City Sub division, Barnala that the required notices have been served, the Meter was brought out from the packed box having paper seal No.6445 dated 12.11.2018.*

***As the display of the Meter was not showing any parameter and hence the Meter could not be tested for accuracy****. However, Meter was connected to a Computer through its Optical Port for downloading the data saved in its internal memory. As the Optical Port is different from the Meter display unit and the data stored in the internal memory of the Meter can be retrieved through its Optical Port even if the display of the Meter is not showing any parameter.*

*After getting the data from the Meter, it was observed that the final kWh reading on which the Meter was removed from consumer premises was 47,145. Moreover, DDL of the Meter also has the history data which shows the last 12 months cumulative kWh, cumulative kVAh, MD ( in kW), MD ( in kVA) and average PF with dates.*

*DDL for the Meter also has daily cumulative energy for last 100 days which clearly shows daily energy being consumed by consumer through the Meter.*

*It is also submitted that the memory of the Energy Meter is different from the display of the Meter. In this Meter, the memory of the Meter was accessible through the Optical Port”.*

 I observe that the above reply of the AEE, M.E Laboratory, PSPCL, Sangrur is not correct and convincing because Memory of the Energy Meter, being O.K, kWh pulse might be coming in Active Mode and accuracy of the Energy Meter could be checked through Electronics Reference Standard (ERS) Meter. Still, the checking was not done in the M.E Laboratory as a result of which, healthiness of Energy Meter could not be ascertained. Accordingly, data retrieved through Optical Port could not be treated as authenticated.

 The Court directed the Technical Advisor to visit the Works of the Meter Supplier Avon Meters (P) Limited at Dera Bassi and discuss the whole matter with its R&D Department. Accordingly, Technical Advisor visited Firm’s office and discussed the matter with Chief R&D Officer. After discussions, it was concluded that the contention of AEE/M.E Laboratory was wrong that accuracy of the Energy Meter could not be checked as display was defective. The accuracy of the Energy Meter can be checked with ERS Meter through Active Pulse, if it was coming and if the accuracy is within permissible limits then only correct data is stored in memory.

 *I noticed that in instant case the accuracy of the Energy Meter was not checked by the Respondent at site or in M.E Laboratory, hence authenticity of Data retrieved from Optical Port can not be relied upon.*

1. A perusal of Consumption Data, brought on record of this Court, shows that before defect in the display of Energy Meter, the consumption was in the range of 250 to 500 units. The connected load during the checking by DS Division, PSPCL, Barnala on 10.11.2018 was found to be 16.326 kW against sanctioned load of 7.080 kW. I find that the Petitioner submitted that some additions and alterations were made in its house due to marriage of its son. As a result, some load was added. But, at the same time, a new connection was applied for addtioned load of 5 kW in the name of Sh Rattan Anmol and released on 13.02.2019 bearing Account No. 3005120881.
2. From the perusal of Calculation Sheet available in the case file of CGRF, the consumer’s account was overhauled from 19.04.2016 ( date when the old Energy Meter was replaced and present one was installed) to 09.11.2018 (Reading as per SAP Data) as per which. an amount of Rs 3,43,920/- were charged in the Energy Bill dated 08.04.2019 as Sundry Charges

 I observe that the consumption data has been supplied by the Respondent from the year 2012 to year 2019 and it is noticed that the Energy Meter in question was O.K. upto the billing month of May, 2018 and in the month of July, 2018, the status of the Energy Meter was ‘D’ Code i.e. defective. This defective Energy Meter was replaced on 12.11.2018. On one side, the Calculation Sheet shows the reading as 6,255 kWh on 09.11.2018, whereas the consumption data show that this reading was in the month of January, 2019 and status of Meter was ‘D’ Code, whereas the Meter was replaced on 12.11.2018 as per Device Replacement Application No.100006959724 dated 12.11.2018. Hence, the consumption shown in consumption data is at variance with that of the Calculation Sheet. As discussed above, consumption data shows that the Energy Meter became defective in between May, 2018 and July, 2018. Hence, the account of the Petitioner is required to be overhauled from May, 2018 upto 12.11.2018 (Date when the Meter was replaced) as per provisions contained in Regulation 21.5.2 of Supply Code-2014.

**5. Conclusion:**

 From the above analysis, it is concluded that the Energy Meter of the Petitioner’s connection remained defective during the period from May, 2018 to 12.11.2018 ( date of replacement of the Energy Meter). As such, the account of the Petitioner is required to be overhauled for the said period on the basis of LDHF formula as per provisions contained in Regulation 21.5.2 (d) of Supply Code-2014 because the load was detected to be connected as 16.326 kW during checking dated 10.11.2018. In LDHF formula, the L, D, H and F are as under:

 L Load in kW detected during the Inspection.

 D No. of days

 H No. of hours

 F Demand Factor

 **6. Decision:**

 **As a sequel of above discussions, the order dated 22.07.2019 of the CGRF, Patiala in Case No. CGP-126 of 2019 is set aside. It is held that the account of the Petitioner shall be overhauled in terms of conclusion arrived at in Para-5 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without interest.**

 **7.** The Appeal is disposed of accordingly.

 **8**. 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)

October 07, 2019 Lokpal (Ombudsman)

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