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

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

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

 **APPEAL NO. 64/2019**

**Date of Registration : 05.11.2019**

**Date of Hearing : 26.12.2019**

**Date of Order : 26 .12.2019**

**Before:**

**Er. Gurinder Jit Singh, Lokpal (Ombudsman), Electricity, Punjab.**

**In the Matter of :**

Amrit Lal Kakkar,

s/o Sh.Ram Lubhaya

Khalra Road, Bhikhiwind,

District Tarn Taran

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division ,

PSPCL, Bhikhiwind.

 ...Respondent

**Present For:**

Petitioner : Sh.Parvesh Chadha,

 Petitioner’s Representative (PR).

Respondent : 1. Er.R.K.Goel,

 Additional Superintending Engineer,

 DS Division,

 PSPCL, Bhikhiwind.

 2. Sh.Nitish Chopra,

 Revenue Accountant.

**O R D E R**

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 07.10.2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. T-269 of 2019, deciding that :

*“ the case is time barred, hence the case can not be considered further for registration”.*

**2. FACTS OF THE CASE:**

The relevant facts of the case are that:

**(i)** The Petitioner was having a Large Supply (LS) Category connection with sanctioned load of 199.690 kW and contract demand (CD) of 225 kVA for Rice Sheller.

1. The Petitioner was issued an Energy Bill for 07/2013 on 13.08.2013,

for the consumption of 58,450 kWh units/ 58,908 kVAh units, amounting to Rs.8,07,250/- which included Security (Consumption) of Rs.1,86,681/-

1. The Energy Meter was checked by the Addl.SE/MMTS, Batala,

vide ECR No.18/1554 dated 20.08.2013  whereby, it was reported that Red Phase of PT had got burst due to flash and 11 kV/ 110V, CT/PT unit was damaged due to which, load and accuracy of the Energy Meter could not be checked. Accordingly, MMTS directed the Respondent to replace the said CT/PT unit.

1. The Petitioner did not pay the bill for 07/2013 and filed a Petition in

Civil Court, Patti on 24.08.2013 and deposited 50% of the billed amount of Rs.8,07,250/- ( for 07/2013) on 11.10.2013 as per orders of the said Court. Subsequently, the suit was dismissed as withdrawn by the Additional Civil Judge (Senior Division)-cum- Presiding Officer, Monthly Lok Adalat, Patti vide order dated 25.03.2015 reproduced as under:

“ *The proprietor of Plaintiff firm with his counsel made a statement to withdraw the present suit being* ***compromised.******Consequently, the present suit stands dismissed as withdrawn being compromised in monthly Lok Adalat***”.

1. Neither the Petitioner nor the Respondent provide the

Statement/Compromise deed signed by both the parties on the basis of which, aforesaid order dated 25.03.2015 was passed by the Lok Adalat, Patti.

1. In the meantime the damaged CT/PT unit was replaced vide Sundry

Job Order No.41/77150 dated 22.08.2013.

1. Thereafter, the connection was again checked by the Addl.S.E/

MMTS, Batala vide ECR No.27/1555 dated 03.09.2013 as per which, it was reported that kWh and kVAh pulse were blinking very fast and readings were changing on rapid pace. The Energy Meter was tested with LT ERS Meter but the accuracy could not be checked as the pulse was very fast. The load on the display of Energy Meter was 361.560 kW and software of the Energy Meter was defective. As a result, MMTS directed the Respondent to replace the defective Energy Meter.

1. The Energy Meter was replaced vide Meter Change Order (MCO) No.100/64192 dated 03.09.2013, affected on the same day i.e. 03.09.2013. The readings of the removed Energy Meter as per MCO were as under:

 kWh = 012,88,658

 kVAh = 014,13,809

 Maximum Demand = 516.86 kVA

 MF = 2

1. The bill of the Petitioner for 08/2013 amounting to Rs.7,80,350/-

which included Demand Surcharge as Rs.6,06,540/- on account of recording of excess demand against sanctioned contract demand was issued. Due to non payment of the bill of 07/2013 amounting to Rs.8,07,250/-, by the Petitioner, gross amount of the bill for 08/2013 became Rs.16,61,360/-.

1. The Petitioner submitted a request to the AEE/DS, Sub-division,

Bhikhiwind for representing against the bill of 08/2013 for Rs.16,61,360/- before the Zonal Dispute Settlement Committee (ZDSC) but the Petitioner was directed vide Memo No.118 dated 21.01.2016, 201 dated 03.02.2016 and 2234 dated 23.08.2016, to get the approval from the competent authority for registration of the case with Zonal Dispute Settlement Committee (ZDSC) . But the Petitioner did not do so due to which, the same was not registered in ZDSC.

1. The Energy Meter (removed on 03.09.2013) was got checked on

17.09.2018 in M.E Laboratory which reported that Real Time Clock (RTC) did not match with Actual Time. Terminal Block melted at Red Phase PT, Scroll buttons were defective. Pulse was blinking without load and both kWh & kVAh counters recorded energy without load. As per the said report, Dial Test was not done. Besides, the Energy Meter was declared damaged and defective and inaccurate.

1. The Petitioner did not pay the whole amount of the energy bills for 12/2014 and 01/2015 due to disputed bills as the Respondent had not allowed to deposit the amount of current bill only. As such, the connection was disconnected vide PDCO No.33/112 dated 12.02.2015, affected on 12.02.2015.
2. The Petitioner filed a Petition dated 12.09.2019 in the CGRF, Ludhiana who, after hearing both the parties, observed and passed the order dated 07.10.2019 as under:

“*Forum observed that the matter in dispute related to the period 07/2013. Complainant filed his case in Civil Court, Tarn Taran and later on in 2015, withdraw his case from Civil Court on the pretext to file his case in ZLDSC. As per his complaint, he filed an application to Chief Engineer/DS Border Zone, Amritsar to consider his case in ZLDSC. As per record, the case was not registered in ZLDSC and neither the complainant nor the Respondent followed up this case for the registration in ZLDSC. During this period from 2015 till now, he is paying his current bills after correcting the disputed amount. Now when the distribution office did not accept his current bill, the complainant has approached this Forum to consider his case.*

 *After hearing both the parties, Forum decided that the case is time barred, hence the case cannot be considered further for registration*.”

1. Not satisfied with the decision of the CGRF, Ludhiana, the

Petitioner filed an Appeal in this Court and prayed to review its case in the interest of justice.

1. The Addl.S.E, DS Division, PSPCL, Bhikhiwind, in its reply sent

vide letter No.9634 dated 28.11.2019, prayed to dismiss the present Appeal in view of its being time barred and also due to its careless approach at Civil Court, Patti and ZDSC.

1. In response to the said reply of the Respondent, the Petitioner’s

Representative (PR) filed a rejoinder dated 03.12.2019 in this Court and prayed to review the case on the plea that there was a deficiency in service on the part of the PSPCL (Respondent) which had not got tested the Energy Meter within prescribed time limit and also had not conveyed and implemented the test results.

1. As the order dated 25.03.2015 passed by Sh. Pritpal Singh,

Additional Civil Judge (Senior Division)-cum-Presiding Officer, Monthly Lok Adalat, Patti, dismissing the Civil suit filed by the Petitioner as withdrawn being compromised but did not mention the details of the Compromise arrived at between the Petitioner and the Respondent-PSPCL. An e-mail dated 23.12.2019 was sent to the Representative of the Petitioner and the Respondent to send an attested/certified copy of the Statement recorded in the court at Patti giving details of the Compromise arrived at between both the parties/sides. In response, the Petitioner’s Representative stated, vide e-mail dated 25.12.2019 as under:

“*No such record is available with the petitioner. The Counsel was expired in March 2019 and his office is closed”.*

**3**. **ANALYSIS:**

The points emerged are deliberated and analyzed as under:

During the course of hearing in this Court on 26.12.2019, the Petitioner’s Representative reiterated the submissions made in the Appeal and also in the Rejoinder to the Reply of the Respondent. Petitioner’s Representative (PR) submitted that the Forum erred in observing that the Petition filed by the Petitioner before the Forum was time barred and could not be considered for registration. Petitioner’s Representative (PR) pointed out that the Forum had incorrectly mentioned in its order dated 07.10.2019 that when the distribution licensee did not allow to accept payment of current bill, the complainant had approached the Forum to consider its case. Petitioner’s Representative (PR) added that the connection of the Petitioner was permanently disconnected on 10.02.2015 and no payment of any electricity bill was made since then. Besides, there was a deficiency in service on the part of the PSPCL which did not get the Energy Meter tested from M.E. laboratory after its removal from Site on 03.09.2013 till 17.09.2018. Accordingly, Petitioner’s Representative questioned the legitimacy of the contention of the Respondent that cause of action arose on 20.08.2013 ( date of checking of the Energy Meter by the MMTS) and stated that cause of action should be considered as having arisen on 17.09.2018 when the Energy Meter was tested in M.E. Laboratory. Petitioner’s Representative (PR) added that test results of the M.E. Laboratory were not conveyed to the Petitioner. This clearly confirmed the impression that there was a deficiency in service on the part of the PSPCL and the present Appeal was within limitation and needed to be reviewed in the interest of justice.

**4.** **CONCLUSION**:

 From the above analysis, it is concluded that:

1. Both the Petitioner and the Respondent showed gross negligence in handling the present dispute. No material/evidence has been brought on record of this Court to prove that sincere and earnest efforts were made with due expedition to resolve the dispute and avoid litigation. While the Petitioner did not make any request in writing for early testing of the Energy Meter (removed on 03.09.2013 from site) in the M.E. Laboratory, the Respondent also showed laxity and deficiency in service in not getting the said Energy Meter tested within stipulated time limit in M.E. Laboratory as per provisions of PSERC (Electricity Supply Code and Related Matters) Regulation-2007. The Respondent also did not take necessary action to overhaul the account of the Petitioner (related to disputed bill for 07/2013 and 08/2013) as per report of MMTS and M.E. Laboratory.
2. Though, both the Petitioner and the Respondents were parties in the Civil Suit compromised in the Court of Sh.Pritpal Singh, Addl. Civil Judge (Senior Division)–cum-Presiding Officer, Monthly Lok Adalat, Patti on 25.03.2015, neither of the two was able to produce, even after being requested vide e-mail dated 23.12.2019, certified details of the compromise arrived at between the Petitioner and the Respondent.
3. The Petition dated 12.09.2019 filed by the Petitioner in CGRF, Ludhiana was within limitation period of two years from the date of testing of Energy Meter in M.E. Laboratory i.e. 17.09.2018 which was challenged by the Petitioner on 23.09.2013. The result of testing in M.E. Laboratory have not been conveyed to the Petitioner till now as confirmed by the Respondent during hearing on 26.12.2019.

5. **DECISION:**

**The order dated 07.10.2019 of the CGRF, Ludhiana in Case No. T-269 of 2019 is set aside. It is held that the said Case/Petition is within limitation and shall now be heard and adjudicated on merits by CGRF, Ludhiana.**

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

 (GURINDER JIT SINGH)

December 26, 2019 Lokpal (Ombudsman)

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