

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).
(Constituted under Sub Section (6) of Section 42 of Electricity
Act-2003)**

APPEAL No. 53/2021

Date of Registration : 09.07.2021

Date of Hearing : 19.07.2021

Date of Order : 23.07.2021

Before:

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

In the Matter of:

Dhiraj Kaur, # 101, Mohindra Complex,
Street No.-3, New Officers Colony,
Patiala.

Contract Account Number 3000097610

...Appellant

Versus

Additional Superintending Engineer,
DS Model Town Division,
PSPCL, Patiala.

...Respondent

Present For:

Appellant : 1. Sh. Preetinder Singh,
Appellant's Representative (AR).

2. Sh. Kanwarpal Singh,
Appellant's Representative (AR).

Respondent: Er. Preetinder Singh,
Assistant Engineer/Comm.-2,
DS Model Town Division,
PSPCL, Patiala.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 11.06.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-93 of 2021, deciding that:

“The account of petitioner be overhauled for a period of 6 months before the date of replacement of meter considering the meter to be slow by 33.33%.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 09.07.2021 i.e. within the stipulated period of thirty days of receipt of the decision dated 11.06.2021 of the CGRF, Patiala in Case No. CGP-93 of 2021. The Appeal was accompanied by copies of receipt no. 155980451 dated 01.03.2021 for ₹ 12,360/- and receipt no. 161882812 dated 09.07.2021 for ₹ 12,360/-. Thus, the Appellant deposited ₹ 24,720/- which was equivalent to 40% of the disputed amount of ₹ 61,757/-. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Model Town Division, PSPCL, Patiala for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the

Appellant vide letter nos. 1003-1005/OEP/A-53/2021 dated 09.07.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 19.07.2021 at 11.00AM and an intimation to this effect was sent to both the sides vide letter nos. 1024-25/OEP/A-53/2021 dated 14.07.2021. As scheduled, the hearing was held in this Court on the said date and time. Arguments of both the parties were heard and order was reserved. Copies of the proceedings were sent to the Appellant and the Respondent vide letter nos. 1035-36/OEP/A-53/2021 dated 19.07.2021.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral submissions made by the Appellant's Representative and the Respondent alongwith material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a Domestic Supply Category Connection bearing Account No. 3000097610 with sanctioned load of 15.350 kW.
- (ii) After the installation of the Solar System at the premises of the Appellant, the meter was replaced and a new solar meter was installed by the officials of the Respondent.
- (iii) The old meter was sent to ME Lab and was checked in the absence of the Appellant. No notice in respect of the checking of the meter was sent to the Appellant, which was mandatory as per the rules as the electricity connection at the house of the Appellant was a three phase connection.
- (iv) At the time of removing of the meter, the seals of the same were intact and the same was not packed in the card board box as provided under the law. Furthermore, in all the electricity bills issued by the Respondent during the period from 31.01.2020 to 31.10.2020, the status of the meter was 'O', meaning thereby that there was no defect in the meter of the Appellant. All the bills for the period from 31.01.2020 to 31.10.2020 were produced by the Appellant before the Forum but the same were not considered.
- (v) The Respondent while issuing the notice dated 25.02.2021 had wrongly mentioned that the blue phase of the meter was found dead.

- (vi) There was nothing in the report sent by the Respondent, that how the reading was affected due to the non- functioning of dead blue phase of the meter. The alleged report of the ME Lab was based upon hypothesis analysis. The alleged report dated 22.12.2020 so given by the Respondent was totally wrong, false and baseless.
- (vii) The Appellant was not satisfied regarding the alleged fault in the meter. The Forum had not considered the fact that the officials of the Respondent had never given the detailed report of the meter testing in the ME Lab.
- (viii) There was no fault on the part of the Appellant. The alleged finding/ report regarding the dead/ non- functioning of the blue phase, might be due to the technical defect in the meter for which the Appellant was not liable. Furthermore, the seals of the meter were found intact at the time of its removal from the site.
- (ix) The findings so given by the Forum were contradictory to the report of the ME Lab.
- (x) The mandatory provisions of law regarding removal of the meter from the site and its checking in the ME Lab had not been followed by the Respondent and the alleged report was one sided.

- (xi) No proper opportunity of being heard was given to the Appellant before passing the order under challenge and the order had been passed in an arbitrary manner by the Respondent.
- (xii) There were sufficient grounds for setting aside the impugned order and if the same was not set aside, the Appellant shall suffer an irreparable loss & injury and it would lead to multiplicity of the legal proceedings. The balance of convenience and prima facie case lies in favour of the Appellant.
- (xiii) It was prayed that the impugned order should be set aside and memo no. 24 dated 11.01.2021 issued by the Respondent should be withdrawn & the demand of ₹ 61,757/- so raised should also be quashed.

(b) Submission during hearing

During hearing on 19.07.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the relief claimed.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent, in its defence, submitted the following written reply/parawise comments for consideration of this Court:

- (i) After installation of Solar System, the meter already installed was replaced on 09.12.2020.
- (ii) The old meter was checked in ME Lab, Patiala with the consent of the Appellant that the same may be checked in its absence.
- (iii) The meter had its seals intact but the meter was packed by MCO staff in the presence of the consumer as per DA attached. The bills issued to the consumer for the months of 01/2020 to 10/2020 were of 'O' code. The blue phase of meter was found dead in ME Lab, Patiala which could not be detected at site while taking meter readings by the Meter Reader.
- (iv) The notice delivered to the consumer was issued on the basis of report given by ME Lab, Patiala vide challan no. 41/16 dated 22.12.2020.
- (v) The meter of the consumer was checked by the Sr. Xen/ Enforcement and AEE/ ME in ME Lab, Patiala and the blue phase was found dead.
- (vi) A notice was served to the consumer giving all the details regarding the fault detected and the amount so charged.
- (vii) This office cannot question/ comment on the findings and judgment passed by the Forum.

- (viii) The consumer's meter was found having its blue phase dead. As per ESIM Regulation No. 21.5.1 in accordance with the said test results, the account of the Appellant was overhauled for the period of six months.
- (ix) All the necessary provisions and regulations regarding replacement/ checking of meter and overhauling of the account of consumer were followed.
- (x) The amount so charged to the consumer was as per the instructions of Supply Code, 2014 and now the case was presented by the Appellant before this Court for the judgment.
- (xi) It was correct that the Appellant had deposited an amount of ₹ 12,360/- on 01.03.2021.

(b) Submission during hearing

During hearing on 19.07.2021, the Respondent reiterated the submissions made by it in the written reply and contested the submissions of the Appellant. The Respondent, on being asked, confirmed that exact accuracy of the disputed meter was not determined/recorded in ME Lab. Besides, its DDL could not be taken in spite of repeated attempts during the said checking. The Respondent also confirmed that disputed meter was installed on 19.09.2016.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant for six months prior to replacement of meter on 09.12.2020 considering the same as slow to the extent of 33.33 %.

My findings on the points emerged, deliberated and analyzed are as under:

- (i) The relevant facts of the case are that the Appellant was having a Domestic Supply Category connection at its premises where meter bearing Serial No. 100007908119 was installed vide DRA No. 100002520877 dated 09.09.2016. Due to installation of Solar Meter, the said meter was replaced vide DRA No. 100011704967 dated 26.11.2020 effected on 09.12.2020. The removed meter was sent to ME Lab, Patiala vide Store Challan No. 41/16 dated 22.12.2020 whereby it was reported that:

“ਮੀਟਰ ਦਾ Blue-Phase-Dead ਹੈ ਬਣਦੀ ਕਾਰਵਾਈ ਕਰਕੇ ਮੀਟਰ ਵਾਪਿਸ ਕੀਤਾ ਜਾਵੇ।”

As a result, the account of the Appellant was overhauled from 02.06.2020 to 09.12.2020 (190 days) by the AEE, DS Commercial Division-2, PSPCL, Patiala who served Memo No. 24 dated 11.01.2021 on the Appellant asking to deposit a sum of ₹ 61,757/-. Aggrieved, the Appellant approached the Forum who, vide order dated 11.06.2021, decided to overhaul the

account of the Appellant for 6 months prior to replacement of meter on 09.12.2020 considering the meter to be slow by 33.33 %.

- (ii) The details of consumption pattern of the Appellant's connection during the years 2019, 2020 and 2021 (upto 19.06.2021) are given below:

Year	2019			2020			2021		
Month	D.O.R	Units	Status	D.O.R	Units	Status	D.O.R	Units	Status
Jan	02.01.19	1766	O	31.01.20	924	P			
Feb	28.02.19	1645	O	03.02.20	213	O	16.02.21	3041	O
Mar				03.03.20	923	O	19.03.21	939	O
Apr	29.04.19	2422	O	11.04.20	1600	N	20.04.21	1171	O
May				11.05.20	1186	O	19.05.21	1220	O
Jun	15.06.19	4271	O	02.06.20	1697	O	19.06.21	2504	O
				30.06.20	3616	O			
Jul	04.07.19	1775	O	30.07.20	3759	O			
Aug	05.08.19	2915	O						
Sep	06.09.19	2747	O	12.09.20	3998	N			
				15.09.20	-3448	O			
Oct	01.10.19	2092	O	05.10.20	4326	O			
	31.10.19	1407	O	31.10.20	1001	O			
Nov									
Dec	02.12.19	916	O	02.12.20	915	O			
	30.12.19	822	O	07.12.20	141	O			
				09.12.20	0	O			

- (iii) With a view to adjudicate the present dispute, it is worthwhile to go through the observations of the Forum in its order dated 11.06.2021 which reads as under:

“Forum studied the past consumption of the petitioner and observed that consumption of petitioner during the year 2016, 2017 and 2018 was 19294, 20207 and 20922 units respectively. The consumption of the petitioner for the periods 02.01.19 to 02.12.19 and 30.12.19 to 02.12.20 is 20190 units and 20710 units respectively. The account of the petitioner has been overhauled for slowness of meter on account of one phase dead for a period of 190 days. As per the provisions of Supply Code Regulation – 2014, the account of petitioner can be overhauled for a maximum period of 6 months only. After considering all written and verbal submissions by the petitioner and the respondent and scrutiny of record produced, Forum is of the opinion that the account of petitioner needs to be overhauled for a period of 6 months before the date of replacement of meter considering the meter to be slow by 33.33%.”

It is observed that the Forum erred in deciding to overhaul the account of the Appellant by considering the meter to be slow by 33.33% whereas the accuracy of the meter was not

determined in ME lab and only blue phase of the meter was declared dead.

- (iv) The Respondent confirmed during the hearing on 19.07.2021 that no checking of the disputed meter was done by any agency of the Licensee (PSPCL) during the period 09.09.2016 (date of installation) to 09.12.2020 (date of replacement). It was also confirmed during this hearing that the account was overhauled vide Memo No. 24 dated 11.01.2021 for six months as per Regulation No. 21.5.1 of Supply Code, 2014. The meter (disputed) was checked in ME lab, in the absence of the Appellant as per consent given by him.
- (v) In the present case, exact accuracy of the disputed meter was not determined/recorded in ME Lab during checking dated 22.12.2020. Besides, its DDL could not be taken in spite of repeated attempts during the said checking. As such, it is not fair and appropriate to overhaul the account of the Appellant by considering the slowness of meter as 33.33 %. This was despite the fact that ME Lab had vide its checking dated 22.12.2020, reported only that Blue Phase of the meter was dead and had not determined/declared the accuracy or otherwise the percentage of its slowness.

- (vi) In the given circumstances, the account of the Appellant cannot be overhauled as per Regulation 21.5.1 of Supply Code-2014 which is reproduced below:-

“ 21.5.1 *Inaccurate Meters*

If a consumer meter on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the;

A) date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is later; or

B) date the inaccurate meter is removed for testing in the laboratory of the distribution licensee.”

The exact accuracy of the disputed meter was not determined at site or in ME lab as admitted by the Respondent. Accordingly, Regulation 21.5.1 of the Supply Code-2014 cannot be made applicable in this case. Blue phase of the disputed meter was reported as dead. As such, the meter was required to be treated as defective. For the purpose of overhauling the account of a consumer whose meter is defective, provisions contained in

Regulation 21.5.2 of Supply Code-2014 are relevant and are reproduced below:

“21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt

/Stolen Meters

The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six month. The procedure for overhauling the account of the consumer shall be as under:

- a) On the basis of energy consumption of corresponding period of previous year.*
- b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
- c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption*

for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.

d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para - 4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.

e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.”

Since the exact date from which the Blue Phase of the disputed meter became dead is not ascertainable, it cannot be considered that the disputed meter remained OK as per meter reading record during the years 2019 and 2020. As such, provisions contained in Regulation 21.5.2 (a), (b) and (c) referred to above cannot be made the basis for overhauling the account of the Appellant. Therefore, it will be appropriate to overhaul the account of the Appellant for a period of 6 months prior to the replacement of disputed meter on 09.12.2020 in terms of

provisions contained in Regulation 21.5.2 (d) & (e) of Supply Code-2014.

6. Decision

As a sequel of above discussions, the order dated 11.06.2021 of the CGRF, Patiala in Case No. CGP-93 of 2021 is set aside. It is held that account of the Appellant shall be overhauled for a period of 6 months prior to the replacement of disputed meter on 09.12.2020 in terms of provisions contained in Regulation 21.5.2 (d) & (e) of Supply Code-2014. The Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, with surcharge/interest as per instructions of PSPCL.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
9. In case, the Appellant 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.

July 23, 2021
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.

