

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Established under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 81/2021

Date of Registration : 08.10.2021

Date of Hearing : 18.10.2021

Date of Order : 18.10.2021

Before:

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

In the Matter of:

Sh. Jagtar Singh, 12-A, Block-B,
Dairy Complex, Haibowal Khurd, Ludhiana.
Contract Account Number: 3002512188 (NRS)
...Appellant

Versus

Senior Executive Engineer,
DS Aggar Nagar (Special) Division,
PSPCL, Ludhiana.
...Respondent

Present For:

Appellant: Sh. Jagdish Singh,
Appellant's Representative.

Respondent : Er. Rajinder Singh
Senior Executive Engineer,
DS Aggar Nagar (Special) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 18.08.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-252 of 2021, deciding that:

“The amount charged to the Petitioner is correct and he has already deposited.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 08.10.2021 i.e. beyond the period of thirty days of receipt of copy of the decision dated 18.08.2021 of the CGRF, Ludhiana in Case No. CGL-252 of 2021. The Appellant had already deposited the whole disputed amount vide Receipt No. 203/49457 dated 05.03.2021. Therefore, the Appeal was registered on 08.10.2021 and copy of the same was sent to the Sr. Xen/ DS Aggar Nagar (Special) Divn., PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 1443-45/OEP/A-81/2021 dated 08.10.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.10.2021 at 12.30 PM and an intimation to this

effect was sent to both the parties vide letter nos.1484-85/OEP/A-81/2021 dated 13.10.2021. As scheduled, the hearing was held in this Court. Arguments were heard of both parties.

4. Condonation of Delay

At the start of hearing on 18.10.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant pleaded that he had not received decision dated 18.08.2021 of the Forum and the same was collected by hand on 09.09.2021. I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman shall lie unless:
(ii) The representation is made within 30 days from the date of receipt of the order of the Forum.*

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for

not filing the representation within the aforesaid period of 30 days.”

The Court observed that order dated 18.08.2021 was sent to the Appellant by the office of CGRF, Ludhiana but was not received by the Appellant. Later on, the Appellant received the order of the CGRF on 09.09.2021 by hand. It was also observed that non-condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant was allowed to present the case.

5. 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. 3002512188 with sanctioned load of 2.9 kW running under DS Aggar Nagar (Special) Divn., PSPCL, Ludhiana in the name of Sh. Jagtar Singh.
- (ii) The Appellant had given his premises on rent for the purpose of Theka, Whisky Shop for a year to Sh. Livtar Singh S/o Sh. Charanjit Singh. Sh. Livtar Singh applied for the new connection and Account No. 3004951591 was allotted to him. Thereafter, in the end of the term of rent, account was closed by Sh. Livtar Singh and connection was checked vide LCR No. 69 dated 07.08.2019 in which final reading was recorded as 23255 kWh. The account of Sh. Livtar Singh was closed on 07.08.2019 vide MCO No. 100008742028 dated 07.08.2019.
- (iii) Sh. Livtar Singh had hid the reading with the help of the Meter Reader of PSPCL and in the end, accumulated reading was found in LCR which was also mentioned in MCO. Instead of charging the accumulated reading to the consumer, PSPCL charged this amount to the Appellant after a gap of 8 months.
- (iv) Then the Appellant approached the CGRF for justice and for charging the amount to the original consumer who had

consumed the electricity and hid the reading with the help of the Meter Reader but CGRF erred in its judgment.

- (v) The CGRF decided the case as per instructions issued by PSPCL vide Memo No. 29/33/DD/SR-103 dated 14.01.2021 of CE/ Commercial, Patiala.
- (vi) As per Regulation 30.12 of Supply Code, final bill was to be prepared within 7 days after the special reading taken if any premise was going to be vacant or there was change in ownership.
- (vii) In the present case, final reading was taken vide LCR dated 07.08.2019 in which reading was recorded as 23255 kWh but the final bill was not prepared within 7 days which should have been prepared as per Regulation 30.12 of Supply Code. If the final bill would have been prepared within 7 days then the dispute would not have been arisen.
- (viii) Moreover, PSPCL had charged this amount in the Appellant's account after a gap of 8 months in April, 2021 instead of taking these charges from the original consumer.
- (ix) The Appellant's connection was running from the last 8 to 10 years and the Appellant had paid the bills on time.
- (x) As per Regulation 30.13 of Supply Code-2014, if a consumer vacates any premises to which electricity has been supplied by

a Distribution Licensee without paying all charges due from him in respect of such supply or for the provision of any electricity meter, electric line or electrical plant, the distribution licensee may refuse to give him supply at any other premises until he pays the amount due.

(xi) In the Appellant's case, PSPCL had given another connection to the consumer for the purpose of theka (Whisky shop) bearing Account No. 3015050220 in the name of Sh. Charanjit Singh who is father of Sh. Livtar Singh. So, there was sheer lapse in the services of PSPCL which resulted in the harassment of the consumer.

(xii) As per ESIM 92.3, the disconnected consumers who are defaulters of PSPCL may sell their premises/ property without any intimation to PSPCL, if this happens, the chances of recovery of defaulting amount become remote. Therefore, it is desirable that the field officers may intimate the Revenue Authorities like SDM/ Tehsildar regarding the amount to be paid by the consumer to the PSPCL so that if any transaction regarding sale or purchase of the property takes place, the Revenue Authorities may be in a position to recover the outstanding amount due to the PSPCL at the time of such sale or purchase and pass on to PSPCL. Compliance of these

instructions need to be monitored by Sr. Field Officers and in case it is noticed that the Sub Divisional Officers/ Officials have not taken due care in informing the Revenue Authorities, then in that case, if recovery is not possible due to sale/ purchase of the premises/ property, the said amount would be recoverable from the officer/ official responsible for not intimating to the Revenue Authorities.

- (xiii) It was nowhere written that defaulting amount be transferred to the other innocent consumer who was at no fault.
- (xiv) It was prayed that defaulting amount be recovered by following two methods instead of charging this to an innocent consumer to provide justice:-
- a) Recovery suit be filed against the original consumer who had concealed the reading with the help of the Meter Reader.
 - b) Defaulting amount be recovered by transferring the amount to Account No. 3015050220 in the name of Sh. Charanjit Singh Bajaj who is father of Sh. Livtar Singh Bajaj.

(b) Submission in the Rejoinder

The Appellant filed rejoinder dated 18.10.2021 to the written reply of the Respondent. The points raised in this rejoinder are as below: -

1. The connection of the Appellant was checked on 07.08.2019 as per LCR No. 69 dated 07.08.2019 which clearly mentioned that meter had been removed on the request of the Consumer and final reading was recorded as 23255 kWh. So it was clear that Respondent was hiding the facts from this Court that no request was given by the Appellant.
2. The connection bearing Account No. 3015050220 was in the name of Sh. Charanjit Singh who is father of Sh. Livtar Singh and it was clear from the records of the Respondent and was also mentioned in the MCO issued by PSPCL. Connection may be in the name of Sh. Charanjit Singh but the premises (for Theka) was used by Sh. Livtar Singh. It can be verified by PSPCL by visiting the Site. It was wrong to say that there was no relevance with the disputed account. Also another connection for the purpose of Theka was used by Sh. Livtar Singh on Malhar Road which came under DS Model Town (Spl.) Divn., Ludhiana whose account was not traceable. The Respondent can easily trace the account by visiting that Theka and the Appellant can help PSPCL in locating the Account Number of another

Whisky shop (Theka) which was used by Sh. Livtar Singh.

3. The connection of the Appellant in its name was running for the last 10-15 years. Even when the connection of Sh.Livtar Singh was released, the connection of the Appellant was running separately. The Appellant was not in default previously and was paying the bills regularly.
4. The Forum had decided this case as per CE/ Commercial Memo No. 29/33/DD/SR-103 dated 14.01.2021 but the dispute was related to the period of August, 2020 well before the instructions issued by CE/ Commercial. So these instructions were not applicable to the case of the Appellant.
5. It was prayed that the amount be recovered from the consumer who had consumed the electricity and hidden the readings with the help of the Meter Reader of the Respondent. Had the Meter Reader not accumulated the reading, the dispute would not have arisen?

(c) Submission during hearing

During hearing on 18.10.2021, the Appellant reiterated the submissions made in the Appeal as well as in the rejoinder. He prayed for acceptance of the Appeal.

(B) Submissions of the Respondent**(a) Submissions in written reply**

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The Appellant (Sh. Jagtar Singh) was having a NRS connection with sanctioned load of 2.90 kW, running under DS Aggar Nagar (Special) Divn., PSPCL, Ludhiana. Another NRS connection bearing A/c No. 3004951591 with sanctioned load 8.70 kW in the name of Sh. Livtar Singh Bajaj was also running in the premises which was permanently disconnected on 07.08.2019.
- (ii) After the PDCO, the meter of this connection was checked in ME Lab vide Challan No. 1055 dated 12.07.2020 wherein the final reading of the removed meter was reported as 23255 kWh whereas the billing of the account was done upto 1795 kWh. The consumer was billed for this difference of units. The amount was not paid and the premises was again checked vide LCR No. 91/2252 dated 05.02.2021 and it was reported that another connection bearing A/c No. 3002512188 was running in the premises where defaulting amount was outstanding. The outstanding amount of ₹ 1,62,632/- was charged to this account

for recovery. The amount was deposited vide receipt no. 203/49457 dated 05.03.2021.

- (iii) The final bill to the consumer can be issued only after the metering equipment was checked in ME Lab for any discrepancy and final reading was verified which was done vide ME Challan No. 1055 dated 12.07.2020 wherein the final reading of the removed meter was reported as 23255 kWh and the final bill was issued. Also as per Supply Code Regulation 30.12, no written request for a special reading was given by the Appellant/owner of the premises.
- (iv) The connection bearing Account No. 3015050220 as referred by the Appellant was in the name of Sh. Charanjit Singh and was installed at 10 B, Sarabha Nagar, Ludhiana. Both the connection name and address were different and have no relevance to the disputed account.
- (v) The instruction quoted by the Appellant was applicable if the premises where defaulting amount was outstanding was sold off without any intimation to PSPCL which was not the case. PSPCL reserves the right to recover the outstanding dues from the premises which was as per the spirit of CE/Commercial, Memo No. 29/33/DD/SR-103 dated 14.01.2021 and CGRF had rightly upheld the amount charged as correct.

- (vi) It was further submitted that defaulting amount of a consumer cannot be recovered from a consumer having a connection in different name and different premises. PSPCL had rightly recovered the defaulting amount from the premises where defaulting amount was outstanding. The consumer was at liberty to recover the same from the tenant (Sh. Livtar Singh Bajaj) through Civil Suit or any other mode deemed fit.
- (vii) In view of the above, the Appeal was liable to be dismissed please.

(b) Submission during hearing

During hearing on 18.10.2021, the Respondent reiterated the submissions made in the Appeal and prayed to dismiss the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of defaulting amount of ₹ 1,62,632/- of Account No. 3004951591 charged to the Appellant.

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

- (i) The Appellant's Representative (AR) argued that the Appellant is having a NRS Connection with sanctioned load of 2.9 kW

having A/c No. 3002512188 and is running in the name of Sh. Jagtar Singh under DS Aggar Nagar (Special) Divn., PSPCL, Ludhiana. The Appellant had given its premises on rent for the purpose of Theka, Whisky Shop for a year to Sh. Livtar Singh S/o Sh. Charanjit Singh, who applied for the new connection and Account No. 3004951591 was allotted to him. Thereafter, in the end of the term of rent, account was closed by Sh. Livtar Singh and connection was checked vide LCR No. 69 dated 07.08.2019 in which final reading was recorded as 23255 kWh. The account of Sh. Livtar Singh was closed on 07.08.2019 vide MCO No. 100008742028 dated 07.08.2019. Sh. Livtar Singh had concealed the reading with the help of the Meter Reader of PSPCL and in the end accumulated reading was found in LCR which was also mentioned in MCO. Instead of charging the accumulated reading to the consumer, PSPCL charged this amount to the Appellant after a gap of 8 months. Then the Appellant approached the CGRF for justice and the CGRF had decided the case as per instructions issued by PSPCL vide Memo No. 29/33/DD/SR-103 dated 14.01.2021 of CE/Comm., Patiala. The PSPCL had given another connection to the consumer for the purpose of theka (Whisky shop) bearing

Account No. 3015050220 in the name of Sh. Charanjit Singh who is father of Sh. Livtar Singh.

- (ii) The Respondent pleaded that the Appellant (Sh. Jagtar Singh) was having a NRS connection with sanctioned load of 2.90 kW, running under DS Aggar Nagar Division (Special), PSPCL, Ludhiana. Another NRS connection bearing A/c No. 3004951591 with sanctioned load of 8.70 kW in the name of Sh. Livtar Singh Bajaj was running in the premises which was permanently disconnected on 07.08.2019. After the PDCO, the meter of this connection was checked in ME Lab vide Challan No. 1055 dated 12.07.2020 wherein the final reading of the removed meter was reported as 23255 kWh whereas the billing of the account was done upto 1795 kWh. The consumer was billed for this difference of units. The amount was not paid and the premises was again checked vide LCR No. 91/2252 dated 05.02.2021 and it was reported that another connection bearing A/c No. 3002512188 was running in the premises where defaulting amount was outstanding. The outstanding amount of ₹ 1,62,632/- was charged to this account for recovery. The amount was deposited vide receipt no. 203/49457 dated 05.03.2021. The Respondent contended that the final bill to the consumer can be issued only after the metering equipment was

checked in ME Lab for any discrepancy and final reading was verified which was done vide ME Challan No. 1055 dated 12.07.2020 wherein the final reading of the removed meter was reported as 23255 kWh and the final bill was issued. Also as per Supply Code Regulation 30.12, no written request for a special reading was given by the Appellant/owner of the premises. The connection bearing Account No. 3015050220 as referred by the Appellant was in the name of Sh. Charanjit Singh and was installed at 10 B, Sarabha Nagar, Ludhiana. Both the connection name and address were different and had no relevance to the disputed account. The instruction quoted by the Appellant was applicable if the premises where defaulting amount was outstanding was sold off without any intimation to PSPCL which was not the case. PSPCL reserves the right to recover the outstanding dues from the premises which was as per the spirit of CE/ Commercial, Memo No. 29/33/DD/SR-103 dated 14.01.2021 and CGRF had rightly upheld the amount charged as correct. It was further submitted that defaulting amount of a consumer cannot be recovered from a consumer having a connection in different name and different premises. PSPCL had rightly recovered the defaulting amount from the same premises where defaulting amount was outstanding. The

consumer was at liberty to recover the same from the tenant (Sh. Livtar Singh Bajaj) through Civil Suit or any other mode deemed fit.

- (iii) The CGRF while considering the case observed that as per Reg. 30.13 of Supply Code and in line with the instruction issued by CE / Commercial , Patiala's memo no. 29/33/DD/SR-103 dated 14.01.2021, it is inferred that distribution licensee may refuse to connect such premises either on request from existing consumers or an application for new connection by any person till all dues are cleared and came to the unanimous conclusion that the Appellant was liable to pay the outstanding amount charged to him being the same owner of the same premises.
- (iv) It is observed that the contention of the appellant that the disputed amount should be transferred to connection bearing Account No. 3015050220 in the name of Sh. Charanjit Singh who is father of Sh. Livtar Singh is not maintainable as the said connection is in the name of Sh. Charanjit Singh and was installed at 10 B, Sarabha Nagar, Ludhiana, as submitted by the Respondent.
- (v) From the above, it is concluded that since the Appellant allowed an electricity connection in the name of his tenant, Sh. Livtar Singh Bajaj, so he is liable to pay any outstanding dues

in respect of that account as per provisions of Regulation 6.5.4 of the Supply Code, 2014 which is reproduced below:-

“6.5.4 A tenant/lawful occupier of the premises, in which an NRS/industrial/domestic connection already exists, shall have to seek a separate connection, with the consent of the owner, to carry out any commercial/industrial activity permitted under law by duly separating the portion of the premises. While giving its consent, the owner shall undertake in the form of an affidavit duly attested by Notary Public that the owner shall clear all the liabilities in case the tenant leaves the premises without paying the distribution licensee’s dues.”

This Court is not inclined to interfere with the order dated 18.08.2021 passed by the Forum in Case No. CGL- 252 of 2021. The defaulting amount can't be transferred to Account No. 3015050220 in the name of Sh. Charanjit Singh who is father of Sh. Livtar Singh. The Respondent is not required to file any recovery suit against the original consumer in view of above reproduced regulation of Supply Code, 2014.

7. Decision

As a sequel of above discussions, the order dated 18.08.2021 of the CGRF, Ludhiana in Case No. CGL-252of 2021 is upheld.

8. The Appeal is disposed of accordingly.

9. 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.
10. 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.

October 18, 2021
S.A.S. Nagar (Mohali)

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