COURT OF THE LOKPAL (OMBUDSMAN),

ELECTRICITY, PUNJAB,

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

 S.A.S NAGAR (MOHALI)

**Appeal No. 67/2017**

Date of Registration : 04.10.2017

Date of Hearing : 15.03.2018

Date of Order : 21.03.2018

**Before:**

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

**In the matter of**

 Shri Arundeep Singh,

 C/o O.P. Jaiswal,

 House No. 65, Phase-3B-1,

 S.A.S. Nagar (Mohali)

...Petitioner

Versus

Additional Superintending Engineer,

DS Division (Special),

 PSPCL, S.A.S. Nagar (Mohali)

 ...Respondent

**Present For**

Petitioner 1. Shri Arundeep Singh, Petitioner,

 2. Shri R.S. Dhiman.

 Petitioner’s Representative (PR)

Respondent Er. Harpreet Singh Oberoi,

 Addl. Superintending Engineer

 Before me for consideration is an Appeal filed in this Court against the order dated 08.09.2017 in Case No. CG-110 of 2017 of the Consumers Grievances Redressal Forum (Forum) deciding that:

*“The bill dated 05.10.2016 for the period from 30.06.2016 to 05.10.2016 for 97 days for 25,322 units issued to the Petitioner is for actual energy consumed by the Petitioner and is correct and recoverable.*

*S.E./OP Circle, SAS Nagar (Mohali) is directed to take necessary action regarding effect of magnet on Blue Phase as recorded in the DDL of the meter of the Petitioner”*

**2. Facts of the case:**

 **The relevant facts of the case are that:**

1. The Petitioner, Arundeep Singh is a resident of House No. 65 Phase 3B1, SAS Nagar (Mohali) wherein a Domestic Supply Category connection was installed in the name of Shri O..P. Jaiswal (from whom the house was purchased by the Petitioner) bearing Account No. 30001618381 with Sanctioned Load of 18.600kW. Though the house stands transferred in the name of the Petitioner, the electricity connection still continues to be in the name of Shri O.P. Jaiswal.
2. The Metering was being done by providing Three Phase Four Wire, whole current Static Energy Meter of capacity 10-60Amp.
3. The Petitioner made a request dated 02.08.2016 for changing the Energy Meter as it was Dead Stop and not working properly.
4. The Energy Meter was replaced vide Device Replacement application No. 100002343058 dated 02.08.2016 effected on 23.08.2016. The removed Energy Meter was not checked at site but got tested on 09.09.2016 from M.E. Lab, Ropar which reported that its working, on testing, was found in order.
5. The new Energy Meter also got defective after its installation as noticed by the Petitioner on receipt of the bill dated 05.10.2016 for the period from 30.06.2016 to 05.10.2016 (97 days), amounting to Rs. 1,81,930/-. This bill was for the consumption of 25,322kWh units (1891 units of old Energy Meter plus 23,431 units of new Energy Meter).
6. The Petitioner did not agree with the bill and challenged the Energy Meter by depositing the requisite fee on 06.10.2016.
7. Accordingly, the Energy Meter was replaced vide Device Replacement Application dated 06.10.2016, effected on 12.10.2016.
8. The challenged Energy Meter was got tested on 13.12.2016 from ME Lab, Ropar which reported, vide letter no. 642 dated 23.12.2016, that the Energy Meter was found in order.
9. The Petitioner represented against the disputed bill dated 05.10.2016 in the Zonal Dispute Settlement Committee (ZDSC) which, after hearing the matter on 21.03.2017, observed that as per study of DDL report, there was magnetic effect on the Energy Meter for 22 days 7 hours, 9 minutes, and 53 seconds, due to which, the average consumption per day was 40 units for the period from 28.08.2016 to 19.09.2016. Therefore, ZDSC decided that the bill dated 05.10.2016 was recoverable.
10. Not satisfied with the decision of ZDSC, the Petitioner filed a Petition in the Forum which, after hearing the case, passed order dated 08.09.2017 (Reference: Para 1, Page 2).
11. Aggrieved by the decision of the Forum, the Petitioner preferred an Appeal in this Court with the prayer that the decision of the Forum may be set aside and the Petitioner be billed as per Regulation 21.5.2 of Supply Code-2014 for the disputed period in the interest of justice.

**3. Submissions made by the Petitioner and the Respondent:**

I have gone through the submissions made by the Petitioner in the Appeal and written reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner:**

**The Petitioner’s Representative submitted the following for consideration of this Court:**

1. The Petitioner represented on 02.08.2016 that the already installed Energy Meter was not working properly. On the request of the Petitioner, the Energy Meter was replaced on 23.08.2016. The removed Meter was got tested on 09.09.2016 in M.E. Lab which reported that the Energy Meter was O.K.
2. The new Energy Meter installed on 23.08.2016 jumped and recorded 23431 units over a short span of 43 days. As such, the Petitioner challenged this Energy Meter by depositing the requisite fee on 06.10.2016.
3. Though, this Energy Meter was changed on 06.10.2016, the same was never tested in ME Lab despite the fact that the requisite Energy Meter Challenge Fee was deposited by the Petitioner. ME Lab test results, referred by the Respondent did not relate to the Energy Meter challenged by the Petitioner. As per the documents placed on record by the Respondent, the disputed Energy Meter was three phase “AVON METERS PVT LTD” make bearing no. 100006714074 while the ME Lab results quoted by the Respondent as relating to the Petitioner, actually related to the Energy Meter of “Mahashakti Energy Ltd” Make, the departmental number of which had not been brought on record.
4. The Energy Meter of “Mahashakti Energy Ltd” Make was being linked to the Petitioner on the basis of Sr No. 89500 mentioned in MCO No. 100002637207 dated 06.10.2016 and 100002343058 dated 02.08.02016. But, as a matter of fact, no Energy Meter of Mahashakti Energy Ltd Make was ever installed at the Petitioner’s premises. As such, the Petitioner was not bound by the test results of testing of this Energy Meter.
5. The Petitioner’s Sanctioned Load was 18.600kW. Consumption of electricity with this load running round the clock continuously for 43 days could not be more than 19,298 units whereas the disputed Energy Meter recorded 23,431 units during this period as per the Respondent’s own admission. This itself proved that the Petitioner’s Energy Meter was defective. As such, the Petitioner’s account needed to be overhauled in accordance with Regulation 21.5.2 of Supply Code -2014.
6. The Petitioner was being accused of subjecting the disputed Energy Meter to Magnetic effect. This allegation was false and baseless. Detection of magnetic influence in DDL, placed on record, related to the Energy Meter of “Mahashakti” make whereas the test results of the Petitioner’s Energy Meter, which was of “Avon” make, were nowhere available. Unprecedented consumption shown by the Energy Meter of “Avon” make challenged by the Petitioner had not been addressed by the Forum, nor any relief was given to the Petitioner in this regard. It appeared that the real consumer, to whom “Mahashakti” Make Energy Meter belonged, was being helped by linking the data of this Energy Meter to the Petitioner.
7. The Energy Meter removed, on the request of the Petitioner, on both the occasions i.e. on 23.08.2016 and 12.10.2016, were not checked at site.

 **(viii)** The decision of the Forum may be set aside and the Petitioner be billed as per Regulation 21.5.2 of Supply Code-2014 for the entire disputed period in the interest of justice.

**(b) Submissions of the Respondent:**

**The Respondent, in its defence, stated that:**

1. On the receipt of the representation dated 02.08.2016 that the Energy Meter installed was not working properly, the same, of Avon Company bearing Serial No. 1110685 was replaced vide Job Order Device Replacement dated 02.08.2016 (effected on 23.08.2016) with Serial No. 89500 of Make – Mahashakti Energy Ltd. But, the dealing official, while entering the details of the Energy Meter in the SAP System, wrongly entered the make of the company of the Energy Meter as Avon.
2. The Petitioner received the disputed bill dated 05.10.2016, for the period from 30.06.2016 to 05.10.2016 for the consumption of 25322 units amounting to Rs. 1,81,930/- and challenged the Energy Meter on 06.10.2016. Accordingly, the said Energy Meter was removed and replaced on 12.10.2016 and tested in M.E. Lab, Ropar vide challan no. 6813 dated 13.12.2016. In the said challan, the Make of the Energy Meter was recorded as “Mahashakti”.
3. SDO, M.E. Sub Division, Ropar, vide endst no. 370 dated 21.08.2017, also confirmed that the Energy Meter, bearing Serial No. 89500, was of Make “Mahashakti”. It was thus clear from the material placed on record that the disputed Energy Meter was of “Mahashakti” Make which was wrongly entered in the SAP System as “Avon” Make.
4. The DDL report clearly showed the effect of magnet on Blue Phase of the disputed Energy Meter which led to increased energy consumption during the period from 28.08.2016 to 19.09.2016.
5. The amount charged to the Petitioner was for the actual energy consumption recorded and was correct and recoverable as per order dated 08.09.2017 of the Forum.

 **4.** **Analysis:**

The issue requiring adjudication is the legitimacy of the bill dated 05.10.2016 amounting to Rs. 1,81,930/-, for the period from 30.06.2016 to 05.10.2016 (97 days) for energy consumption of 25,322 units.

*The issues in this case are deliberated and analysed as under:*

1. The Petitioner has preferred an Appeal in this Court in respect of electricity connection which is still running in the name of Shri O.P. Jaiswal from whom the house (wherein the connection is installed) was purchased.

*I find that the change in the name of the holder of the connection has not been got done. It will be appropriate to get the same effected expeditiously.*

1. On a query, during hearing, about the location of the Energy Meter installed at the premises of the consumer, the Respondent intimated that the Energy Meter was lying installed inside the Car Garage (as also mentioned in LCR dated 04.07.2017). The Respondent added that the work of shifting of Energy Meter outside the premises was in process.

 *It needs to be ensured that the work of shifting etc. may be completed on priority.*

1. The Petitioner requested on 02.08.2016 for replacement of Energy Meter on 02.08.2016 as the same was not working properly. The Energy Meter was replaced
2. on 23.08.2016. Again, the Petitioner challenged the installed Energy Meter on 05.10.2016 and the same was replaced on 12.10.2016.

*I find that the removed Energy Meters were not checked at site on both the occasions.*

**(iv)** The Device Replacement Order dated 06.10.2016, effected on 12.10.2016 reveals that Three Phase Four Wire, whole current static Energy Meter of AVON make was dismantled while the Energy Meter shown to have been tested in ME Lab on 13.12.2016, was of “Mahashakti” Make.

However, the Respondent, in its defence, stated that the Energy Meter of Mahashakti Make, Sr. No. 89500 was dismantled and got tested from ME Lab but the dealing official inadvertently entered the Make of Energy Meter in the SAP system as AVON instead of Mahashakti as evidenced from the copy of ME-I and ME -II Registers, placed on record of this Court.

**(v)** The DDL of Mahashakti Meter was taken by the Enforcement which was read on 21.02.2017. A study of DDL print out reveals that under the Head “*Abstract of Failure of total duration”,* there was effect of Magnet on Blue Phase for nearly 22 days.

Further, from study of Load Survey data, it is noticed that due to effect of Magnet, the kWh units per hour from 28.08.2016 to 19.09.2016 was in the range of approximately 43.47kWh units.

 **(vi)** As per the Technical Specifications of the Energy Meter, in the event of effect of magnet on the Energy Meter, it runs at Imax  i.e. at 60 Amp.

I observe that in the event of Magnetic Induction, the Energy Meter should run at 60 Amp i.e. the consumption being in the range of 60kWh in an hour. However, as per Load Survey Data placed on the record, the consumption recorded by the Energy Meter during the disputed period was in range of 43kWh unit. It implies that software of the Energy Meter was defective.

**(vii)** The connection was checked vide LCR No. 35/871 dated 04.07.2017 and total Connected load was found as 7.760kW which was less than that of Sanctioned Load i.e. 18.600kW.

1. During the course of oral submissions, PR cited the decision of this Court in Appeal No. 05/2016 decided on 17.05.2016 and also of the Forum in CG-164 of 2016 decided on 27.02.2017 and CG- 24 of 2017 decided on 22.03.2017 in support of its contention for allowing relief in the present case.

*I have perused the above cited cases and observed that the facts and circumstances of the Case No. CG-24 of 2017 decided on 22.03.2017 by the Forum are more or less similar to those of the present case.*

*From the above analysis, it is concluded that the software of the Energy Meter was defective, due to which, it recorded increased energy consumption during the disputed period, as compared to the pre-disputed and post-disputed consumption available on record.*

**5. Decision:**

 **As a sequel of above discussions, the order dated 08.09.2017 in Case No. CG-110 of 2017 of the Forum is set-aside. It is held that the account of the Petitioner should be overhauled for the period from 30.06.2016 to 05.10.2016, as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014 i.e. on the basis of energy consumption of the corresponding period of the previous year. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustment without interest.**

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

**7.** In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

March 21, 2018 LokPal (Ombudsman)

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