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

**ELECTRICITY, PUNJAB,**

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

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

**Appeal No. 69/2017**

**Date of Registration : 16.10.2017**

**Date of Hearing : 22.03.2018**

**Date of Order : 27.03.2018**

**Before:**

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

**In the matter of:**

 P&R Gurdittiwala Hydro Power Pvt. Ltd,

 Quiet Office No. 7, 1st & 2nd Floor,

 Sector-35-A, Chandigarh.

.....Petitioner

 Versus

 Senior Executive Engineer,

 DS Division,

 PSPCL, Zira.

 .....Respondent

**Present For:**

Petitioner: Adesh Singh Nagra,

 Petitioner’s Representative (PR).

Respondent : 1. Er. Amarjit Singh,

 Senior ExecutiveEngineer.

 2. Er. Rajinder Singh,

 Assistant Engineer.

 Before me for consideration is an Appeal No. 69 of 2017 preferred by the Petitioner against the order dated 08.09.2017 of the Consumers Grievances Redressal Forum (Forum) in the Case No. CG-152 of 2017 deciding that:

 *“The amount of Rs 6,04,910/- (Rs 3,53,910/- on account of ACD plus Rs 2,51,000/- on account of Surcharge) charged to the Petitioner vide Memo No. 878 dated 17.05.2017 issued to the Petitioner by AEE, Mallawala Sub Division, is correct and recoverable.”*

**2. Facts of the Case:**

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

1. The Petitioner was having a Temporary Supply Category Connection with sanctioned Load of 38.520kW and was being fed from Distribution Transformer (DT) of 63 kVA and LT cable of size 25mm2
2. The connection was checked by Sr. Executive Engineer, Enforcement, Ferozepur on 15.05.2017 vide ECR No. 31/1978. During the checking, the Enforcement found the Connected Load 289.680kW and also that two DG Sets having capacity of 180kVA and 30kVA were lying installed. The Enforcement issued directions to take necessary action regarding regularization of Load.
3. On the basis of checking report, AEE, Mallawala Sub Divisions issued notice vide Memo. No. 878 dated 17.05.2017 to the Petitioner to deposit Rs 6,04,910/- (Rs 3,53,910/- on account of Advance Consumption Deposit (ACD) plus Rs 2,51,000/- on account of Load Surcharge).
4. The Petitioner did not agree with the notice and filed a Petition in Forum which, after hearing passed order dated 08.09.2017 (Reference: Page 2, Para 1).
5. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court with the prayer:
6. *To uphold its request for rectification of the calculated load estimate and waive off the excess load surcharge alongwith ACD charges.*
7. *The supply cable is only of 25mm2, which is technically insufficient to withstand a load of 289.568 kW.*
8. *The capacity of the installed transformer is only 63kVA, which is technically insufficient to withstand a load of 289.568 kW.*
9. *The monthly consumption of the load can be calculated from the previous electricity bills which are in line with the sanctioned load of 38.520 kW. In case the mentioned load of 289.568 kW had been used, the same would have reflected in the electricity bills.*
10. *The Machinery available at site was only kept as standby during the canal closure period and was not in active use. Further, not all the available machinery was connected with the PSPCL electrical grid, but were connected to the D.G. sets of 180kVA and 30kVA, mention of which can also be found in the PSPCL Checking Register No. 31/1978 dated 15.05.2017.*

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

I have gone through the written submissions made by the Petitioner in the Appeal and 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:**
2. The Enforcement team of PSPCL had noted down the list of equipment available at site on 15.05.2017 and the same was incorrectly considered as connected load with the grid. Also, the team had taken the receiving signature of the site Accountant who did not have technical knowledge regarding the electrical parameters of the project. Therefore, the signatures of the site representative could not be termed as the Petitioner’s acceptance to the checking report. Actually, out of the various equipments available at site, only few were connected with the grid supply and few were connected with the DG set; remaining were kept only as standby equipment due to the very short time duration of canal closure.
3. The Petitioner was not aware of the permission regarding the installation of 180 kVA & 30 kVA D.G. sets and sincerely apologized to the concerned authorities for the same.
4. Although the consumer’s Load exceeded the Sanctioned Load at some times, but the maximum demand recorded in the DDL was 71.300kVA and the same had also been mentioned in the decision of the Forum. The Petitioner accepts these DDL readings and was ready to pay for the excess Load consumed during that time.
5. The Petitioner did not use all the mentioned equipments on grid supply. The 63kVA Distribution Transformer could not be simply overloaded for 280kVA load. Further, there was no change-over switch available at site for shifting all equipment on Grid System. During the fifteen days or so of canal closure, the Petitioner had to carry out various activities to achieve the target of completion, like RCC work of 3000 cubic metre, Dewatering of Power House Area and Canal Bank Area, Cutting and Bending of Steel,
Welding and Erection of Steel Structure, etc. All these activities had to be executed parallelly to achieve the completion and for that the Petitioner had to run all the equipment except standby equipment. As sanctioned Power Load was less, the Petitioner had arranged two DG sets of 180 kVA and 30 kVA capacity on site to run the necessary equipment.
6. The Petitioner’s request for rectification of the calculated load estimate, may kindly be upheld and the amount charged be waived off.
7. **Submissions of the Respondent:**

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

1. The Senior Executive Engineer, Enforcement, PSPCL, Ferozepur checked the connection on 15.05.2017.
2. The amount has been charged to the Petitioner was on the basis of the said checking as per rules and instructions of the PSPCL.
3. A representative of the Consumer signed the checking report admitting the contents of the same as correct. The grounds now taken by the Consumer in its Appeal are contradicted by the detailed checking report, which has been signed by the representative of the consumer. The Sanctioned Load of the Petitioner was 38.520 kW whereas the excess Load detected at the site at the time of the checking was 289.860kW. The Petitioner, as such, was concealing true facts from this Court. The Petitioner had created all these grounds simply to escape from the penalty.
4. The Petitioner never got approval from the Mallawala Sub Divisional office of the PSPCL regarding the installation of D.G. Sets of 180kVA and 30kVA which was mandatory as per Instruction No. 121 of ESIM. Thus, the Petitioner violated the laid down provisions ibid which caused heavy loss to PSPCL and could even lead to the break down of Electrical System
5. All the grounds taken by the Petitioner in the Appeal were discussed in detail in the Forum which passed a detailed speaking order. Therefore, there is no new ground of the Consumer before this Court.
6. The Petitioner itself mentioned in the Appeal that it had brought all this equipment for few days and after completion of the work, these equipments had been dispatched from the site. The previous consumption of the Petitioner could not reveal any facts relating to the excess Load connected by the Petitioner which was detected at the site at the time of the checking. On checking the DDL of the Energy Meter, it was found that the Load of the Consumer was more than the Sanctioned Load at many point of time and as such, it was not fair on the part of the Petitioner to state that it did not use the excess Load at any point of time.
7. Although the installed Distribution Transformer was of 63kVA capacity, but the consumer had been testing all these equipments mentioned in the checking report by using unfair means and it may not be used in toto at one point of time.

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of the amount of Rs. 6,04,910/- ( Rs. 3,53,910/- on account of ACD and Rs. 2,51,000/- on account of Load Surcharge) charged to the Petitioner by the Respondent vide Memo. No. 878 dated 17.05.2017 due to not seeking approval of the Distribution Licensee for standby equipments used, after taking Temporary Category Connection, to carry out civil works and also of the Chief Electrical Inspector (CEI) / PSPCL, for installation of two DG sets of 180 kVA and 30kVA.

 *The points emerged and deliberated as under:*

1. I find that the Temporary Supply Category Connection of the Petitioner with Sanctioned Load of 38.520kW, being fed from Distribution Transformer (DT) of 63kVA, used for carrying out the civil works, was checked by Senior Executive Engineer, Enforcement, PSPCL, Ferozepur vide ECR No. 31/1978 dated 15.05.2017. During the checking, it was found that the Connected Load was 289.680kW and one DG Set having capacity of 180kVA and of 30kVA were installed.

I have noted the contention of the Respondent that the Load as per checking was connected to the Distribution System and running on the Grid Supply. The Respondent added that the Petitioner did not seek the approval of the Distribution Licensee for the extended Load (connected) run on the system and also from the Chief Electrical Inspector (CEI) / PSPCL for installation of the said two DG Sets which was mandatorily required in terms of Instruction No. 121 of ESIM.

 In this regard, I have perused Para 1 of the letter No. PRGHPPL/18/13 dated 22.03.2018 submitted by the Petitioner during the course of hearing stating that:

*“The Enforcement team of PSPCL had noted down the list of equipment available at site on 15.05.2017 and the same was incorrectly considered as connected load with grid. Also, the team has taken the receiving signatures of the site accountant who is technically incompetent regarding the electrical parameters of site. Therefore, the signatures of the site representative cannot be termed as our acceptance to the checking report. Here we would like to mention that out of the various equipment available at site, only few were connected with the grid and few were connected with the DG set, remaining were kept only as standby equipment due to the very short time duration of canal closure.”*

The above contention of the PR is not in conformity with the provisions contained in Regulation 2 (m) of Supply Code-2014 as per which, the Connected Load has been defined as:

 *“The sum of the manufacturer’s rated capacities of all the energy consuming devices in a consumer's premises connected with distribution licensee’s service line and determined as per procedure laid down in these regulations. This shall not include the standby or spare energy consuming apparatus installed through a changeover-switch;”*

1. I find that the Petitioner, in its application dated 22.03.2018 submitted in the Court that it was not aware of the additional permission required regarding installation of 180kVA and 30kVA DG Sets and sincerely apologized to the concerned authorities for the same.

 *I am of the view that the consumer, being a Power Producer, ought to have taken care of all the pros and cons/implications and also taken adequate precautions to ensure the observance of all requirements after taking Temporary Connection for carrying out civil works.*

1. I also noted the contention of the PR that although the consumer’s Load had exceeded the Sanctioned Load at some times but the maximum Load recorded in the DDL was 71.300kVA and the same had also been mentioned in the decision of the Forum. PR added that DDL readings were acceptable to the Petitioner and it was ready to pay for the excess Load consumed during that time.

 I also find merit in the contention of the PR that Distribution Transformer of 63kVA and L.T. cable of size 25mm2 was technically inadequate to withstand the Load of 289.680kW as mentioned in the Checking Report dated 15.05.2017 of the Senior Executive Engineer/Enforcement .

**(iv)** A perusal of the Consumption Data, placed on record reveals that consumptions before and after checking of the connection, was more or less comparable which implies that no heavy Load was run on the Transformer which was of 63KVA capacity.

From the above analysis it is concluded that the Petitioner did not obtain the approval of the Distribution Licensee for standby equipments used for carrying out civil works taking temporary connectionas required under the rules statedly for want of knowledge. The Petitioner also did not obtain the approval Chief Electrical Inspector/PSPCL regarding the installation of D.G. Sets of 180kVA and 30kVA which was necessary required in terms of Regulation 121 of the ESIM. However, the Petitioner expressed its willingness to deposit the requisite fee for the purpose. It also stands proved as per material on available record that the maximum demand recorded in the DDL was 71.300kVA against sanctioned load 38.520kW.

 Moreover, the LT cable of size 25mm2 could take maximum current of 96 Amp i.e. Load of 66kW and Distribution Transformer of 63kVA is also not capable to take such heavy Load. Hence, I am of the view that the Petitioner had not used the equipment but kept as standby to complete the work within a short span of time but at the same time, the Petitioner is responsible for not taking the approval of CEI/PSPCL and not depositing the requisite fee for installation of DG Sets. Hence, the Petitioner is liable to pay the Load surcharge for the Load used by him as per DDL report i.e. for 71.300kVA and fee for installation of DG Sets.

**5. Decision:**

 **As a sequel of above discussions, the order dated 08.09.2017 of the Forum in Case No. CG-152 of 2017 is set-aside. It is held that:**

1. **ACD is not recoverable.**
2. **The amount chargeable, on account of Load Surcharge due to Load used i.e. 71.300 kVA minus the Sanctioned Load (38.520 kW, to be converted into kVA by taking Power Factor as 0.90) be worked out and recovered from the Petitioner without any interest.**
3. **The requisite fee for installation of two D.G. Sets of 180kVA and 30kVA and run on the system should also be deposited with CEI by the Petitioner and receipt of copy shall be deposited in this Court.**
4. **The Petitioner shall also deposit Rupees Ten Thousand with PSPCL as penalty for lapse of not obtaining the approval of PSPCL for installing the DG Sets. The copy of receipt of PSPCL for Rs.10,000/- shall be submitted to this Court.**

**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 27, 2018 LokPal (Ombudsman)

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