

**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. 22/2024

**Date of Registration : 07.11.2024
Date of Hearing : 14.11.2024, 25.11.2024
Date of Order : 10.12.2024**

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s Satpal Banarsi Dass,
Mirch Mandi,
Patiala-147001.

Contract Account Number: 3000000136

...Appellant

Versus

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

...Respondent

Present For:

Appellant: Sh. Jivtesh Singh Nagi,
Appellant's Counsel.

Respondent : Er. Tapanjot Singh,
AEE, DS Division,
PSPCL, Patiala.

Before me for consideration is an Appeal filed by the Appellant in accordance with the order dated 15.10.2024 of Hon'ble Punjab & Haryana High Court in CWP No. 13895 of 2021 in which the case was remanded back to this Court, with the observation as under:-

“Taking into consideration the fair stand adopted by learned counsel for the respondents-PSPCL, the present writ petition is allowed. Resultantly, the impugned order dated 28.04.2021 passed by the Ombudsman (Electricity), Mohali is hereby set aside and the matter is remanded to the Ombudsman (Electricity), Mohali for deciding the matter afresh on merits and after granting proper opportunity of hearing to the parties concerned.

The parties are directed to appear before the Ombudsman (Electricity), Mohali on 04.11.2024, wherefrom the proceedings shall be conducted in accordance with law. The parties shall, however, be at liberty to raise all such pleas, that are available to them as per law, before the Ombudsman (Electricity), Mohali.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that a letter from the Appellant's Counsel was received in this Court on 07.11.2024, in which it was mentioned that the Hon'ble Punjab and Haryana High Court had remanded back the case to this Court vide its order dated 15.10.2024 & directed both the parties to appear before the Court of Ombudsman, Electricity, Punjab. He requested this Court that the Appeal originally filed (i.e.

Appeal No. A-38 of 2021) be heard again and an order be passed in the same appeal as directed by the Hon'ble Punjab and Haryana High Court. Therefore, the Appeal was registered on 07.11.2024.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 14.11.2024 and intimation to this effect was sent to both the parties vide letter nos. 638-39/OEP/A-22/2024 dated 08.11.2024. As scheduled, the hearing was held in this Court on 14.11.2024 and arguments of both the parties were heard. The case was adjourned to 25.11.2024 and intimation to this effect alongwith the copy of proceedings dated 14.11.2024 were sent to both the parties vide letter nos. 656-57/OEP/A-22/2024 dated 14.11.2024.

As scheduled, the hearing was held in this Court on 25.11.2024. After hearing arguments of both the parties, the case was closed for the pronouncement of the orders.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the Appellant's

Counsel and the Respondent along with material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant's Counsel did not submit fresh Appeal & requested this Court that the Appeal originally filed (i.e. Appeal No. A-38 of 2021) be heard again and an order be passed in the same appeal. The Appellant had made the following submissions in its Appeal No. A-38 of 2021 for consideration of this Court:-

- (i) The Appellant was having a Medium Supply Category Connection, bearing Account No. 3000000136 with sanctioned load of 81.570 kW and Contract Demand (CD) as 90.633 kVA.
- (ii) The connection of the Appellant was checked by Sr. Xen/Enforcement-2, Patiala vide ECR No. 30/284 dated 31.07.2020, as per which, the meter of the Appellant was found running fast by 24% and the blue phase wire was found connected to the neutral terminal and the neutral wire was found connected to the blue phase terminal.
- (iii) Due to the aforesaid wrong connections, the Appellant was being wrongly billed in excess since 26.08.2016 to 31.07.2020 on account of fast running of the meter. The fact that the meter was running fast had been admitted by the Respondent before the

Forum and had also been recorded in the order dated 09.02.2021 passed by the Forum.

- (iv) The Appellant had filed a petition before the Forum for refund of the amount paid in excess on account of the fast running of the meter and the Forum passed order dated 19.02.2021 wherein it had been observed by the Forum that the meter of the Appellant was running fast since 26.08.2016 because the blue phase wire was found connected to the neutral terminal and the neutral wire was found connected to the blue phase terminal. The Forum had further observed that serious negligence had been committed while doing the connections of the metering equipment on 26.08.2016 and the Respondent had also failed to conduct the periodical inspection/testing of the metering equipment, which could have detected the above discrepancy in metering equipment in time.
- (v) Despite knowledge of the fact that the meter of the Appellant was running fast since 26.08.2016 on account of negligence of the Respondent, the Appellant was being billed wrongly. Further, the Respondent had failed to discharge its duty of conducting mandatory periodic inspection. The Forum arbitrarily ordered that the account of the Appellant be overhauled only for the period from 01.02.2020 to 31.07.2020, which was completely

arbitrary, unsustainable being illegal and against the principles of natural justice.

(vi) The Appellant had suffered hefty financial losses since 26.08.2016 on account of fast running of the meter and wrong bills used to be issued since the said date, which was solely because of the negligence of the Respondent, as observed by the Forum in its order dated 19.02.2021. However, the account had been ordered to be overhauled only for a period of 01.02.2020 to 31.07.2020.

(vii) The Forum had failed to take into consideration various Regulations of the Supply Code-2014 applicable in the instant case. The Appellant was entitled to get refund of the entire amount charged to it in excess through wrong bills w.e.f. 26.08.2016 in terms of Regulation 35.1.3 of the Supply Code-2014 wherein it had been categorically stated that if erroneous bills were issued to the consumer, revised bills shall be issued with necessary corrections and the excess amount paid by the consumer shall be refunded to him with interest in the matter provided therein. The said Regulation is reproduced as under:-

“35.1.3 If on examination of a complaint, the distribution licensee finds a bill to be erroneous, a revised bill shall be issued to the consumer indicating a revised due date of payment, which

shall not be earlier than seven days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under Regulation 35.1.1 is in excess of the revised bill, such excess amount shall be refunded through adjustment first against any outstanding amount due to the distribution licensee and then against the amount becoming due to the distribution licensee immediately thereafter. The distribution licensee shall pay to such consumer interest on the excess amount at twice SBI's Base Rate prevalent on first of April of the relevant year plus 2% from the date of payment till such time the excess amount is adjusted.”

Therefore, in terms of the aforesaid Regulation, the Appellant was entitled to get refund of the excess amount charged to it through wrong bills issued since 26.08.2016 with interest. However, the Forum had gravely erred and failed to acknowledge the relevant regulations while adjudicating the matter in hand.

- (viii) The Respondent had failed to discharge their duty of conducting periodic inspections in terms of Regulations 21.3.5 of the Supply Code-2014, which is reproduced as under: -

“21.3.5 The distribution licensee shall also conduct periodical inspection/ testing of the meters/metering equipment installed at the consumer’s premises as per following schedule:

(i) EHT meters:-atleast once in a year

(ii) HT meters:-atleast once in 2 years

(iii) LT 3-phase meters:-atleast once in 3 years

(iv) LT 1-phase meters:- atleast once in 5 years.”

In terms of the above Regulation, the Respondent was liable to conduct periodic inspection, however, the Respondent failed to discharge its duty of conducting periodic inspection and consequently, the meter of the Appellant kept running fast and the Appellant was being issued wrong bills since 26.08.2016.

- (ix) The Respondent was bound to install ‘correct meter’ but it failed to discharge its duty as envisaged in Regulation 21.1 of the Supply Code-2014.
- (x) It was prayed that the amount paid in excess by the Appellant w.e.f. 26.08.2016 on account of wrong bills issued to it, be refunded to him in terms of Regulation 35.1.3 of Supply Code-2014 alongwith interest.

(b) Submissions in Rejoinder sent after Hearing was closed on 22.04.2021 in Appeal No. A-38 of 2021

The Appellant's Counsel sent a rejoinder at 16.01 hours on 22.04.2021 after conclusion of arguments/hearing and also after receipt of minutes of proceedings vide e-mail sent at 14.01 hours on 22.04.2021. The contents of the rejoinder were as under:

- (i) The Appellant filed the instant Appeal on 07.04.2021 and the case was fixed for hearing today, i.e. 22.04.2021. The Arguments were addressed by both parties, however, a new fact, which was not a part of the pleadings of the Respondent was introduced during the hearing.
- (ii) It was brought on record that the consumer was being billed on kVAh consumption basis. However, in the checking conducted by the Respondents, the readings were recorded on kWh and the Forum suggested that the checking was incorrect/ incomplete.
- (iii) It was further stated that since the checking was recorded in wrong unit and was incomplete, as stated in para (ii), was not a part of the pleadings and was brought on record today itself. The Appellant did not get the opportunity to oppose/ respond to the said fact and therefore the instant rejoinder was sought to be placed on record.

- (iv) It was further stated during the course of arguments that since the checking done by the Respondent was incorrect/incomplete, it cannot be ascertained exactly how fast was the meter running in the requisite unit of measurement.
- (v) A plea is being raised vide this rejoinder that the Court of the Ombudsman may exercise its power under regulation 2.46 of the PSERC (Forum and Ombudsman) Regulations, 2016 which empowers the Ombudsman to issue interim orders in the interest of justice. The regulation has been reproduced herein below:

“2.46 Upon request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary including but not restricted to grant of temporary injunction to stay or prevent or restrain such act as the Forum thinks fit.”

- (vi) It is prayed interim order be issued to the Respondent to inspect/check the connection of the Appellant (who is still using the same meter as he was when the checking was first conducted) again, after restoring it to the same position as it was when the checking was conducted by the Respondents on 31.07.2020 i.e. blue phase wire be connected to the neutral terminal and the neutral wire be connected to the blue phase terminal to ascertain

exactly how fast the meter was running in the proper unit of measurement.

(vii) Interim order be issued to the respondents to inspect/check the connection of the appellant again after restoring to the same position as it was when the checking was conducted by the respondents on 31.07.2020. that is, blue phase wire be connected to the neutral terminal and the neutral wire be connected to the blue phase terminal to ascertain exactly how fast the meter was running in the proper unit of measurement, in the interest of justice, equity and good conscience.

(c) **Submissions during hearing**

During hearings on 14.11.2024 & 25.11.2024, the Appellant's Counsel submitted that the Respondent did not challenge the fact that the meter was found running fast by 24% neither before CGRF, Patiala nor before this Court during Appeal No. A-38/2021 filed earlier. He further submitted that the Respondent also did not request the CGRF, Patiala for considering the case under Regulation 21.5.1 of Supply Code-2014. The CGRF, Patiala itself decided the Case No. CGP-62/2021 ordering that the Appellant's account be overhauled for six months considering the metering equipment to be fast by 24% as per Regulation 21.5.1 of Supply Code-2014. He requested this Court

to quash the order dated 19.02.2021 of the CGRF, Patiala and to order that the Appellant's account be overhauled for the period from 26.08.2016 to 31.07.2020 considering the metering equipment to be fast by 24%.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) As per the proceedings dated 14.11.2024, the Appellant's Counsel submitted that as per record, the Respondent did not challenge the fact that meter was found running fast by 24%. However, it is added that it cannot be established that KVAH consumption is fast by 24%.
- (ii) It is also matter of record that the Respondent did not request the CGRF, Patiala for considering the case under Regulation 21.5.1 of Supply Code-2014. The CGRF itself decided the Case No. CGP-62/2021 ordering that the Appellant's account be overhauled for six months as no other regulation of Supply Code is relevant to the case.

- (iii) From 2012 till date, there has been no change in the load of the Appellant. The consumption data from 2012 till date has been attached.

(b) Submission during hearing

During hearings on 14.11.2024 & 25.11.2024, the Respondent prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the decision dated 19.02.2021 of CGRF, Patiala in Case No. CGP-62 of 2021 in which it was ordered that the Appellant's account be overhauled for the period from 01.02.2020 to 31.07.2020 considering the metering equipment to be fast by 24% against the Appellant's request for overhauling of account for the period from 26.08.2016 to 31.07.2020.

My findings on the points that emerged and my analysis is as under:

- (i) The CGRF, Patiala in its order dated 19.02.2021 observed as under:-

"Forum observed that the Petitioner is having MS connection with sanctioned load of 81.57 kW under Commercial Model Town Sub Division, Patiala & under Operation Model Town Division, Patiala. The meter installed at the petitioner premises was checked by Sr. Xen Enforcement-2, Patiala vide ECR no. 30/284 dtd. 31.07.20 and as per the report, the meter was found running fast by 24%. It has

been observed by Enforcement Wing that the Blue Phase Wire has been connected to the Neutral Terminal of meter and the Neutral wire has been connected to Blue Phase Terminal of meter. After interchanging both the wires, the accuracy of the meter was again checked and was found to be within permissible limits. The present meter was installed on 26.08.2016 due to replacement from non-DLMS meter to DLMS meter as per recommendation in the Enforcement Checking Report no. 14/288 dtd 20.08.16 and the seals affixed at that time have been found affixed now also. The Petitioner has been issued excess bills for the period from 26.08.2016 to 31.07.2020 based upon the consumption recorded by the meter running fast. Forum studied the consumption data of the petitioner and observed that the MDI has been recorded as 46.64 KVA and 46 KVA during recording readings on 20.08.16 and 25.08.16. After replacement of meter on 26.08.2016, the next MDI reading has been recorded as 77.40 KVA on 18.09.16 and immediate subsequent MDI readings are also in the same range. Further the MDI recording on 17.06.20 and 15.07.20 was 96.89 KVA & 93.77 KVA and after replacement of meter on 31.07.20, the MDI readings on 15.08.20 & 16.09.20 has been recorded as 65.25 KVA & 64.52 KVA. The consumption pattern of the petitioner during the years 2015 to 2020 is as under:-

YEAR	CONSUMPTION IN KVAH
2015	125825
2016	153692
2017	282472
2018	294564
2019	236277
2020	259474

Forum further observed that as per the provisions of Supply Code 2014 Regulation Clause no. 21.5.1, in case the accuracy of meter on testing is found to be beyond accuracy limits, the account of the consumer shall be overhauled for a period not exceeding 6 months immediately preceding the date of test in case the meter has been tested at site or date the defective meter is removed from site for testing in the laboratory. However it has also been provided that where the accuracy of the meter is not involved and in case of application of wrong MF, the accounts can be overhauled for the period the mistake (of wrong MF) continued. In the instant case, the metering equipment installed at petitioner's premises seems to have remained inaccurate for the period 26.08.16 to 31.07.20 due to wrong connections done by respondent but as per provisions of Supply Code Regulation, the account of the petitioner can be overhauled only for a period of immediately preceding 6 months i.e from 01.02.20 to 31.07.2020. Forum also noted that if the meter had become slow due to wrong connection in this case, even then the petitioner's account would have been overhauled for a period of 6 months only. Further the petitioner has failed to monitor/check his energy consumption and MDI readings (depicted on all the bills issued to him) and has not challenged the working of meter. As such forum is not inclined to accept the contention of the petitioner to allow him refund for the whole period the meter

in question remained inaccurate and would like to go by the provisions contained in the Supply Code Regulation.

Forum observed that a serious negligence has been conducted by the concerned officer / officials of respondent corporation while doing the connections of the metering equipment on 26.08.16 and further the respondent has also failed to conduct the periodical inspection/ testing of the metering equipment as per the provisions of clause No. 106 of ESIM which could have detected the above discrepancy in the metering equipment in time. A detailed enquiry needs to be conducted by SE/Operation Circle, Patiala and suitable disciplinary action against the delinquent officers/officials needs to be taken who have done wrong connections of metering equipment at the time of installation of meter and subsequently who have failed to conduct periodical inspection of metering equipment leading to non-detection of the above discrepancy in the metering equipment. The respondent corporation also need to consider issuance of instructions for compulsory recording all the three phase voltages and phase currents during regular recording of meter readings so as to address the issues relating to inaccurate metering at the initial stage.

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 petitioner's account need to be overhauled for the period 01.02.20 to 31.07.20 (date of rectification of wrong connections) considering the metering equipment to be fast by 24%."

- (ii) I have gone through the written submissions made by the Appellant in the Appeal No. A-38/2021, written reply of the Respondent & the data placed on the record by the Respondent as well as oral arguments of both the parties during the hearings on 14.11.2024 & 25.11.2024. It is observed by this Court that the Hon'ble Punjab & Haryana High Court, in its order dated 15.10.2024 in CWP No. 13895 of 2021, had set aside the order dated 28.04.2021 of this Court in Appeal No. A-38/2021 & the matter was remanded back to this Court for deciding the matter afresh on merits after granting proper opportunity of hearing to the parties concerned.

(iii) It is observed by this Court that the disputed meter installed at the Appellant's premises was checked by Sr. Xen Enforcement-2, Patiala vide ECR no. 30/284 dated 31.07.2020 and as per the report, the meter was found running fast by 24%. It was observed by the Enforcement Wing that the Blue Phase Wire had been connected to the Neutral Terminal of meter and the Neutral wire had been connected to Blue Phase Terminal of meter. After interchanging both the wires, the accuracy of the meter was again checked and was found to be within permissible limits. The disputed meter was installed on 26.08.2016 due to replacement of non-DLMS meter with DLMS meter. The seals affixed at the time of installation of the disputed meter on 26.08.2016 were found affixed on 31.07.2020 also. Therefore, the Appellant had requested this Court overhauling of its account for the period from 26.08.2016 to 31.07.2020 considering the metering equipment to be fast by 24%. The Respondent controverted the pleas raised by the Appellant & argued that the account of the Appellant should be overhauled for the maximum period of six months, considering meter to be fast by 24% as per Regulation 21.5.1 of Supply Code-2014 as decided by the CGRF, Patiala.

- (iv) Sr. Xen /Enf. cum EA & MMTS-2, Patiala had reported vide letter no. 71 dated 20.04.2021 that Dial Test & Pulse Test of meter in dispute were done on 31.07.2020 in ACTIVE MODE only and meter was found running fast by +24%.
- (v) The billing of the Appellant during the period 26.08.2016 to 31.07.2020 was done in terms of kVAh consumption as per Tariff Orders issued by PSERC and monthly bills in this regard were sent to the Appellant by the Respondent. No inspection of the meter was done by the Enforcement till 27.07.2020 after the meter was changed on 26.08.2016. The accuracy of the meter was checked by the Enforcement on 31.07.2020 in ACTIVE MODE i.e. for kWh consumption only.
- (vi) It is observed that the test results of kWh consumption (running of disputed meter fast by +24% in ACTIVE MODE) can not be applied for overhauling of recorded kVAh consumption of the disputed Meter during the period 26.08.2016 to 31.07.2020 for which the billing was being done. Apparent Energy (kVAh) is vector sum of Active Energy (kWh) and Reactive Energy (kVARh). As such, the accuracy of meter for consumption in kVAh will be different as compared to kWh consumption. To apply inaccuracy of kWh consumption for overhauling of bills

prepared on kVAh consumption basis is technically wrong and unlawful.

- (vii) This Court observed that the Forum erred in deciding to overhaul the account of the Appellant for the period 01.02.2020 to 31.07.2020 considering the metering equipment to be fast by 24 %. The Forum did not take into consideration that accuracy on kVAh mode of disputed Meter was not determined during checking of Enforcement on 31.07.2020 although the bills raised for the disputed period (26.08.2016 to 31.07.2020) were for kVAh consumption. It is felt that the results of testing of accuracy on kWh consumption of the disputed meter cannot be made applicable to the recorded kVAh consumption of the same meter. Accordingly, the decision of the Forum based on incomplete checking of the disputed meter by the Enforcement is not correct and sustainable in the eyes of law. The account of the Appellant cannot be overhauled considering the factor of 24%.
- (viii) Therefore, since the inaccuracy of the meter has not been established, the meter is required to be treated as defective as it was giving defective readings due to interchanging of Blue Phase wire with Neutral Phase wire from the date of installation, i.e. 26.08.2016 till it was corrected on 31.07.2020.

- (ix) The contention of the Appellant for overhauling of its account for the period from 26.08.2016 to 31.07.2020 considering the metering equipment to be fast by 24% is not tenable as the meter is required to be treated as defective as discussed above and therefore Regulation 21.5.2 (d) & (e) of Supply Code-2014 would be applicable. It is further observed that the Appellant never challenged the working of the meter during the period from 26.08.2016 to 31.07.2020. The Appellant should have been vigilant for his own rights.
- (x) Since the meter readings of the disputed meter for the previous year are not reliable as the meter was giving defective readings from 26.08.2016 to 31.07.2020, therefore the account of the Appellant is to be overhauled for a maximum period of six months immediately preceding the date of checking dated 31.07.2020 as per Regulation 21.5.2 (d) & (e) of Supply Code-2014 on the basis of the consumption of the corresponding period of the succeeding year.

6. Decision

As a sequel of above discussions, the order dated 19.02.2021 of the CGRF, Patiala in Case No. CGP-62 of 2021 is hereby set aside. The account of the Appellant be overhauled for a maximum period of six months immediately preceding the date

of checking dated 31.07.2020 as per Regulation 21.5.2 (d) & (e) of Supply Code-2014 on the basis of the consumption of the corresponding period of the succeeding year.

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, he 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.

December 10, 2024
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.