

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

Review Appeal No- 128(R) of 2020

Date of Video Conferencing : 02.11.2020

Date of Order: 09.11.2020

The Superintending Engineer cum HOD,
Electricity Department,
Puducherry.

....Appellant

Versus

Tmt.S Jeeva
w/o Thiru Sakthivel,
Puducherry

....Respondent

Parties present:

Appellant

1. Shri P.Gnanasegaran ,
Executive Engineer-Rural North O&M

Respondent

1. Shri V.Sekar
Respondent's Representative

Date of Order: 09.11.2020

The Appellant has preferred a **Review Appeal** against the order of the Electricity Ombudsman in Appeal No.-126 of 2020 tiled Tmt. S.Jeeva vs Electricity Department, Puducherry. The Review Appeal was admitted on 21.09.2020 as Appeal No.128 (R) of 2020. Copy of the same as received was forwarded to the Respondent with a direction to submit their remarks/ counter reply on each of the points. The counter reply was filed through email on 13.10.2020 and Appellant was supplied a copy of counter reply. On Appellant request time was granted and



additional material was filed on 28.10.2020 through email and copy of the same was supplied to the Respondent who also filed Rejoinder.

(A) **Submissions by the Appellant:**

Appellant submitted the brief facts as under:-

1. FACTS OF THE CASE

Sh. P.GNANASEKARAN, Executive Engineer – Rural (North) O&M, Electricity Department, Government of Puducherry, filed an affidavit and submitted as under :-

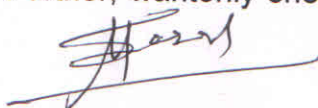
The Petitioners beg to prefer the above Review Petition for reviewing the order dated 31.08.2020 (Exhibit-1 enclosed) of the Electricity Ombudsman for Goa and Union Territories in Appeal No. 126/2020 in accordance with Regulation 37 (8) of the Joint Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2019 on the following among others.(Exhibit-2 enclosed)

GROUND

- (i) **Ground No-1:-** As per the mandatory provisions of the Electricity Act, 2003 and the JERC supply code, 2018, domestic power supply has been extended to the portion of the site in the name of the applicant, Tmt. S. Jeeva during the year 2013 (Exhibit-3 enclosed) after due perusal of the records and inspection of the site by the officials in pursuance, all the procedural formalities have been followed and the service connection charges were paid by the applicant and the meter was installed by the consumer at her own cost.(Exhibit-4 enclosed).

While submitting the application, the applicant (Tmt. S. Jeeva) has furnished an affidavit dated 26-09-2012 (Exhibit-5 enclosed) and undertaking to abide by all the rules and regulations of the Department and indemnifying the Distribution licensee against all losses and legal consequences arising from extension of power supply. As far as the Distribution licensee is concerned bonafide action taken for processing the application and extension of power supply as per the rules and regulations.

After availing power supply for the backyard portion of the house in the schedule property covered by R.S. No. 260/10B Cadastre No. 824.3/3/1pt, patta No. 215 of Villianur Revenue Village, she has not contacted the Electricity Officials either in person nor through any representatives. Further, wantonly she has suppressed the non-issue of



bills towards power consumption but availed the power supply uninterruptedly.

The codal provisions which clearly stipulates that in case, consumer does not receive the first bill within two billing cycles from the date of energisation of connection, the consumer shall complain in writing to the licensee's office and the Licensee shall issue the bill within the next 14 days. (7.4 of JERC (Supply Code) Regulations, 2018).(Exhibit-6 enclosed)

Hence, it is a clear case of suppression of facts and wanton evasion of payment of dues to the Government Exchequer.

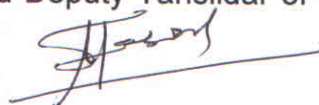
Based on the findings of the apparent records and our submissions, the Hon'ble Ombudsman was pleased to point out at point blanc that it is clear that the Appellant has also not come to this court with clean hands.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

- (ii) **Ground No-2 :-** I humbly submit that the Section 56(1) of the Electricity Act, 2003, is a special provision, enabling the licensee to cut-off supply of electricity until such charges or sum as demanded under section 56(1) is paid. Sub-section (2) (Exhibit-7 enclosed) only provides a limitation, that the recourse to recovery by cutting of electricity supply is limited for a period of two years from the date when such sum became due.

As long a sum is due, which is within two years of the demand and can be recovered, the licensee can exercise its power of coercive process of recovery by cutting of electricity supply. This is a special mechanism provided to enable the licensee to recover its dues expeditiously, further that apart from the above mechanism, independently it can make recovery by way of a suit. Bonafidely the licensee has not taken any coercive action against the consumer/appellant but the apparent fact that the consumer has been extended power supply by the licensee and there is implied obligation on the part of the consumer to pay the cc charges for the service extended as per the codal provisions in the prevailing tariff.

Hence, the appellant/consumer who has absolutely availed power supply from the date of energisation cannot blatantly evade or avoid payment of dues accrued to the Distribution licensee on any pretext and even after the consent of the complainant/consumer before the CGRF to pay the entire dues to the licensee .(Exhibit-8 enclosed), the representative of the consumer (Shri. V. Sekar, a retired Deputy Tahsildar of the Government



of Puducherry) is taking advantage to avoid payment of dues for the entire period from 2013 of false grounds which is violative of supply code.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

- (iii) **Ground No-3:-** In terms of the JERC Guidelines, the Electricity Department/Distribution licensee is competent to raise the demand towards the money due to it, by serving a bill and the claimant is assailing the very demand payable by her as mandated under the tariff conditions and contending the matter with arbitrary remarks which is not tenable and would be violative of codal provisions.

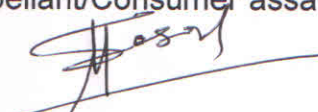
There is no unjust enrichment made by the Electricity Department/Distribution licensee in the above matter and the dues payable by the appellant/consumer to be complied as per the statutory prescriptions. The Appellant/consumer cannot assail the Government orders in violation of rules.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

- (iv) **Ground No-4:-** I humbly submit that the Government of Puducherry through the Electricity Department had been purchasing power supply from the Central Stations and other States Generating Stations for distribution of power supply to the Union Territory of Puducherry. Further, the Electricity Department is liable to pay Belated Payment Surcharge for non-payment of power purchase. As such, the Electricity Department had already paid the charges for the energy consumed by the consumer. If the consumer fails to remit the charges towards the consumed energy, it will cause loss to the Government of Puducherry.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energization as per the prevailing tariff from the date of raising of demand.

- (v) **Ground No-5:-** Even though the liability to pay energy charges is created on the day the electricity is consumed, the charge would become first due only after a bill or a demand notice is served. Therefore, the limitation in the present case also shall run from the date of demand notice. The contentions put forth by the Appellant/Consumer assailing the demand as



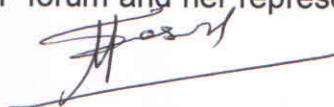
barred by the period of Limitation is not tenable. The Tamil Nadu Electricity Ombudsman by its order dated 30.09.2016 in Appeal Petition No. 17/2016 (M/s. Orchid Chemicals & Pharmaceuticals Ltd., Chennai Vs. The Assistant Engineer O&M, TANGEDCO & 2 others, by relying on the decisions of Hon'ble High Court of Delhi by a catena of cases has upheld the demand towards CC charges and defined the extent of limitation from the period of demand (Exhibit-9 enclosed). Hence, the consumer/appellant should pay all the charges including BPSC from the date of energization since she has utilised the power supply and consequently liable to pay the charges as per the prevailing tariff from the date of raising of demand.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

- (vi) **Ground No-6:-** The petitioners herein act in accordance with the statutory provisions of the Electricity Act, 2003 and rules made there under and the Supply Code. If dues of electricity charges outstanding in respect of electricity supplied to a premises of a consumer were curtailed for a major portion of the ensuing period from 2013 to 2019, ignoring the apparent fact that after availing the utility of power supply from the Distribution Licensee, the consumer is obliged to pay the accrued CC charges, it would encourage dishonest consumers to raise some dispute or other in respect of such dues and evade the consequences of non-payment of electricity charges viz., disconnection/non-resumption of supply.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

- (vii) **Ground No-7:-** By apparent facts and circumstances of the case and the provisions of law as it stands, the Electricity Department's right to claim the amount due on account of actual consumption through demand bill accrued to the Government Exchequer, cannot be blatantly denied by the appellant/consumer. It is pertinent to submit that bonafidely the Electricity Department has not disconnected the power supply as provided under statute mainly on the grounds that the fair procedure should be adopted and the issue regarding actual dues may be resolved by recourse to available legal remedies. The Consumer (Tmt Jeeva) had agreed to reconcile the dues for the entire period from 2013 to 2019 as per the prevailing tariff before the CGRF forum and her representative is agitating



over the consent of the consumer and trying to evade payment of dues on different context.

Hence, the order of the Hon'ble Ombudsman is required to be reviewed and the appellant is necessarily required to pay all the dues towards consumption of electricity from the date of energisation as per the prevailing tariff from the date of raising of demand.

The petitioners reserve their right to raise additional grounds during the course of hearing at a later stage of the case.

In the light of the above mentioned circumstances, it is therefore most respectfully prayed that this Hon'ble Court may be pleased to review the order dated 31.08.2020 of the Hon'ble Electricity Ombudsman for Goa and Union Territories in Appeal No. 126/2020 and pass such further or other orders and thus render justice.

(viii) **Additional Ground No-8 :-** I most respectfully submit that the appeal as filed by the appellant is not prima facie maintainable before this Hon'ble Appellate Authority because the order passed by the Hon'ble Consumer Grievances Redressal Forum, Puducherry was passed with the consent of the petitioner therein, viz. Tmt. S. Jeeva. Even though liberty was given by the Hon'ble Redressal Forum to the petitioner therein to prefer appeal, Tmt. S. Jeeva ought not to have preferred the appeal after having coming forward to pay the dues in installments. Therefore the additional review petition filed by this Department is liable to be allowed and the appeal filed by the consumer is liable to be dismissed.

(ix) **Additional Ground No-9 :-** I most respectfully submit that the appeal as filed by the appellant is not prima facie maintainable before this Hon'ble Appellate Authority because Clause 7.4 of the JERC Supply Code Regulations, 2018 stipulates as follows:- *"7.4 The licensee shall issue the first bill within two billing cycles of energizing a new Connection. In case the consumer does not receive the first bill within two billing cycles from the date of energization of the connection, he shall complain, in writing, to the licensee's office and the licensee shall issue the bill within the next 14 days."*

I most respectfully submit that the initial burden is on the consumer to approach the licensee for non-receipt of bill. The consumer ought not to have rushed to the Hon'ble Consumer Grievances Redressal Forum, Puducherry without exhausting her remedy under Clause 7.4 of the JERC Supply Code Regulations, 2018.



I most respectfully submit that this Hon'ble Appellate authority has relied on the judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 1672 of 2020 titled Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam & Anr. Vs. Rahamatullah Khan had arrived at the following conclusion:- "5. The first bill was issued by the Respondents on 04.07.2019 for Rs.62378/- for 77 months, whereas in view of provisions of Section 56(2) of Electricity Act, 2003 and section 7.40 of Supply Code Regulations 2018 and the dictum of the Hon'ble Supreme Court as above, the Respondents are not entitled to charge any dues beyond a period of 2 years. Therefore the Respondents are barred by their own negligence and inactions to charge any "Dues" from the Appellant beyond two years i.e. from 22.02.2013 to 03.07.2017".

I most respectfully submit that this Hon'ble Appellate authority had relied upon clause 7.40 of the JERC Supply code Regulations 2018, which provides as follows:- "7.40 No sum due from any consumer, on account of default in payment shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied", for arriving at its present decision. Clause 7.4 of the same code stipulates as follows:-

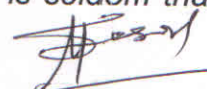
"7.4 The licensee shall issue the first bill within two billing cycles of energizing a new Connection. In case the consumer does not receive the first bill within two billing cycles from the date of energization of the connection, he shall complain, in writing, to the licensee's office and the licensee shall issue the bill within the next 14 days." I most respectfully submit that the initial burden is also on the consumer to approach the licensee for non-receipt of bill. The respondent herein with malafide intention had never taken any step for payment of electricity consumption charges even though she has utilized the electricity supply from the date of extending power supply to her house. I most respectfully submit that if the order passed by this Hon'ble Appellate Authority is not reviewed the consumer will enjoy unlawful enrichment by not paying the consumption charges even though she has utilized the services. This will set an unhealthy precedent which will cause huge loss to the Government of Union territory of Puducherry.

- (x) **Additional Ground No-10:-** I most respectfully submit that the Hon'ble Supreme Court of India in Civil Appeal No. 1672 of 2020 titled Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam & Anr. Vs. Rahamatullah Khan had held as follows:-



- Section 56(2) however, does not preclude the licensee company from raising a **supplementary demand** after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect the electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a **supplementary demand**.
- Applying the aforesaid ratio to the facts of the present case, the licensee company raised an **additional demand** on **18.03.2014** for the period July, 2009 to September, 2011.
- The licensee company discovered the mistake of billing under the wrong Tariff Code on **18.03.2014**. The limitation period of two years under Section 56(2) had by then already expired.
- Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.
- As per Section 17(1)(c) of the Limitation Act, 1963, in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time. In Mahabir Kishore and Ors. v. State of Madhya Pradesh, this Court held that :-

“Section 17(1)(c) of the Limitation Act, 1963, provides that in the case of a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it. In a case where payment has been made under a mistake of law as contrasted with a mistake of fact, generally the mistake become known to the party only when a court makes a declaration as to the invalidity of the law. Though a party could, with reasonable diligence, discover a mistake of fact even before a court makes a pronouncement, it is seldom that a person can,



*even with reasonable diligence, discover a mistake of law before a judgment adjudging the validity of the law.”
(emphasis supplied)*

- *In the present case, the period of limitation would commence from the date of discovery of the mistake i.e. 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act.”*

I most respectfully submit that the Hon'ble Supreme Court in the case of Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam & Anr.Vs. Rahamatullah Khan had held that the period of limitation of two years would commence from **the date of discovery of the mistake**, in the present case, 04.07.2019, the date of issue of the original demand for payment of electricity consumption charges. In the words of the Hon'ble Supreme Court, the licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act. In the present case, the department had **not taken any steps for disconnection of electricity supply** to the respondent herein. It is not the case of the respondent herein before the Consumer Grievances Redressal Forum that this appellant has disconnected the electricity supply. Therefore the Review Petition is liable to be allowed.

I most respectfully submit that if this Hon'ble Appellate Authority relies on the judgment of the Hon'ble Supreme Court in the case of Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam & Anr.Vs. Rahamatullah Khan, it ought to have dismissed the appeal of the respondent herein as there was no disconnection of electricity. The Hon'ble Appellate Authority ought not to have restricted the legality of the claim of the department to two years instead of 77 months. Therefore there is an error apparent on the face which requires to be rectified in order to prevent miscarriage of justice.

(B) **Submissions by the Respondents :**

Tmt.S.Jeeva, W/o. Thiru.Sakthivel, filed the counter reply as under :-

1. **Reply for Para-1 of Grounds of Petitioners / Respondents**



It is submitted that the statement of the Petitioners / Respondents is totally vague and does not contained their routine and mandatory duty like visiting the house frequently, preparing and issuing the printed or computerized demand bills for the monthly, periodically energy consumed or spent by the Policy holder / consumer in a time bound manner. The entire system must be in a fair service motto and they should extend their time bound billing process in a genuine interest.

It is true that the Authority had been parting in preparing and issuing periodical monthly bills to the consumer / policy holder Smt. S.Jeeva / Policy No.192134/Reference Code: 32-82-06-0538C handled grave lapse of 77 months which gave the serious, severe effects upon the consumer's financial poor condition.

The RTI Reply communication No.3585/ED/EE-RN/Tech/ F.RTI/ 2019-20, dated 18.10.2019 from Public Information Officer-cum-Executive Engineer (Rural North), Puducherry Electricity Department which addressed to the complainant Tmt. S.Jeeva and state through his enclosed Annexure of the Junior Accounts Officer, Govt. of Puducherry (Electricity) and that document itself as the prime evidence to show the willful negligence of the Puducherry Electricity Officer, i.e.J.E., Villianur had generated the Bill on 04.07.2019 instead of preparing and issuing the regular periodical monthly bills from 22.02.2013 and also by accepting the utter, grave abnormal delay in issuing the month wise regular bills in time (Exhibit-R-1 enclosed).

In the above Annexure-Exhibit -R-1, it is very clear that the JAO had concealed the facts and suppressed the facts of the time bound issuance of bills.

It is also to say that there was no motive that wanton evasion of payment of dues to the Government Exchequer. The consumer had been keen interest to pay the Government dues when issuance and receipt of periodical, month wise bills under Time bound notice.

But this was not done by the Authorities as stated above.The govt. of Puducherry have favoured to all people / consumer by facilitating to pay their monthly dues on receipt of officers' issuance of monthly bills served.

But in this case it was handicapped the way of the consumer in paying her rightful actual charges from 22.02.2013 to January, 2020 at the prescribed rates.



The Officers in charge for the above abnormal delay has to be charged on their part and liable to be punished.

Now, on receipt of the Hon'ble Ombudsman's order in Appeal No.126 of 2020 the Consumer is always ready to pay the fair dues.

2. **Reply for Para-4 of Grounds of Petitioners / Respondents**

Regarding this issue the consumer has to be compensated or right to get appropriate relief by the Authorities who is responsible for the whole role as stated in the reply.

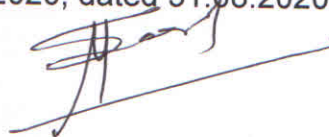
3. **Reply for Para-5 of Grounds of Petitioners / Respondents**

It is humbly to say that the citation showed that "Tamilnadu Electricity Ombudsman by its order dated 30.09.2016 in Appeal Petition No.17/2016 (M/s. Orchid Chemicals & Pharmaceuticals Ltd., Chennai Vs. The Assistant Engineer O & M, TANGEDCO & 2 others, by relying on the decisions of Hon'ble High Court of Delhi by a Catena of cases which upheld the demand towards CC charges and other plea are totally not comparable to the Respondent / Appellant and they were related to commercial and high Power Energy Consumers.

The humble question is why the Department had not been prepared and issued the following monthly wise bills to the consumers towards the concerned separate month for the huge bulky amount of Rs.62,378/-

February, 2013 to December 2013	-	11months\
January, 2014 to December 2014	-	12 months
January, 2015 to December 2015	-	12 months
January, 2016 to December 2016	-	12 months
January, 2017 to December 2017	-	12 months
January, 2018 to December 2018	-	12 months
January, 2019 to June 2019	-	<u>6 months</u>
Total	-	<u>77months</u>

Hence, the order of the Hon'ble Ombudsman is not required to be reviewed and the Appellant is ready to pay rightful, lawful, reasonable dues towards the period as enlisted under the Hon'ble Electricity Ombudsman order No.126 of 2020, dated 31.08.2020.



4. **Reply for para-6 of Grounds of Petitioners / Respondents**

The willful negligence and refusal to attend the regular Government duty upon the Public service every Authority has to be punished for their unfair act of public service and their policy against natural justice.

It is not to say that all the action, Act, Rules are framed and provided only for the welfare of the public, service motto.

5. **Reply for Para – 7 of Grounds of Petitioners / Respondents**

The total wrong views by concealing their wrong willful deeds, the Petitioners / Respondents are trying to snatch huge bulky amounts in guise of evasion of charges besides their willful tremendous wrong deeds by punishing the downtrodden people / consumer by foisting their powers.

The Respondent / Appellant / Representative reserve their right to raise additional grounds, during the course of hearing at a later stage of the case.


In view of the above mentioned circumstances, it is therefore most respectfully prayed that this Hon'ble Electricity Ombudsman Court may be pleased to dismiss the review petition filed by the Petitioners / Respondents and confirm the Appeal No.126/2020 and pass such further or other orders in the interest of Justice.

2. **RESPONDENT ALSO FILED THE REJOINER AND SUBMITTED AS UNDER:-**

- (i). I most respectfully submit the following vital points in addition to support of my counter reply already filled as well as to the additional material for the review petition.
- (ii). I most respectfully submit that the appeal as filed by the consumer is prime facie maintainable before this Hon'ble Appellate authority as not satisfied with the Hon'ble redressal Forum, Puducherry and its first stage order, further I had submitted my decision of appeal prepared before the registrar, Hon'ble consumer Grievances Redressal Forum, Puducherry on 31.03.2020 (Exhibit- R 2- enclosed).



- (iii). I most respectfully submit that my representative Thiru . v. Sekar, had been constrained to accept the Forum's order without supplying the calculation statement copy on 02.3.2020 in the final hearing date as per Exhibit No. R-3- enclosed). The statement only given after the final order which delivered on 06.03.2020.
- (iv). After obtaining the order copy it was shocked since all the units of the whole periods bills were calculated average and not actual reading. This way is illegal because all readings of the units consumed should be concrete according to the running meter of the consumer.
- (v). It would be pertinent to note here that the Hon'ble Forum, Puducherry which received Meter Reading calculating Record no. 80, dated 28.02.2020 with the departmental Officers signature on 04.03.2020. (Exhibit R-4 enclosed).
- (vi). The Hon'ble Forum had not persued its legal and rightful perception.
- (vii). All reading are in the hands of the Puducherry Electricity Officials. The total, exact, actual, correct reading as per the department bills so far issued were not having from the starting operating Meter reading counts. But, they straight away entered and prepared from 22650 from the month of June, 2019 by left out from the installation date of meter at the consumer's house i.e on 22.02.2013.
- (viii). The Department had delayed and started to operate the billing authority as per reference No. nil/ED/JE (VLR O&M) /F34/ 2019 -20, dated 20.06.2019 after a long, grave lapse of 77 months, proved the willful and wrong deeds on their part. (Exhibit – R -5 enclosed)
- (ix). I most respectfully submit that as per clause 7.4 of the JERC supply code regulations, 2018 means the first bill ought to have been issued on the reading month of March, 2013 not on 04.07.2019 i.e date of bill prepared for the month of June, 2019
- (x). Moreover there was no JERC supply code Regulations, 2018 at Puducherry during the year 22.02.2013.
- (xi). I most respectfully submit that the Appellants/ Electricity Authority in order to conceal their willful delay and to escape from their mandatory duty, foisting upon the consumer as to avoid the electricity bill amount which had been considered as illegal vide the Hon'ble Ombudsman's order.



(xii). As per Hon'ble Supreme court Judgement dated 18.02.2020 in civil appeal No. 1672 of 2020 titled Asst Engineer (D1) Ajmer Vidyutvikram Nigam Lt.&anr Vs Rahamatullah the consumer Tmt S.Jeeva would get justice and due relief by holding the citation contents in favour of the consumer.

(xiii). I most humbly pray and submit that the Hon'ble reviewing authority may be pleased to set aside the review Petition filed by the Review petitioners in the light of the above facts and render the justice.

(xiv). In view of the reason stated above the Hon'ble Ombudsman may be pleased to dismiss the above review petition with costs and render justice.

(C) **Appeal Order No-126/2020 dated 31.08.2020, preferred for Review**
Appeal No-126/2020 was decided as under:-

“ DECISION :--

- (i) For the reasons discussed above, the appeal of the Appellant is allowed and the order passed by Hon'ble CGRF Puducherry, dated - 06/03/2020 in CC No-06/2019 is set aside.
- (ii) The First Bill dated-04.07.2020 for Rs.62,378/- upto the reading of 22650 units as on 30.06.2019 is hereby set aside.
- (iii) The Electricity Department/Licensee is directed to revise the bill for **two years** i.e. from 01.07.2017 to 30.06.2019 @ of 294 unit per month as per applicable tariff, instead of 77 months .
- (iv) The Electricity Department/Licensee is directed to issue revised bill within 5 days from the date of this order, giving the Appellant 15 days time to make the payment in **TWO MONTHLY** installments failing which Belated Payment Surcharge can be levied/ disconnection can be effected, as per Regulations/Tariff Order notified by Hon'ble Regulatory Commission.

(D) **Deliberations during Video hearing on 02.11.2020:**

1. **Appellant submission:**



- a. The Appellant reiterated his version as submitted in appeal.
- b. Shri P.Gnanasegaran, Executive Engineer, further submitted that judgement of Hon'ble Supreme Court dated- 18.02.2020, in Civil Appeal No.1672 of 2020 titled Assistant Engineer (D1),Ajmer Vidyut Vitran Nigam Limited & Anr. Vs Rahamatullah Khan, relates to supplementary demand whereas their demand is for actual consumption and therefore this judgement is not applicable in present case .
- c. He further submitted that respondents having agreed before CGRF to pay in installments have no locus standi to Appeal later on.

2. Respondents Submission:

- a. Shri V. Sekar reiterated his version as submitted in counter reply to the Review appeal. He further requested to grant time to file Rejoinder, which he filed on 06.11.2020 through email and a copy of the same was supplied to Appellant. He further requested to dismiss the appeal with cost.

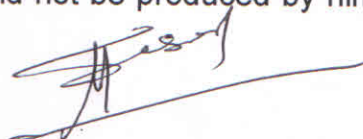
(E) Findings & Analysis:-

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions have been provided in the Consumer Grievances Redressal Forum And Ombudsman Regulation-2019, notified by the Hon'ble Commission , regarding preconditions for Reviewing an order :-

(i) "Section 37(8) :-

37(8)- The Ombudsman may, at any time, after affording an opportunity of being heard, review his Order, either on his own motion or on an application of any of the parties to the proceedings, within 30 days of the Order on –

- (i) the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time the order was made;

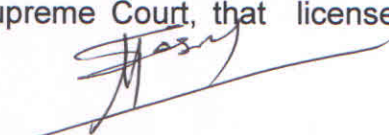


(ii) on account of some mistake or error apparent from the face of record;

(iii) for any other sufficient reasons. "

3. The pleas now taken for Review Appeal in grounds no-1,3,4,6 and additional ground no-9 , as submitted in para-(A)-1 & 2 above are facts which have already noted and deliberated in the Order under Appeal ,therefore, do not warrant a review as these do not qualify under any of the criteria mentioned for the review, viz. if there are mistakes or errors apparent on the face of the record, or on discovery of new and important matter or evidence which, after due diligence, was not within the knowledge or could not be produced at the time of making the order, or if there exist other sufficient reasons.
4. The pleas now taken for Review Appeal in grounds no-2,7 and additional ground no-8, as submitted in para-(A)-1 & 2 above are facts and already on record . The Hon'ble Consumer Grievances Redressal Forum, Puducherry has not passed the order with the mutual consent of the present respondent Tmt. S. Jeeva. In fact it has been clearly provided in the Hon'ble CGRF order that Tmt. S. Jeeva can prefer appeal before Electricity Ombudsman . Therefore these grounds , do not warrant a review as these do not qualify under any of the criteria mentioned for the review .
5. The pleas now taken for Review Appeal in grounds no-5 , as submitted in para-(A)-1 above is a citation titled "Tamilnadu Electricity Ombudsman by its order dated 30.09.2016 in Appeal Petition No.17/2016 (M/s. Orchid Chemicals & Pharmaceuticals Ltd., Chennai Vs. The Assistant Engineer O & M, TANGEDCO & 2 others, by relying on the decisions of Hon'ble High Court of Delhi by a Catena of cases .This citation was not relied while defending the Appeal No-126/2020 . Any how, it has no bearing on the merit of the Appeal No-126/2020, in view law laid down by the Judgement of Hon'ble Supreme Court titled Assistant Engineer (D1),Ajmer Vidyut Vitran Nigam Limited & Anr. Vs Rahamatullah Khan, as already deliberated in the order under Appeal. . Therefore this ground also does not warrant a review as it does not qualify under any of the criteria mentioned for the review.
6. The pleas now taken for Review Appeal in additional ground no-10 , as submitted in para-(A)-2 above are misplaced . The judgement of Hon'ble Supreme Court in the case of Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam & Anr.Vs. Rahamatullah Khan had clearly interrupted the meaning to be ascribed to the term "first due" in Section 56(2) of the Electricity Act, 2003 and also as contain under clause 7.40 of Supply Code Regulations-2018 ,as applicable to the facts in Appeal No-126/2020. These facts have already noted and deliberated in the Order under Appeal ,therefore, this ground does not warrant a review as it does not qualify under any of the criteria mentioned for the review,

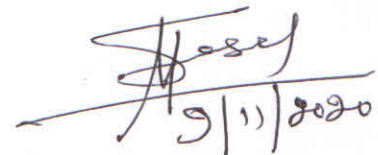
The order dated- 31.08.2020 in Appeal No-126/2020 nowhere snatch the liberty given by Hon'ble Supreme Court, that licensee company may take



recourse to any remedy available in law for recovery of the additional demand beyond two years from the "first dues", but is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Electricity Act-2003.

(F) DECISION

- (i) For the reasons discussed above, the Review appeal of the Appellant is hereby dismissed .
- (ii) In case, the Appellant or the Respondents are 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 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (iii) The Electricity Department/Licensee should submit a compliance report to office of Ombudsman on the action taken in this regard within 15 days of the issuance of this Order.
- (iv) Non compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
- (v) The Review Appeal is disposed of accordingly.



(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated 09.11.2020