

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, Udyog Vihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.136 of 2020

Date of Video Conferencing: 23.02.2021

Date of Order: 24.02.2021

Shri. Balwinder Singh
Chandigarh

.... Appellant

Versus

The Superintending Engineer,
Electricity Department, Chandigarh
and others

.... Respondents


Parties present:

Appellant

1. Shri Raghubir Singh –Appellant' representative

Respondent(s)

1. Shri Surinder Kumar
Executive Engineer
2. Shri Gurpreet Singh
Assistant Engineer
3. Shri Kamal Kishore
Revenue Accountant



Date of Order: 24.02.2021

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF, Chandigarh in C.C. No. -B-68/2020 dated -12.10.2020. The Appeal was admitted on 24.12.2020 as appeal No.136 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. A copy of counter reply was supplied to the Appellant.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 23.02.2021 and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. FACTS OF THE CASE

Appellant submitted that Hon'ble Forum passed order on dated 12.10.2020 & conveyed to the complainant & Respondent vide his office endst. No. CGRF/Comp-B-68/B-103/2020 dated 23.10.20 vide which Forum directed the Respondent for compliance within 21 days after receipt of the order.

Appellant submitted that sundry charging notice bearing memo No. 4804 dated 18.11.2019 for Billing in case of defective meter for an amount of Rs 5,08,973/- w.e.f. 25.05.2018 to 06.11.2019 was received from the office of SDO Op Sub Division No. 6 Chandigarh & the same was contested vide representation submitted in the office of SDO vide diary No. 2255 dated 18.06.2020 (Copy of notice & our reply submitted enclosed), however there was no response.

Therefore, a complaint was filed before the Hon'ble CGRF Chandigarh. Hon'ble Forum directed as per order dated 12.10.2020 to the SDO Op. Sub Division No. 6 Chandigarh to reassess the account of the consumer as per 7.12 of



Supply Code, 2018 and adjust the amount already lying deposited with it. If there is any shortfall or excess amount the same may be adjusted in the next two energy consumption bill of the consumer.

He further submitted that we had paid the amount as per amended bill dated 06.11.2020 but revised assessment not supplied till date despite request to the Respondent vide request dated 17.11.2020. Copy enclosed. The bill dated 06.11.2020 for Rs 5,98,832/- to be paid by 20.11.2020. Copy enclosed. The bill dated 06.11.2020 for Rs 5,98,832/- to be paid by 20.11.2020 having a current amount of Rs 68,889/- was rectified / revised on 19.11.20 for Rs 1,33,749/- payable after due date. We had paid Rs 1,33,749/- within due date i.e. 20.11.2020 under protest. Further a request was also submitted to SDO to supply the detailed bill showing current charges, amount charged as per forum order and amount adjusted as per excess payment (Rs.43,965/- made on 23.06.2020). Despite various repeated visits no revised assessment supplied. Hence the Respondent had got deposited the amount in one go, despite ordered by the Forum to recover in two future bill & had charged the amount in excess to the chargeable amount for three months as per ordered in future bills.

In view of above submission it is requested to the Hon'ble Ombudsman to order to supply the Revised assessment and refund of amount recovered in excess of the three months charges despite taking action for non-compliance of orders of Hon'ble Forum that caused unnecessary harassment and mental agony due to various repeated visits to the office of Respondent in order to get the desired reply as per request dated 23.11.2020 and finally on 14.12.2020.

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

Sh. Surinder Kumar, Executive Engineer, on behalf of Superintending Engineer/Electricity Department, submitted the following counter reply: -

That the deponent is working as Executive Engineer, and is authorized by Electricity Department Chandigarh, being Deemed Licensee vide letter no. 8539 dated 29.10.2010 (certified copy enclosed copy enclosed at page no. 1) to file this reply and represent on behalf of Electricity Department Chandigarh, in this case.

The following reply has been submitted on the basis of report/documents furnished by the SDO Electricity OP Sub Divn. no. 6, U.T Chandigarh, being the concerned officer in this case: -

That the electricity connection in the name of Sh. Balwinder Singh, installed at SCO no.65, Sector 46 Chandigarh was checked by the Enforcement Wing Electy "OP" Circle, UT Chandigarh vide ECR No.14/721 dated 18.10.2019. (copy enclosed at page no. 2) The checking team given remarks on the ECR as "Meter checked and found that, consumption recording counter of meter is



defective. Hence the meter should be replaced immediately and account of the consumer be overhauled”.

That as per remarks of the ECR no. 14/721, the electricity meter was replaced on dated 06.11.2019 against MCO No.14 dated 01.11.2019 (copy enclosed at page no. 3).

That the electricity meter of the consumer for the period 25.05.2018 to 06.11.2019 was remained defective. Accordingly, the account of the consumer has been overhauled and notice amounting to Rs.508973/- had served to the consumer vide SDO Electricity OP Sub Division No. 6 UT., Chandigarh, office memo no.4804 dated 18.11.2019 (copy enclosed at page no. 4). The consumer was neither submitted any representation nor contacted to Sub division for any query within 15 days as per Notice served. Therefore, an amount of Rs. 508973/- has been charged to the consumer during billing cycle 25.11.2019 to 25.01.2020 as sundry charges. The amount has been charged as per Clause no. 56(2) of the Electricity Act, 2003.

That the consumer on dated 18.06.2020 and dated 24.06.2020, 02 times represented to Sub Division office, regarding charging of sundry charges, the reply for the same had already been intimated to the consumer vide SDO office memo no. 1849 dated 24.06.2020 and memo no. 1892 dated 29.06.2020 respectively (copy of reply is enclosed at page no. 5, 6-7).

That the consumer has aggrieved from the action of Sub Division office and filed a complaint in the office of Hon'ble CGRF on dated 29.06.2020. Hon'ble C.G.R.F UT Chandigarh vide his office letter memo no. 1610 dated 05.10.2020, (copy enclosed at page no. 8) directed to SDO, to get the meter tested from the M & P lab and come along with the data in the next date of hearing i.e. on 09.10.2020. Accordingly meter was got tested from the A.E.E., Electy M & P Lab on 07.10.2020 and A.E.E. Electy M & P S/Divn vide his letter memo no. 1339 dated 07.10.2020 (copy enclosed at page no. 9-10) given the report wherein it has been stated “that the energy meter put on test bench for testing and found that the energy meter is not in working order (dead stop) and the said meter does not have any provision/ feature for downloading the MRI data.”

That the Hon'ble CGRF passed an order on dated 12.10.2020 which was received by the concerned SDO vide endst.no. 1768-70 dated 23.10.2020 with the collective view that “the account of the consumer should be overhaul for a period of 03 months only (as per clause 7.12 of JERC Supply code) prior to the date of MCO i.e. 06.11.2019 on the basis of corresponding period of the year 2017 as the electricity consumption of the period 2018 is not reliable”.

That the compliance of orders dated 12.10.2020 passed by Hon'ble CGRF has rightly been implemented by the concerned SDO, and a sum of Rs. 488933/- is hereby adjusted in the bill amounting to Rs. 622682/- including surcharge (i.e. 598832+ 23850) for the period 07/2020 to 09/2020 and balance of Rs.



amounting to Rs. 133749/- duly audited by the Internal Auditor, Audit section no.6, has been issued to the consumer, which has deposited by the consumer vide receipt no. 201091164 dated 20.11.2020.

That the average charged @ 4865 units (P.M.) for the period 25.07.2019 to 06.11.2019 (for 03 months 11 days) on the basis of previous corresponding year 2017 as the electricity consumption of the period 2018 is not reliable as per orders of Hon'ble CGRF, which is correct, for which the energy meter of the consumer remained dead stop.

That the office of SDO Electy OP Sub Division No. 6 Chandigarh have always co-operated the Consumer/complainant with regard to any query to the Electricity charges as well as details of rectified bill. The consumer/complainant at his own will has deposited the total lump sum amount (rectified amount to Rs.1,33,749/-) in one go on dated 20.11.2020.

As per SDO Electy OP Sub Division No. 6 vide his office Memo No. 4849 dated 18.12.2020 has issued the detailed information with regards to amount of Rs.1,33,749/- as well as in continuation of his office Memo No. 59 dated 05.01.2021, wherein it was requested to the consumer/complainant that if he is not satisfied with the amount charge please to visit his office i.e. SDO Electricity OP Sub Division No. 6 UT., Chandigarh on any working day for any clarification.

That so far, the amount of Rs. 43965/- is concerned, the same has already been adjusted in the Electricity bill issued with effect from 12.05.2020 onwards to the consumer/complainant and a sum of Rs. 508973/- has also been refunded in toto along with surcharge for the period 11/2019 to 09/2020 while revising the Electricity bill as per CGRF order 12.10.2020. (detail attached at Page No. 15).

It is, therefore, respectfully prayed that in view of the position stated as above, the bill issued to the consumer for amounting to Rs. 1,33,749/- as per orders of Hon'ble CGRF and as per Clause 7.12 of JERC Supply Code Regulation by this office is correct. Hence, the appeal filed by the complainant/appellant is not justified and may kindly be dismissed in the interest of justice.

(C) CGRF Chandigarh, Order No.- B-68/103/2020 dated- 12.10.2020, preferred for Appeal:

ORDER

- 1) . Briefly mentioning that the CED during one of its routine checking on 18.10.2019 found that the energy consumption meter was not showing any display of energy consumption and as per the report of the



inspecting officer immediate replacement of the meter as well as overhauling of the account of the consumer was advised. The running electricity load was found to be below the sanctioned load. Thereafter a demand notice dated 18.11.2019 was sent at the address of the consumer demanding a total amount of Rs. 508973/- for the period 25.05.2018 to 06.11.2019 (total 18 months) on the basis of average annual consumption of the period 25.05.2017 to 25.05.2018. However, the MCO of the defective meter was affected on 06.11.2019. The complainant contested the demand of Rs. 508973/- claiming that the same is in excess. The CED in its reply contested the claim of the complainant on the basis of its record showing that the meter of the consumer didn't show any consumption of energy since July 2018 and also that the period of energy consumption from 05/18 to 07/18 also being doubtful. Therefore, as per the CED the entire period from 05/18 to 06.11.2019 needs to be overhauled.

- 2) It is not denied by both the parties that the fact with regard to the meter being defective came to light only on 18.10.2019 when the team of CED made a surprise check at the premises of the consumer. And the MCO was affected on 06.11.2019. It is observed that if at all the CED was vigilant and had been observing its ledger than the fact with regard to the nil energy consumption could have been easily located during July 2018 to September 2018 billing cycle only. It is very much clear that the CED was complaisant and even didn't bother to ask its meter reader who has been repeatedly recording nil consumption of a commercial enterprise which was open and running in normal course of business.
- 3) The reasoning put forward by the CED about overhauling of the account of the consumer for 18 months period as per clause 56(2) of Electricity Act 2003 is completely illogical as the relevant provisions with regard to the overhauling of the account of the consumer when the meter became defective falls under the Regulation 7.12 of JERC Supply Code 2018. Therefore, the CED should have overhaul the account of the consumer for a period of 3 months only prior to the date of MCO i.e. 06.11.2019 and not on the basis of clause 56(2) of Electricity Act 2003.
- 4) Therefore, this Forum is of the collective view that the account of the consumer should be overhaul for a period of 3 months only prior to the date of MCO i.e. 06.11.2019 on the basis of corresponding period of the year 2017 as the electricity consumption of the period 2018 is not reliable. It is also observed that the complainant has deposited a total amount of Rs. 165417/-. The CED is directed to reassess the account of the consumer in aforementioned terms and adjust the amount already lying deposited with it. If there is any shortfall or excess amount the same may be adjusted in the next two energy consumption bills of the consumer.
- 5) The complaint stands disposed. Compliance be reported within 21 days after the receipt of the order failing which the penalties may be imposed by Hon'ble JERC as per relevant sections of the Electricity Act 2003.



(D) Deliberations during Video hearing on 23.02.2021:

1. **Appellant submission:**

- a. The Appellant reiterated his version as submitted in appeal.
- b. He submitted that order of CGRF has not been fully implemented as he has been charged for 3months 11 days against the order of CGRF to charge for 3 months. He further submitted that he has been charged surcharge before the revision of bill, as ordered by CGRF. He further submitted that now the details have been provided but he is not satisfied with the departmental version.
- c. On being asked to clarify if he has ever complaint about the meter or bill to be defective/inaccurate as required as per clause-6.16, 6.35 and 6.45 of Supply Code Regulations-2018, he replied in negative.

2. **Respondent Submission:**

- a. The respondents reiterated their version as submitted in reply to the appeal and requested to dismiss the appeal.
- b. On being asked, why surcharge was charged, they explained that it was charged as per directions of Internal Auditors but they have not informed their higher authorities in this regard. They further said that they will monitor the Nil consumptions/Defective meters/other exceptions to avoid blockage of revenue.

(E) Findings & Analysis: -

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Regulatory Commission: -



(i) **Section 6.16: -**

*“6.16- The consumer shall be responsible for safe custody of meter(s), MCB/CB, etc., if the same are installed within the consumer’s premises. **The consumer shall promptly notify the Licensee about any fault, accident or problem noticed with the meter.***

(ii) **Section 6.35: -**

“6.35- A consumer may request the Licensee to test the meter on his premises if the consumer doubts its accuracy, by applying to the Licensee in the format given in Annexure X to this Supply Code, 2018, along with the requisite testing fee. On receipt of such request, the Licensee shall follow the procedure as detailed in Regulations to of this Supply Code, 2018.”

(iii) **Section 6.45 to 6.47: -**

“Replacement of Meters (including MDI) Not Recording

“

6.45- The consumer is expected to intimate the Licensee as soon as it comes to the notice of the consumer that the meter has stopped or is not recording.

6.46- If during periodic or other inspection any meter is found to be not recording by the Licensee, or a consumer makes a complaint in this regard, the Licensee shall follow the procedure detailed in Regulations 6.37 to 6.39 of this Supply Code, 2018.

6.47 - If the meter is actually found to be not recording, the Licensee shall replace the non-working (stuck, running slow, fast or creeping) meter within 15 working days.”

(iv). **Section 7.12**

“Billing in case of defective/stuck/stopped/burnt meter

7.12. In case of defective/stuck/stopped/burnt meter the consumer shall be billed on the basis of higher of monthly consumption of corresponding month of the previous year and average monthly consumption of immediately preceding three months. These charges shall be leviable for a maximum period of three months only, during which time the licensee is expected to have replaced the defective meter”



(v) **Section 7.26: -**

“7.26 If the complaint is found to be correct by the Licensee, a revised bill shall be issued within 5 working days of intimation of the same to the consumer. The consumer shall make the payment within 15 days after receipt of the revised bill. The consumer shall not be charged any late payment surcharge, if the payment is made by the revised due date.”

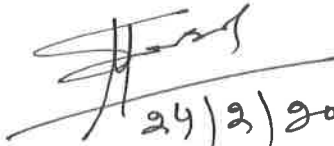
3. The Respondents have been negligent in not revising the bills as ordered by Hon'ble CGRF in true spirit and their action to claim surcharge was also not in order.
4. The Appellant has also been negligent in not informing to the Electricity Department regarding defective meter or about inflated/incorrect billing in writing as required as per said Supply Code Regulations-2018.

(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is allowed with no order as to costs.
- (ii) The Electricity Department/Licensee is directed to revise the bill and charge the average as per section 7.12 of Supply Code Regulations-2018, as ordered by Hon'ble CGRF. Since the defective meter was replaced on 06.11.2019, the average be charged for three months only i.e. from 08.08.2019 to 06.11.2019.
- (iii) The Electricity Department/Licensee is further directed not to charge any surcharge as per section 7.26 of Supply Code Regulations-2018 till fresh revised bill is issued to Appellant in compliance of this order.
- (iv) 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.



- (v) The Electricity Department/Licensee should submit a compliance report to the office of Ombudsman on the action taken in this regard within 15 days of the issuance of this Order by email.
- (vi) 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.
- (vii) The appeal is disposed of accordingly.


24/2/2021
(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated- 24.02.2021