

**BEFORE THE ELECTRICITY OMBUDSMAN**  
For the State of Goa and Union Territories (Except Delhi)  
3<sup>rd</sup> Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,  
Gurugram (Haryana) 122015,  
Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

**Appeal No.116 of 2019**

**Date of Hearing: 15.11.2019 at Puducherry**

Shri K. Vijaykumar, S/o Shri Kadirvelu, No.7, Appavu  
Nagar, Vazhakulum, Puducherry

**....Appellant**

**Versus**

The Superintending Engineer-cum-Head of Department  
Electricity Department, Puducherry  
137, NethajiSubhash Chandra Bose Salai,  
Puducherry 605001  
And others

**....Respondent**

**Parties present:**

**Appellant**

Shri K. Vijaykumar,  
S/o Shri Kadirvelu, No.7,  
Appavu Nagar,  
Vazhakulum, Puducherry

Shri H.D. Kumaravelu,  
S/o Shri H. Desingh  
(Appellant Representative)  
No.7, Moracin Street  
Puducherry 605001



**Respondent(s)**      The Executive Engineer/ Urban O&M  
Electricity Department, Puducherry

                                 The Assistant Engineer/ Town - II,  
Electricity Department, Puducherry

                                 The Junior Accounts Officers/ Rev. 1,  
Electricity Department, Puducherry

                                 The Junior Engineer/ Saram O&M  
Electricity Department, Puducherry

**Date of Order: 20.11.2019**

The Appellant has preferred an appeal against order CC. No.50/2017 dated 10.01.2018 of the Consumer Grievances Redressal Forum, Puducherry. Hon'ble Madras High Court vide Order dated 07.06.2019 in W.P. No. 15480 of 2019 W.M.P. Nos.15413 and 15414 of 2019 has also directed to dispose off the appeal dated- 15.02.2018 within a period of eight weeks from the date of receipt of a copy of this order. The appeal was admitted on 14.10.2019, as appeal No. 116 of 2019. Copy of the same as received was forwarded to the respondents with a direction to submit their reply/ counter statement on each of the points.

**Settlement by Agreement**

Both the parties appeared before the Electricity Ombudsman as scheduled on 15.11.2019 at Puducherry 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:**

1.
  - a. The appellant submitted the representation dated 19.09.2019 vide which a photocopy of the Order in W.P. No.15480/ 2019 dated 07.06.2019 of the Hon'ble Madras High Court was supplied.
  - b. The Office of the Electricity Ombudsman vide letter 19.09.2019 requested the appellant to supply the copy of the appeal referred before the CGRF, a copy of CGRF order in C.C. No.50/2017 and other relevant documents, as it has been found from the office record that no appeal dated 15.02.2018 was received in the Office of Ombudsman.
  - c. The Appellant supplied the copy of earlier representation alongwith the necessary documents on 14.10.2019, which was forwarded to respondents for their comments/counter reply.
  - d. The Executive Engineer submitted the reply to the representation of appellant on 25.10.2019 and also supplied the additional details of the bills issued to the appellant from 01/2013 to 08/2019.



e. The appellant submitted that he challenged the Order of CGRF, Puducherry on following grounds.

- i. The forum has passed an order is against the electricity act, weight of evidence and the facts and probabilities of the complaint. The Forum erred in passing an erroneous order.
- ii. The Forum erred in passing an order directing the complainant to make a payment of Rs.2,06,303/- (Rupees two lakh six thousand three hundred three only) without any basis.
- iii. During the course of the enquiry the forum ordered for the SE to appear but he wantonly failed to appear and obey the order of the forum, which shows scant respect shown to the forum by the Officials.
- iv. During the course of enquiry, the forum asked the meter reader to appear with the stub report taken by him periodically. He would clearly say that he has only recorded MS for all these years. In such circumstances how, the forum directs that there has been current consumption by the consumer for the said policy.



- v. It is submitted that the meter after it was changed on 22.05.2014 by the department would not satisfy the prime requirement that the meter has been duly checked in the presence of the consumer. That apart there is no proof for the meter stood at "0233" with released reading and initial reading at "0002" before the installation in the premises. It is really strange that the said report has been reported to the Revenue -I section on 03.06.2014 but on the contrary the 3<sup>rd</sup> respondent would say in his counter at para 2. **Now a field report received from the Junior Engineer, Saram O&M dt. 22.11.2017 alongwith Test Report dated 22.05.2014 for enhancement of load and replacement of a three phase meter. No correction was made at that time in the then meter reading and status as the test report was not received and the C.C. Bills were continued to be issued with MS Flag".**
- vi. In order to save the officials and to escape and put the complainant to hardship the 3<sup>rd</sup> respondent thereafter came with a new additional reply stating that the report stated to have been sent by the Junior Engineer - II which was not traceable in this section due to mass transfer of dealing assistance in the entire section during the said period. These allegations are not fortified by records, will only be presumed to be false. The Forum based on this



reply has wrongly held that the due to mass transfer records could not be updated. This is a wrong finding without a piece of evidence to substantiate the said allegation. Transfer cannot be reason and it is fishy. No FIR is produced for non-traceable of official records.

The revision of bill is arbitrary and has been done without any basis. How can there be total consumption of 39,442 units when the meter is MS from April, 2014. The finding of the forum in going with the officials is erroneous and has to be set aside.

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

1. The respondents submitted that consumer Thiru. K. Vijayakumar, Puducherry is having Electricity connection bearing Policy No.07-38-06-0343L with commercial tariff located at plot no.:63, IV cross junction, 45 feet road, Venkateswaranagar, Puducherry, had complained to the CGRF, Puducherry to change the defective meter with a new meter and requested to revise the bills, received on MS (Meter Stuck) based on the consumption on 27.09.2017.
2. The Petitioner Shri K. Vijayakumar had applied for enhancement of load from single phase power supply to three phase power supply during the year 2014 and the same was effected by 5<sup>th</sup> respondent on



22.05.2014 and the meter test report was sent to the office of the 4<sup>th</sup> respondent, for updating in the computer data base.

3. The meter cum test report was not traceable at the office of 4<sup>th</sup> respondent as there was mass transfer of staff. And due to the above reason, the billing data of the petitioner's service connection was not updated in computer data base.
4. Due to above, the bill system has recorded meter (MS) as the reading was static in the data for long time. But the meter continued to record and it was working in good condition. The respondents came to know about the issue on receipt of letter from the petitioner dated 27.09.2017 and necessary action was taken to update the record and the billing was revised. Hence, the revision of bill was made from April, 2014 to October, 2017 for 43 months for a total of Rs.2,06,303/- after deducting the amount paid by petitioner during the above period.
5. That based on the above and upon hearing both sides, the Hon'ble Consumer Grievances Redressal Forum, Puducherry in its order dated 10.01.2018 had directed the respondents to allow the petitioner to pay the balance amount of Rs.2,06,303/- in 45 equated instalments without claiming any belated payment surcharge (BPSC) or late fee.
6. That the complainant has appealed before the Hon'ble Electricity Ombudsman for JERC for the State of Goa and UTs and Hon'ble High Court of Judicature at Madras has directed to dispose of this appeal.



7. The Counter statement on each of points raised by the complainant is as follows:-

a. The Hon'ble CGRF has passed order as per Acts and Rules only and upon hearing from both sides.

b. As the amount was billed based on the actual consumption between the years 2014 and 2017 with the meter in working condition, the Hon'ble CGRF has issued orders directing respondents to allow the petitioners to pay the balance amount of Rs.2,06,303/- in 45 equated instalments without claiming any belated payment surcharge (BPSC) or late fee.

c. The area falls within the jurisdiction of the Executive Engineer - Urban and as and when ordered by the CGRF, the Executive Engineer had appeared before the CGRF with due respect to the Forum.

d. The meter reader with the available details in the Current consumption, bill continued to serve with MS. The energy meter fixed by Electricity Department during enhancement (from single phase to three phase) was running properly and the average consumption was computed for 43 months which is 917 units. The reading taken during October, 2017 was 39442 and the initial reading was 0001 during April, 2014. Consumption of electricity was





established and claim made for the actual consumption of units for 43 months.

- e. The petitioner Shri K. Vijayakumar had applied for enhancement of load from single phase power supply to three phase power supply during the year 2014 and the same was effected by 5<sup>th</sup> respondent on 22. 05.2014 and the meter test report sent to the office of the 4<sup>th</sup> respondent in 2017, the same service connection was updated with the initial reading of three phase meter (00001.0) fixed. This was the reason that until such time the bill was showing only the final reading of removed single phase meter reading (i.e. 000233)
  - f. This is not true. The revenue wing deals with nearly a lakh of consumers and the missing report was noticed only when brought to the knowledge of the fourth respondent in 2017. The consumer also has not reported the continued issue of MS bills to the department and enjoyed payment of minimum charges. No FIR was made was in this regard as a copy of the report was obtained to address the consumer's complaint for correction of bill.
8. That the revision of bill is not arbitrary and is based on the actual consumption of Electricity.
9. A check reading was taken on 22.10.2019 in the premises and found the meter running properly and the reading is 56977.3. The average



consumption for 63 months is now 850 units which is more or less similar to the average arrived earlier for bill revision. The premises is being used for milk processing sourced from dairy farms alongwith air conditioner and therefore the consumption is uniform since effecting the three phase power supply to the premise.

10. That the consumption drawn by the petitioner is a bonafide consumption and the same was taken into account by Hon'ble Consumer Grievances Forum Puducherry and therefore directed the respondents to allow the petitioner to pay the balance amount of Rs.2,06,303/- in 45 equated instalments without claiming any belated payment surcharge (BPSC) or late fee.
11. That the Hon'ble Consumer Grievances Forum, Puducherry in its order has given lawful relief to the petitioner without claiming interest for arrears as well as giving 45 equated instalments.
12. That the petitioner is not aggrieved by the order of Hon'ble Consumer Grievances Forum, Puducherry as the consumption is bonafide consumption by the petitioner and the forum has given rightful period of instalments of the petitioner to pay the claim made by the respondents.
13. That the respondents reserves to file additional counter affidavit if necessary.
14. That for the reasons stated above, that the Hon'ble Ombudsman may be pleased to dismiss the appeal made by the petitioner and restore



the order passed by the Hon'ble Consumer Grievances Redressal Forum, Puducherry.

(C) CGRF order dated 10.01.2018, preferred for Appeal:

Consumer Grievances Redressal Forum, Puducherry in its order dated 10/01/2018 has decided as under:-

“

1. **OBSERVATIONS:**

- a. *It is noted that there is no system/ procedure put in place which facilitates the information of M.S. Meters made available to the Field Officers regularly which enable them to take appropriate action in time. In the absence the above system, both Field Officers and the consumers are put into hardship which could be prevented through proper procedure/ system put in place.*
  
- b. *The Meter was changed on 22.05.2014 based on the enhancement of load request by the complainant and the Meter is in good working condition.*



2. **ORDER:**

- a. *The respondent are directed to allow the Complainant Thiru K. Vijayakumar bearing Policy No.07-38-06-0343L to pay the current consumption charges of Rs.2,06,303/- (Rupees two lakhs six thousand and three hundred and three only) in 45 equal monthly instalments without BPSC as the consumption pertains to the period from April, 2014 to October, 2017.*
- b. *Thus the complaint is allowed. ”*

(D) **Deliberations during hearing at Puducherry:**

1. **Appellant submission:**

- a. The Appellant reiterated his version as submitted in appeal and further submitted that he has rented out his shop to different tenants.
- b. The Appellant further submitted that it is the duty of the Licensee to maintain the meter and keep it in working order at all time. He further submitted that as per Clause-6.18 and Clause-6.46 of the Supply Code Regulation, 2018, the necessary action was required to be taken by the licensee. He further submitted a



copy of citation/ Order passed by the Electricity Ombudsman in Appeal No.1/2011 titled Col. Balwinder Singh versus Electricity Wing of Engineering Department, UT Chandigarh, to fortify his case.

**2. Respondent submission:**

- a. The respondent reiterated their version as submitted in reply to the appeal. They further submitted that the copies of the Govt. of Puducherry, Department of Personnel & Administrative Reforms regarding transfer of UDC's. They also submitted the snapshots of the meter No.2147163 with reading of "57304.4". They further submitted the copy of meter change order/service connection order, replacing the previous single phase meter with reading 00233, with a new three phase meter having Sr. No.2147163. They further informed that three phase meter having Sr. No. - 2147163, was purchased by the appellant and the same was installed after proper testing in the laboratory and therefore the responsibility for maintaining the meter lies with the appellant.

**(E) Analysis & Decision:-**

1. I have perused the documents on record and pleadings of the parties. It is not disputed that the appellant has applied for enhancement of load from 4.380 kW (single Phase) to 11.765 KW (Three Phase ) and the same was effected on dated-22.05.2014 and three phase meter



having Sr. No.2147163 was installed . This three phase meter having Sr. No.2147163 was purchased by the appellant himself and he is using the enhanced electricity load of 11.765 KW without any interference/ hindrance by the licensee. The same meter having Sr. No.2147163 is still installed (11/2019), in the appellant premises and is working satisfactorily as per the Licensee. Since 01/2013 till 09/2013 the single phase meter was showing a reading of 238 and in 10/2013 the reading was shown as "MS-238". While enhancing the Electricity load from 4.280 KW to 11.765 KW, this single phase meter was removed and replaced with a New three phase meter having Sr.No.-2147163, purchased by the appellant. However the licensee kept on raising the Electricity bills to the appellant on minimum charges/adhoc basis, showing reading as "MS-238" (MS- meter struck) of the old removed single phase meter. From 05/2014 to 11/2017 the particulars of new three phase meter having Sr.No.-2147163 was not sent to the computer data centre for updating the record. The appellant was consuming the extended load but was not paying the actual consumption because of the non updating of record of new meter in the computer data by the licensee .The licensee as well as appellant didn't take any action from 05/2014 to 11/2017 and blocked the public money to be paid in the Government Treasury. The appellant through his representation dated 27.09.2017 awaken the respondents.

2. The Learned authorised representative of the appellant vehemently tried to consider the case to be simply, a case of defective meter and



take further necessary action accordingly. I do not find any merit in this submission for the simple reason that the three phase meter having Sr.No.-2147163 which was purchased by the appellant and installed more than five years ago, is still existing in the premise of appellant and working satisfactorily. A mere error in billing due to non-updating the data of new working meter in computer data base, will not change the factual status of a working meter.

3. Further following provisions were provided in the Electricity Supply Code Regulations, 2010 notified by the Joint Electricity Regulatory Commission :-

*“ 8.17 The meter reader shall furnish a list of connections where the meter reading could not be recorded or the meter has not recorded any consumption of electricity, to the officer in charge of the Distribution Centre who shall prepare a list of such consumers where meter reading could not be taken and list of the defective meters to be replaced and report the same to the concerned designated officers of licensee for taking action as specified in the Standards of Performance of Distribution Licensee Regulations. ”*

*“ 8.18 The senior officers shall carry out the sample checking of meter readings as per the schedule drawn out by the*



*licensee. It should be the endeavour of the licensee that meter readings in case of at least 20% of LT meters are checked in a year by a team of officers, not below executive cadre.”*

From the sequence of events of this case, it is clear that above provisions of Supply code are not being followed in letter and spirit by the licensee to avoid occurrence of such incidents which leads to avoidable harassment to consumers.

4. The licensee attributed this error of not sending the advice of meter change order/service connection order to the computer billing data center, on account of mass transfer of UDCs in 2014 by the Government of Puducherry, which cannot be accepted.
5. To mitigate the financial sufferings of appellant on account of payment of pending escaped billing, Hon'ble CGRF has already given ample relief to the appellant to pay the pending amount in 45 interest free/late payment surcharge free instalments , so that appellant is not financially burdened .
6. During deliberation atPuducherry, it has come to notice that meter number -2147163 was purchased by the appellant and licensee is still charging the meter rental. Though this aspect was not raised by the appellant, but its correct accounting is required to be carried out in the interest of natural justice in favour of the appellant.





**DECISION:-**

1. The order passed by the Hon'ble CGRF is upheld and the appellant appeal is rejected.
2. The Licensee should check up the record and if the meter was purchased by the appellant, the meter rental charged from the date of installation should be refunded to the appellant with interest at Bank rate declared by the Reserve Bank of India prevailing on the 1st April of the year, payable annually.
3. The Licensee should update its computerised billing procedure /system with latest technology, to ensure that same is in consonance with the Supply Code Regulations -2018, notified by the Hon'ble Joint Electricity Regulatory Commission. Exception reports in respect of different billing irregularities should be generated and supplied to field officers, so that errors in the computerised billing are rectified in time.

The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

20.11.2019

