**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 17/2018**

**Date of Registration : 20.02.2018**

**Date of Hearing : 16.08.2018 & 30.08.2018**

**Date of Order : 04.09.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of:**

 Gurjant Singh,

 C/o Avtar Singh,

 # 2363, Phase-10,

 S.A.S. Nagar (Mohali).

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS (Special) Division,

P.S.P.C.L,

 S.A.S. Nagar (Mohali).

...Respondent

**Present For:**

Petitioner : Sh.Gurjant Singh,

 Petitioner.

Respondent : 1. Er. H.S. Oberoi,

 Additional Superintending Engineer.

 2. Er.Avanit Kaur,

 Assistant Engineer.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 16.01.2018 of the Consumers Grievances Redressal Forum (Forum) in Case No. CG-286 of 2017 deciding the:

 *“Overhauling of the Petitioner’s account at final reading of 54054 with chargeable amount of Rs. 2,11,544/- instead of Rs.4,29,156/- is justified.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:-

1. A temporary Non Residential Supply (NRS) Category connection with sanctioned load of 3 kW was installed in the name of Avtar Singh, SCF No. 24, Phase-XI, S.A.S. Nagar wherein the Petitioner resided. The connection still continued in the name of Avtar Singh
2. A bill dated 23.06.2017 for the period from 18.06.2017 to 20.06.2017 amounting to Rs. 2,38,844/- (current Energy Charges Rs. 38/- + Arrears of previous Financial Year Rs. 2,17,117/- + Arrears of current Financial Year Rs. 21,689/-) was issued by the Respondent.
3. The Petitioner did not agree with the amount of the bill and filed a Petition on 09.11.2017 in the Forum, who, after hearing, passed the order dated 16.01.2018 (Reference: Page 2, Para 1).
4. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court praying for justice.

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

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the representative of the Petitioner and the Respondent along with material brought on record by both the sides.

**(a) Submissions of the Petitioner**:

 The Petitioner made the following submissions for consideration of this Court:

1. A bill dated 23.06.2017 (for the period from 18.06.2017 to 20.06.2017) against Account No.3000205008 for an abnormal amount of Rs. 2,38,844/- (current energy charges Rs. 38/- plus arrear of previous financial year Rs. 2,17,117/- plus arrear of current financial year Rs. 21,689/-) was issued.
2. The Sr.No. of Energy Meter placed before the Forum by the Respondent was bearing Sr. No.125739 of “Synergy” Make, which, as admitted in writing by the Respondent, was disconnected on 28.09.2013. Actually, the said Energy Meter had never been fixed on the premises of the Petitioner as evidenced from the bills from 06/2013 onwards. In fact, the Energy Meter bearing No. 37365 was mentioned in every bill generated till 18.06.2017. Also, the Respondent, vide letter No. 12 dated 12.01.2018, had asked the M.E. Lab, PSPCL Ropar to check the Energy Meter bearing No. 125739, but, M.E. Lab Ropar, refused to do so stating that all the bills issued by the PSPCL showed the Energy Meter bearing No. 37365.
3. The Petitioner did not agree with the bill dated 23.06.2017 raised and filed a Petition in the Forum which decided the matter on the basis of the Energy Meter bearing No. 125739, considering reading as 54,054 units. The said decision was unjust and unfair.
4. As per record , the reading in the Energy Meter was 49,325 units on 25.09.2013, but the reading was shown as 54,054 units on the date of disconnection (28.09.2013) which had been admitted by the Respondent in the Forum. Technically, it was not possible that a connection of 3kW load consumed 4729 units merely in 3 days. It again showed that the Energy Meter produced by the Respondent before the Forum was not the Energy Meter concerning the Petitioner’s dispute. The Respondent had clearly tried to manipulate the facts by hiding the actual Energy Meter in the Forum.
5. The Petitioner had already paid the bills upto 25.09.2013 and was liable to pay only from 26.09.2013 till 28.09.2013 (just for 3 days). The order of the Forum had been passed on the basis of the Energy Meter bearing No. 125739 with reading 54,054 units. It was unjust on the part of the Respondent to charge the bill calculated on the basis of any other Energy Meter. Therefore, only the genuine amount should be charged. If in the case, the original Energy Meter (bearing No. 37365) was not traceable, the Petitioner agreed to pay for 3 days on the flat rate basis. Bills upto 25.09.2013 had been paid and nothing was due to be paid. But the Respondent had disconnected the other connection bearing Account No. 3000335005 (Permanent NRS Connection), in the same premises at least four times showing the Petitioner as a defaulter. Also, before approaching the Forum, the Petitioner had deposited Rs. 47,790/- which may also be refunded.

 **(b) Submissions by the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. A Non Residential Supply (NRS) Category temporary connection with sanctioned load of 3 kW was installed in the name of Avtar Singh, SCF No. 24, Phase-XI, S.A.S. Nagar, wherein the Petitioner resided.
2. The Energy Bills based on the consumption recorded were issued for the period from 30.03.2012 to 25.09.2013, and were deposited by the Petitioner. Thereafter, a bill amounting to Rs. 1,53,910/- was issued for the consumption of 19,558 units on “N” Code basis, for the period from 20.02.2014 to 20.02.2016 (730 days).
3. Subsequently the bill dated 20.02.2016 was issued on the basis of average consumption of “N” Code, amounting to Rs. 1,82,430/- for the period from 20.02.2016 to 20.10.2016 (243 days) on account of consumption of 2916 units in which the amount of arrear of previous bill was also added. The Petitioner did not deposit that bill also.
4. The Petitioner also did not deposit the bills issued based on “N” Code on dated 18.12.2016, 19.02.2017, 20.04.2017 and 18.06.2017. As a result, balance of Rs.2,38,844/- was outstanding due to non deposit of the bills of “N” Code for the period from 20.02.2014 to 18.06.2017.
5. After deposit of 20% of the disputed amount (Rs. 47,790/-), vide Receipt No. 212800034693 dated 12.10.2017, the Petitioner filed a Petition in the Forum, who decided the same on 16.01.2018.
6. At the time of removal of the Energy Meter from the premises of the Petitioner, consumption was found to be 54,054 units, but, on the SAP System, on 25.09.2013, the Energy Meter recorded consumption of 49,375 units with “OK” status.
7. On the basis of verification done by Er. Jatinder Singh, JE (now AAE) and the genuineness of the reading of 54,054 units the Energy Meter, bearing Sr. No. 125739, installed at the premises of the Petitioner, the Forum decided that the amount of Rs. 2,11,544/-, was recoverable. So the Appeal deserved to be dismissed.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of the overhauling of the account in respect of Energy Meter bearing Sr.No.37365 allegedly installed at the premises of the Petitioner and raising a demand for Rs. 2,11,544/- at final reading of 54,054 units.

*The points emerged are analysed and deliberated as under:*

1. The Petitioner submitted that a bill dated 23.06.2017 for an abnormal amount of Rs. 2,38,844/- (current energy charges Rs. 38/- plus arrear of previous financial year Rs. 2,17,117/- plus arrear of current financial year Rs. 21,689/-) was issued for the period from 18.06.2017 to 20.06.2017. The Energy Meter placed before the Forum by the Respondent was bearing Sr. No.125739 of “Synergy” Make, which, as admitted in writing by the Respondent, was disconnected on 28.09.2013. But, the said Energy Meter had never been fixed on the premises of the Petitioner. As a proof of this, the bills from 06/2013 had been submitted. In fact, the Energy Meter bearing No. 37365 was mentioned in every bill generated till 18.06.2017. Also, the Respondent, vide letter No. 12 dated 12.01.2018, had asked the M.E. Lab, PSPCL Ropar to check the Energy Meter bearing No. 125739, but, M.E. Lab Ropar, refused to do so stating that all the bills issued by the PSPCL showed the Energy Meter bearing No. 37365. As per record , the reading in the Energy Meter was 49,325 units on 25.09.2013, but the reading was shown as 54054 units on the date of disconnection (28.09.2013) which had been admitted by the Respondent in the Forum. Technically, it was not possible that a connection of 3kW load consumed 4729 units merely in 3 days. It again showed that the Energy Meter produced by the Respondent before the Forum was not the Energy Meter concerning the Petitioner’s dispute. The Respondent had clearly tried to manipulate the facts by hiding the actual Energy Meter in the Forum. The Petitioner had already paid the bills upto 25.09.2013 and was liable to pay only from 26.09.2013 till 28.09.2013 (just for 3 days). The order of the Forum had been passed on the basis of the Energy Meter bearing No. 125739 with reading 54,054 units. It was unjust on the part of the Respondent to charge the bill calculated on the basis of any other Energy Meter. Therefore, the genuine amount should be charged. If in the case, the original Energy Meter (bearing No. 37365) was not traceable, the Petitioner agrees to pay for 3 days on the flat rate basis. Bills upto 25.09.2013 had been paid and nothing was due. But the Respondent had disconnected the other permanent connection bearing Account No. 3000335008, in the same premises at least four times showing the Petitioner as a defaulter.

 The Respondent, in its defence, stated that the Energy Bills based on the consumption recorded were issued for the period from 30.03.2012 to 25.09.2013, and were deposited by the Petitioner. Thereafter, a bill amounting to Rs. 1,53,910/- was issued for the consumption of 19,558 units on “N” Code basis, for the period from 20.02.2014 to 20.02.2016 (730 days). Subsequently the bill dated 20.02.2016 was issued on the basis of average consumption of “N” Code, amounting to Rs. 1,82,430/- for the period from 20.02.2016 to 20.10.2016 (243 days) on account of consumption of 2,916 units in which the amount of arrear of previous bill was also added. The Petitioner did not deposit that bill also. The Petitioner also did not deposit the bills raised on “N” Code basis and issued on 18.12.2016, 19.02.2017, 20.04.2017 and 18.06.2017. So, the bills for the period from 20.02.2014 to 18.06.2017 of “N” Code amounting to Rs. 2,38,844/- were pending for payment from the Petitioner, who had not deposited the same. At the time of removal of the Energy Meter from the premises of the Petitioner, consumption was found to be 54,054 units, but, on the SAP System, on 25.09.2013, the Energy Meter recorded consumption of 49,375 units with “OK” status. On the basis of verification done by Er.Jatinder Singh, JE (now AAE) and the genuineness of the reading of 54,054 units, the Energy Meter, bearing Sr. No. 125739, installed at the premises of the Petitioner, the Forum decided that the amount of Rs. 2,11,544/-, was recoverable. So the Appeal deserved to be dismissed.

1. After hearing both the sides during oral submissions dated 16.08.2018, I directed the Technical Advisor, office of the Lokpal (Ombudsman), Punjab and Addl.S.E, DS, SAS Nagar (Respondent) to jointly conduct checking of the electricity connection at site in the presence of the Petitioner immediately after the said hearing and submit their findings. Besides, the Assistant Engineer (Sub Divisional Officer), ME Laboratory, Ropar, was also directed to place on record of the Court on the next date of hearing i.e. 30.08.2018, the relevant record of the ME Laboratory showing the particular DS Sub Division to which, Energy Meter bearing Sr.No.37365 was issued.
2. The Assistant Engineer, ME Laboratory, Ropar, attended this Court on 30.08.2018 and submitted memo no.478 dated 30.08.2018, intimating as under:

“*Meter Sr.No.37365 was thoroughly searched in the office record. This meter Sr. no. could not be found in the available office record due to insufficient information provided of this meter. Also, during that time ( as evident from the office record), Single Phase Meters were issued in bulk quantity to ‘Op’ Sub Divisions and the meters installation record was maintained by the concerned ‘Op’ Sub Divisions”*.

*Besides, Assistant Engineer, ME Laboratory, Ropar vide its letter No.09 dated 02.01.2018, refused to check the Energy Meter bearing Sr.No.125739, as all the bills issued by the Respondent showed that Energy Meter No.37365 was installed at the premises of the* *Petitioner.*

1. The said hearing dated 30.08.2018 was also attended by the, Addl.SE, DS Division (Special) PSPCL, S.A.S Nagar, but he could not produce evidence such as ME-1, ME-2 and PDCO Register in support of issue, installation and disconnection of this Energy Meter (Sr.No.37365) against Account No.3000205008 (Temporary). Besides, no evidence was brought on record of this Court by the Respondent in support of checking of the said Energy Meter from the ME Laboratory.
2. In compliance to the directions issued during hearing dated 16.08.2018, the Technical Advisor and Addl.SE, DS Division (Special), PSPCL, S.A.S Nagar, submitted a report, after conducting checking of the connection in the presence of the Petitioner and A.E.E/Tech.-2, DS Division (Special) stating as under:

“*The Three Phase Four Wire, Whole Current Static Energy Meter of Make “FLASH”, 10-60 Amp, S. No. 174530 was installed outside the premises on the pole in Meter Cup Board. The Meter Cup Board and Meter Terminal seals were missing. There are Four floors i.e. Ground Floor, First Floor, Second Floor and Third Floor. Two Floors have been occupied and the two were lying vacant. The AEE/Tech-2 was asked to check the Connected Load of the SCF who, vide Load Checking Register No. 026/1006 informed that the total Connected Load of all the floors was 27.803kW against Sanctioned Load of 18kW. One No. Diesel Generator Set of 20kVA rating was also installed without Change Over Switch and without any approval of any authority i.e. Chief Electrical Inspector(CEI), Punjab and PSPCL. The two floors have been rented out by the Petitioner to a Company ´ Hair & Saloon’.*

The Meter Readings at the time of checking were as under:

kWh = 2495

 kVAh ` = 2503

 Maximum Demand = 9kW

 From the above analysis, it is concluded that the Respondent, inspite of being directed and afforded opportunity, has not been able to produce evidence to the effect that the Energy Meter, bearing Sr. No.37365 or 125739, was installed at SCF-24, Phase-11, S.A.S Nagar. The Respondent has also failed to place on record of this Court evidence as to which particular Energy Meter was installed against Account No.3000205008 at the said premises and also about the whereabouts of the same. The failure of the Respondent stems from its incompetence in not ensuring the sealing of Meter Terminal Cover of the Energy Meter and Meter Cup Board (MCB). However, the findings of the checking conducted jointly by the Technical Advisor and Addl.S.E, DS Division, S.A.S.Nagar {referred to in para 4(v)} showed that integrity of the Petitioner was not above board. However, since the Petitioner has admitted that payment deposited by it upto the reading of 49,325 kWh as on 25.09.2013 is correct, there is no dispute on this Final Reading from both the sides. However, the Petitioner is liable to be charged for the period from 26.09.2013 to 28.09.2013 on the basis of LDHF formula, because the Energy Meter was not traceable due to which Final Reading can not be ascertained.

**5.** **Decision**:

**As a sequel of above discussions, it is held that order dated 16.01.2018 of the Forum in Case No.CG-286 of 2017 is set aside. It is further held that :**

**- The Account bearing No.3000205008 (Temporary) shall be overhauled for the period from 26.09.2013 to 28.09.2013, as per provisions contained in Regulation 21.5.2 (d) of the Supply Code-2014 read with Annexure-8 i.e. with LDHF formula given therein by taking load of 3 kW.**

**- Load Surcharge on extra load, connected with the PSPCL system, noticed during checking dated 16.08.2018, for the Account No.3000335008 shall be charged as per instructions of the PSPCL. In addition, appropriate action including levy of penalty as per rules of the PSPCL/CEI for installation of the Diesel Generator set of 20 kVA capacity without proper sanction from PSPCL/CEI at the disputed premises shall also be taken.**

**- Suitable action for change of title of the consumer holding the connection, continuing to be in the name of Avtar Singh shall also be taken.**

**The Respondent is directed to recalculate the demand and recover/refund the amount found short/excess, if any, after adjustment without any interest.**

**6.** The Appeal is disposed off accordingly.

**7.** In case, the Petitioner or the Respondent (Distribution Licensee) is not satisfied with the above decision, it 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.

 (VIRINDER SINGH)

September 04, 2018 LokPal (Ombudsman)

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