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

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

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

 **APPEAL NO. 35/2019**

**Date of Registration : 25.06.2019**

**Date of Hearing : 29.08.2019**

**Date of Order : 10.09.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity**

**In the Matter of :**

Baljinder Singh,

Plot No.392,

Industrial Area, Phase-9

S.A.S. Nagar (Mohali).

 ...Petitioner

 Versus

Addl.Superintending Engineer,

DS Division (Special),

 PSPCL, S.A.S. Nagar (Mohali)

 ...Respondent

**Present For:**

Petitioner : 1. Sh.R.S.Dhiman,

 Petitioner’s Representative (PR).

 2. Sh.Baljinder Singh,

 Petitioner

Respondent : 1. Er. G.S.Sandhu,

 Addl.Supeintending Engineer,

 DS Division (Special),

 PSPCL, S.A.S. Nagar.

 2. Er.Mohit Nagpal,

 AEE/Commercial.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 29.05.2019 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP- 68 of 2019 deciding that :

“ a. *Account of the Petitioner be overhauled for a period of 143 days ( Due to Voltage Failure on Yellow Phase) immediately preceding the date of checking i.e. 25.06.2018 ( i.e. vide ECR No.84/94 dated 25.06.2018) taking slowness of metering equipment as 38.41% as per Regulation 21.5.1 of Supply Code-2014.*

*b. Further, Petitioner’s energy bills generated for actual consumption of 44,000 kVAh from 08.06.2018 to 08.07.2018 for 30 days, 41,922 kVAh from 08.07.2018 to 08.08.2018 for 31 days and 1,01,999 kVAh from 08.08.2018 to 08.10.2018 for 62 days on the basis of actual consumption recorded by the Meter after setting right the contribution from yellow phase PT with ‘OK’ status are justified and recoverable”.*

**2. Facts of the Case**:

 The relevant facts of the case are that:

1. The Petitioner was having a Medium Supply (MS) Category

connection with sanctioned load of 98.660 kW and contract demand (CD) of 100 kVA, for which, the Metering was being done by providing LT CT operated Static Energy Meter.

1. The connection was checked by the Addl.S.E /Enforcement, PSPCL,

SAS Nagar vide ECR No.84/94 dated 25.06.2018 whereby it was reported as under:

* 1. *Pulse segment (1) and (3) appeared on display and found*

*blinking on running load but at segment (2) it was found missing.*

* 1. *Voltages V1 = 246 V, V2 = 0 V, V3 = 243 V.*

*Current i1 = 43.63 A, i2 = 33.58 A and i3 = 30.33 A were noted on display of meter.*

* 1. *Voltages V1 = 248 V, V2= 245V and V3= 244 V were noted on*

*outgoing fuse Unit with clip on meter.*

* 1. *Accuracy of metering equipment was checked with LT ERS*

*set on 40.98 kW and 0.95 PF Lag and Meter was found slow by 38.41% .*

*PT connection of Yellow Phase was found carbonized which was set right by Op. staff, after repair, all three phase voltages were found in order.*

* 1. *DDL of meter was done.*
	2. *Push fit seal DF 59074 was affixed on CTC and DF 59061 on*

*MCB by Er.Amritpal Singh JE (Op) after checking.*

1. Accordingly, the Respondent overhauled the account of the

Petitioner for a period of six months immediately preceding the date of checking i.e.25.06.2018 as per provisions contained in Regulation 21.5.1 of the Supply Code-2014 by taking slowness factor as 38.41% and an amount of Rs 4,27,702/- was charged to the Petitioner by issuing Notice, bearing No. 2342 dated 10.07.2018.

1. With a view to replace non ToD Energy Meter with a ToD (Time of

Day) Energy Meter, Device Replacement Application bearing No.100007028035 dated 22.11.2018 was prepared. At that time, the concerned AAE, by mistake, entered the Energy Meter as ‘ Burnt’ though the same was actually ‘not Burnt’.

1. Thereafter, the said Energy Meter was checked by the Addl. S.E,

Enforcement, PSPCL, S.A.S.Nagar vide ECR No.19/99 dated 26.12.2018 whereby it was reported that the Energy Meter was O.K..

1. The replacement of non ToD by ToD Energy Meter was effected on

07.01.2019. The Final Readings of old L&T make Energy Meter were as under:

kWh = 23,43,023

kVAh = 24,69,861

Maximum Demand = 78 kVA

1. The Petitioner had a grievance that its Energy Meter started

malfunctioning from 06/2018 when it recorded more than 44,000 kVAh units from 08.06.2018 to 08.07.2018, 41,922 kVAh units from 08.07.2018 to 08.08.2018 and 1,01,909 kVAh units from 08.08.2018 to 08.10.2018 which was quite disproportionate to the normal consumption. ( 20,000 to 30,000 kVAh units).

1. The Petitioner did not agree with the above bills and filed a Petition

on dated 07.03.2019 in the CGRF, Patiala,, who, after hearing, passed the order dated 29.05.2019. (Reference Page-2, Para-1).

1. The Petitioner was not satisfied with the decision of the CGRF and

preferred an Appeal in this Court praying that the Petitioner’s account may be ordered to be overhauled for 97 days for the missing Yellow Phase in accordance with the DDL Report and the Petitioner’s consumption from 25.06.2018 to 07.01.2019 be corrected on the basis of its consumption before and after this period.

**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 Respondents along with material brought on record by both the sides.

1. **Submissions of the Petitioner:**

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

1. The Petitioner was a Medium Supply (MS) Category Consumer with

sanctioned load of 98.660 kW and contract demand (CD) of 100 kVA for running an Industrial Unit.

1. The highest monthly consumption of the Petitioner from the very

beginning was in the range of 20,000-30,000 kVAh. Normally, the consumption was much less than this. The nature and volume of its work remained almost the same throughout.

1. In June, 2018, the Petitioner noticed that its Energy Meter was not

working properly. Some times, its display was missing.

1. As a result, the Petitioner moved an application to the Sr.Xen/

Enforcement, PSPCL, SAS Nagar (Mohali) for checking of the Energy Meter whereafter, the Petitioner’s connection was checked by the Sr.Xen/ Enforcement on 25.06.2018.

1. On checking, it was reported by the Sr.Xen/ Enforcement that

Voltage of Yellow Phase was missing and the Energy Meter was running slow by 38.41%. The Energy Meter started working on Yellow Phase after setting right the defect.

1. Subsequently, the Energy Meter of the Petitioner started jumping

over from June 2018 itself. The Energy Meter recorded more than 44,000 kVAh units for the period from 08.06.2018 to 08.07.2018, 41,922 kVAh units for the period from 08.07.2018 to 08.08.2018 and 1,01,909 kVAh units for the period from 08.08.2018 to 09.10.2018 which was much disproportionate to the Petitioner’s actual consumption.

1. The said Energy Meter was replaced on 07.01.2019 after repeated

 requests of the Petitioner.

1. The replaced Energy Meter was showing consumption correctly

. Though the Energy Meter was replaced but the account of the Petitioner was not rectified for the erratic functioning of the said Energy Meter from 25.06.2018 to 07.01.2019 (date of its replacement) despite numerous requests.

1. The Petitioner did not agree with the Energy Bills and filed a

Petition in the Forum, who, after hearing, granted partial relief.

1. It was evident from the tamper data of the Energy Meter that Yellow

Phase Voltage remained missing for 97 days. This fact was corroborated by the consumption statement which also showed a fall from 02.02.2018.It was not understood as to how the Forum had concluded that the voltage on Yellow Phase remained missing for 143 days.

1. The accuracy of the Energy Meter was found OK during checking

by the ASE/Enforcement on 26.12.2018. It was correct that there was no written complaint of the Petitioner on record after 06/2018 about excessive recording by its Energy Meter, but it was also a fact that the Petitioner frequently made the requests to the Respondent for change of its Energy Meter, as it was showing high consumption from June 2018.

1. It was held in numerable cases earlier that most of the jumping

Energy Meters passed the accuracy test. In the Petitioner’s case, it was evident that its consumption was nearly double from 06/2018 upto change of Energy Meter as compared to its consumption during previous years.

1. The consumption, after change of disputed Energy Meter, was again

 in the normal range. These facts could not be ignored.

1. The Petitioner’s grievance was not about accuracy of the Energy

Meter but was about total consumption recorded by the disputed Energy Meter from 06/2018 continuously till the date of change of the Energy Meter.

1. In view of the submissions made above, the Petitioner’s account may be ordered to be overhauled for 97 days for the missing Yellow Phase in accordance with the DDL Report and the its consumption from 25.06.2018 to 07.01.2019 may be corrected on the basis of its consumption before and after this period.
2. **Submissions of the Respondent:**

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

1. The Petitioner was having a Medium Supply (MS) Category

Connection with sanctioned load of 98.660 kW and contract demand (CD) of 100 kVA.

1. The connection of the Petitioner was checked by the Addl. S.E/

Enforcement, PSPCL, S.A.S. Nagar (Mohali) vide ECR No.84/94 dated 25.06.2018 whereby, the Energy Meter was found running slow by 38.41%.

1. Accordingly, the Petitioner’s account was overhauled for six months

as per Regulation 21.5.1 of Supply Code-2014 and a sum of Rs 4,27,702/- was charged to the Petitioner. A Notice, bearing No.2342 dated 10.07.2018, was served on the Petitioner to deposit the above amount, which was deposited by the Petitioner on 18.01.2019.

1. The Energy Meter of the Petitioner was replaced on 07.01.2019.
2. The Petitioner’s energy bill dated 04.02.2019 was prepared on the

basis of consumption shown by old and new Energy Meter. While the consumption shown by the old Energy Meter was 14,401 kVAh, the consumption as per reading of the new Energy Meter was 32,446 kVAh units. The Petitioner had deposited the bill for consumption of 32,446 kVAh units (New Meter’s consumption) amounting to Rs 94,851/- on 12.02.2019.

1. The Petitioner did not agree with the bill dated 04.02.2019 issued as

per slowness of defective Energy Meter and filed a Petition in the Forum who passed order dated 29.05.2019.

1. As per the above decision of the Forum, the Petitioner was charged a

sum of Rs 2,06,461/-. The Petitioner did not agree to this amount also and filed an Appeal in this Court.

 **(xii)** In view of the submissions made, the Appeal may be dismissed.

**4.** **Analysis:**

The issue requiring adjudication are the legitimacy of overhauling the account of the Petitioner :

1. For 143days (due to voltage failure on Yellow phase) immediately

preceding the date of checking by the Enforcement i.e. 25.06.2018 with slowness of the metering equipment as 38.41% as decided by the Forum.

1. For 97 days for the missing Yellow Phase in accordance with the

DDL Report and correction of the Petitioner’s consumption from 25.06.2018 to 07.01.2019 on the basis of its consumption before and after this period, as prayed by the Petitioner.

*The issues emerged in the present dispute are deliberated and analysed as under*:

***Issue No.(i)***

CGRF, Patiala, vide its decision (Sr.a at Page No 13) directed the PSPCL to overhaul the Account of the Petitioner for a period of 143 days ( Due to Voltage Failure on Yellow Phase) immediately preceding the date of checking i.e. 25.06.2018 (vide ECR No.84/94) taking slowness of metering equipment as 38.41% as per provision of Regulation 21.5.1 of Supply Code-2014.

 A perusal of the DDL of the disputed Energy Meter taken by the Enforcement on 25.06.2018, reveals as under:

1. **Instantaneous Report**

Red Phase Voltage = 245.70 Volts

Yellow Phase Voltage = 0.00 Volts

Blue Phase Voltage = 240.17 Volts

1. **Temper Report**

under Head “ **Sequential Storage for Events ON**”

Voltage Failure Yellow Phase started on 12.02.2018 at 14.37.00 Hours and Voltage recorded on each Phase was :

Red Phase : 237.64 Volts

**Yellow Phase** : **76.47 Volts**

Blue Phase : 234.11 Volts

I find that Addl.S.E/ Enforcement, PSPCL, SAS Nagar reported, about DDL of the Energy Meter, vide Memo No.281 dated 28.03.2019 as under:

*“ As per Temper Report of DDL it was found that Voltage of Yellow Phase remained ‘ 0 Volt’ for the period 12.02.2018 to 23.06.2018 and Voltage increased & decreased on Yellow Phase for the period 01.02.2018 to 06.02.2018. As per the Cumulative Tamper Report following Tempers have been recorded.*

 **Failure Type/Status/Count/Duration**

|  |  |  |  |
| --- | --- | --- | --- |
| Event Name(Failure Type) | Status | Count | Duration |
| DD | HH | MM | SS |
| Voltage Failure R Phase | OK | 54 | 2 | 6 | 15 | 0 |
| Voltage Failure Y Phase | Event ON | 31 | 97 | 22 | 14 | 0 |
| Voltage Failure B Phase | OK | 48 | 2 | 20 | 49 | 0 |
| Current Failure R Phase | OK | 0 | 662 | 9 | 7 | 0 |
| Current Failure Y Phase | OK | 51 | 662 | 15 | 59 | 0 |
| Current Failure B Phase | OK | 11 | 660 | 13 | 18 | 0 |
| Current Unbalance R Phase | OK | 87 | 3 | 1 | 50 | 0 |
| Current Unbalance Y Phase | OK | 28 | 3 | 13 | 2 | 0 |
| Current Unbalance B Phase | OK | 18 | 3 | 16 | 51 | 0 |
| Current Reversal R Phase | OK | 13 | 0 | 8 | 1 | 0 |
| Current Reversal Y Phase | OK | 5 | 0 | 13 | 41 | 0 |
| Current Reversal B Phase | OK | 5 | 0 | 1 | 45 | 0 |

 I find from the DDL Report, under Failure Type/ Status/ Count/ Duration,Voltage on Yellow Phase remained ON for 97 days 22 hours 14 Minute but under the Head Sequential Storage for events ON, the voltage on Yellow Phase had remained Zero Volts continuously for the period from 12.02.2018 to 25.06.2018. The data recorded under Head Failure Type/ Status/ Count/ Duration rolled over after every 70 days, whereas, under Head Sequential storage for Events-ON, Voltage failure on Y Phase started on 12.02.2018 at 14:37 hours.

 I observe from the Tamper Report that there was make and break of the connection due to carbonization of wires, hence, the observation of the CGRF, Patiala for overhauling the account of the Petitioner for 143 days immediately preceding the date of checking i.e. 25.06.2018, by referring to provisions contained in Regulation 21.5.1 of Supply Code-2014, is not correct because some voltage was appearing on Yellow phase. Actually, the Petitioner’s account is required to be overhauled from 12.02.2018 to 25.06.2018 ( when the Energy Meter was checked by the Enforcement) as per provisions contained in Regulation 21.5.2 (a) of Supply Code- 2014 i.e. on the basis of consumption recorded during the corresponding period of previous year.

 ***Issue No.(ii)***

The Petitioner has prayed to correct its consumption from 25.06.2018 ( date of checking by Enforcement) to 07.01.2019 (date of replacement of Energy Meter) on the basis of its consumption before and after this period.

 The Petitioner contended that consumption recorded during the period from 08.06.2018 to 08.07.2018 (44,000 kVAh), 08.07.2018 to 08.08.2018(41,922 kVAh) and from 08.08.2018 to 08.10.2018 (1,01,909 kVAh) was higher as compared to its normal consumption of 20,000 to 30,000 units per month.

 I observe that prior to checking carried out by the Enforcement on 25.06.2018, the Energy Meter was not recording full consumption due to non-contribution of Yellow Phase PT because only 175 No. of Tampers were recorded and other tampers were rolled over. After setting right of the connection of PT, there was rise in consumption and working of Energy Meter was OK. Also, if the Petitioner was not satisfied with the consumption recorded, then, it should have challenged the working of the Energy Meter. But this was not done.

 I also observe from the billing report of DDL, that cumulative Energies on 25.06.2018 at 17:01 hours, were recorded as under:

 kWh= 2,11,07,63.70

 kVAh=2,23,27,09.80

 These readings almost matched with the readings mentioned in the Enforcement Checking Report dated 25.06.2018, meaning thereby that the Energy Meter was O.K. and not defective. Hence the Petitioner’s contention that the higher consumption during the months mentioned in its Petition, is not correct.

 During the course of hearing in this Court, the PR emphasised that increased in consumption of the Petitioner’s connection was mainly due to increased production in the factory during the relevant period. Accordingly, PR was asked to submit documentary evidence in support of its contention. PR, then stated that it would submit the Balance Sheet and GST Returns of the factory for the year 2017-18 and 2018-19 duly authenticated, by 02.09.2019. But the Petitioner failed to submit the said documents till date.

 In this connection, I agree with the observation of the Forum that same Energy Meter remained installed at the premises of the Petitioner till 07.01.2019 and working of the Energy Meter was checked by the Enforcement on 25.06.2018 and found to be O.K. Hence, the consumption recorded from 25.06.2018 to 07.01.2019 was correct.

**5. Conclusion**

From the above analysis, it is concluded that:

1. The decision (a) dated 29.05.2019 of the CGRF, Patiala is set aside

and the account of the Petitioner is required to be overhauled from 12.02.2018 to 25.06.2018 ( the date of checking of the connection by the Enforcement) on the basis of consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code-2014.

1. The Petitioner failed to provide the requisite justification for

Correction of its consumption for the period from 25.06.2018 to 07.01.2019 based on the consumption before and after the said period. Accordingly, the decision (b) in order dated 29.05.2019 of the CGRF, Patiala is partially modified to the extent that the consumption from 25.06.2018 to 07.01.2019 is correct and does not warrant interference by this Court.

**6.** **Decision:**

**As a sequel of above discussions, the order dated 29.05.2019 of the CGRF, Patiala in Case No. CGP- 68 of 2019 is modified in terms of conclusion arrived at Para-5 above. Accordingly, the**

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

**7.** The Appeal is disposed of accordingly.

**8**. In case, the Petitioner or the Respondent 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 10, 2019 Lokpal (Ombudsman)

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