**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 51/2019**

**Date of Registration : 04.09.2019**

**Date of Hearing : 24.10.2019**

**Date of Order : 29.10.2019**

**Before:**

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

**In the Matter of**

Pardeep Ahuja,

 H.No.5, Street No.16,

BTW, Ferozepur.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS, City Division,

PSPCL, Ferozepur Cantt.

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Nand Lal Ahuja,

 Petitioner’s Representative (PR).

 2. Sh.Ashok Kumar,

 Petitioner’s Representative (PR).

Respondent : Er. Kuldeep Singh,

 Assistant Executive Engineer/DS,

Cantt. Sub Division-2,

PSPCL, Ferozepur Cantt.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 31.07.2019 in Case No. CGP-167 of 2019 of the Consumer Grievances Redressal Forum (Forum), Patiala stating as under:

“a. *Bill dated 12.9.2018 on the basis of ‘S’ Code for a*

*consumption of 3520 units and amounting to Rs.31,310/- as per Supply Code 21.5.2(a) on the basis of consumption recorded by the Petitioner during the corresponding period of the previous year is in order and is recoverable and the decision of DDSC City Ferozepur held on 25.3.2019 is in order.*

*b. Further the surcharge/interest and DCO fee charged to*

*the Petitioner as per regulation 31.9 and 32.4 of Supply Code-2014 and the instructions of the PSPCL is in order and is justified”*.

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Domestic Supply Category connection

 **with sanctioned load of 0.940 kW**.

1. The Petitioner was served a bill for 09/2017 on ‘O’ (OK) basis for

3577 kWh units, amounting to Rs.27,616/- which was paid by the Petitioner in instalments. However, Cheque of one of instalments, amounting to Rs.16,230/- issued on 15.02.2018 was dishonoured but the amount was cleared by the Petitioner in 05/2018.

1. Subsequently, the Petitioner was issued bill dated 12.09.2018 on the basis of ‘S’ Code (Meter not at site) for energy consumption of 3520 kWh units, amounting to Rs.31,310/- for the period from 10.03.2018 to 12.09.2018.
2. The Petitioner lodged the First Information Report (FIR) with Police Station regarding stolen Energy Meter, as per its letter, received by the Respondent on 08.10.2018 and requested to install new Energy Meter.
3. The new Energy Meter was installed vide Device Replacement

Order No.100006730056 dated 08.10.2018, affected on 13.11.2018.

1. The Petitioner did not agree with the bill dated 12.09.2018 and

filed a Petition before the Divisional Dispute Settlement Committee (DDSC) who, after hearing, decided the case on 25.03.2019, that the amount billed was recoverable.

1. In view of the decision of DDSC, the Respondent issued the Notice, bearing No.1736 dated 31.05.2019, to deposit the amount within 7 days. However, the Petitioner filed a Petition dated 28.06.2019 in the CGRF, Patiala who, after hearing, passed the order dated 31.07.2019. (Reference Page-2, Para-1).
2. Not satisfied with the decision of the CGRF, the Petitioner preferred

an Appeal in this Court and prayed that matter may be looked into keeping in view all the facts/circumstances explained in the Appeal and justice be done to enable the Petitioner to make the payment accordingly.

**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 Representatives of the Petitioner and the Respondent alongwith 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. An electricity connection was installed on Ist Floor of the House of the Petitioner in the name of its son with sanctioned load of 0.940 kW.
2. On receipt of energy bill amounting to Rs.31,310/- for the month of 09/2018 for the consumption of 3520 kWh units, the Petitioner approached the Assistant Executive Engineer, Cantt Sub division No.2, Ferozepur as the said energy bill was on higher side.
3. The Petitioner was told that the energy bill was prepared on the basis of consumption of the corresponding month of previous year i.e.09/2017 as the bill was prepared on ‘S’ Code basis i.e. the Energy Meter was not at Site.
4. The Petitioner, then, apprised the Respondent that the marriage of its son was solemnised during the month of 09/2017 and accordingly contested the energy bill by giving written request with the request to check the working of the Energy Meter and intimate the correct amount of the energy bill to enable the Petitioner to make the payment. But, no action was taken by the AEE, Cantt Sub Division No.2, Ferozepur despite best efforts by the Petitioner.
5. Every time, the Petitioner was told that the Energy Meter would be replaced as and when the same was available in the stock since it was not possible to replace the same due to acute shortage of Energy Meters in the stock.
6. In the month of 11/2018, energy bill amounting to Rs.17,310/- for 2,056 kWh units was again served to the Petitioner being ‘S’ Code on the basis of average of corresponding month/year.
7. The Petitioner again approached the Respondent to provide the bill on the LDHF basis until and unless new Energy Meter was installed. It was relevant to state here that on receipt of information regarding theft of Energy Meter and directed by the Respondent, the cost of the Energy Meter was deposited and copy of FIR was also supplied to the Respondent. The Petitioner was not at fault in stealing of Energy Meter which was installed in the Meter Box and fixed far away from the house of the Petitioner on the Pole.
8. The consumption data brought on record by the Respondent revealed that there was not much consumption in the last 5 years, except in the month when the marriage ceremony of the son of the Petitioner was solemnised. As such, it was not correct to presume that electricity was being used at large scale with 3 kW load approximately.
9. The energy bill was prepared as per Regulation 21.5.2 of Supply Code-2014 instead of as per Regulation 21.5.3 wherein it was clearly provided that “*any evidence provided by the consumer about conditions of working and /or occupancy of the concerned premises during the said period(s) which might have a bearing on computation of electricity consumption shall however be taken into consideration by the distribution licensee”*.
10. When the matter remained constantly in the knowledge of PSPCL authorities and the payment of bills were made well within time, then there was no reason to ask the Petitioner to deposit DCO Fee and other charges.
11. In view of above submissions, the Appeal may be allowed

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

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

1. The present Appeal was against the instructions of the PSPCL as

well as on facts. The Forum upheld the order of the Dispute Settlement Committee by passing a detailed speaking order in this regard. The present Appeal was against law and facts on record.

1. The energy bill was raised in compliance to instructions contained in

Regulation 21.5.2 of Supply Code-2014.

1. The Petitioner was served with a bill dated 12.09.2018 whereby

an amount of Rs.31,310/- was charged on the basis of ‘S’ Code for a consumption of 3,520 kWh units. Earlier the Petitioner was served with a bill during 09/2017 on the basis of ‘O’ Code for the consumption of 3,577 kWh units amounting to Rs.27,616/- which was paid by the Petitioner in instalments. However, a cheque of Rs.16,230/- issued by the Petitioner on 15.02.2018 was dishonoured , but the amount was ultimately deposited and cleared by the Petitioner in 05/2018.

1. The sole plea taken by the Petitioner that there was a marriage

function of its son in the month of 07/2017 and as such, the consumption for the said month was on higher side. The fact of the matter was in the Invitation Card, it was mentioned that the marriage was held at J.B. Resorts and not at the residence of the house of the Petitioner and guests on such occasion did not stay for more than 2/3 days.

1. 1890 kWh units were consumed by the Petitioner during the months

from 16.09.2017 to 12.11.2017 which was lean period as neither the Air Conditioners nor the Heater or Gyser worked during this period and therefore, the Petitioner was rightly charged as per rules and instructions of the Respondent-PSPCL.

1. If the consumption of the petitioner during the period from

16.09.2017 to 12.11.2017 could be 1890 units, the consumption of 3,577 units was very reasonable consumption for the period from 15.07.2017 to 16.09.2017.

1. The Energy Meter of the Petitioner as well as other Energy Meters

installed in the same building were statedly stolen and as such could not be got tested from the M.E. Laboratory.

1. The disputed Energy Bill had been rightly raised as per

Regulation 21.5.2 of Supply Code-2014 and it could not raised under the provisions of Regulation 21.5.3 as contended by the Petitioner.

1. The surcharge/interest and DCO fee was rightly charged as per

 Regulation 31.9 and 32.4 of Supply Code-2014.

1. The Energy bill dated 12.09.2018, on the basis of ‘S’ Code for

the consumption of 3,520 units amounting to Rs.31,310/- was rightly charged as per Regulation 21.5.2(a) of the Supply Code-2014 on the basis of the consumption recorded during the corresponding period of previous year and was rightly upheld by the DDSC, Ferozepur City vide order dated 25.3.2019 and Forum vide order dated 31.07.2019.

1. In view of the submissions made, the Appeal be dismissed.

**4. Analysis**

 The issue requiring adjudication is the legitimacy of issuance of bill dated 12.09.2018 on the basis of ‘S’ Code (Energy Meter not available at site) for energy consumption of 3520 kWh units amounting to Rs.31,310/- as per applicable regulations.

 *The points emerging in the present dispute are deliberated and analysed as under:*

1. With a view to adjudicate the present dispute, a hearing was held

on 24.10.2019 when the Representatives of both the sides attended this Court and presented their respective points of view. Before the start of the said hearing, the Petitioner’s Representative (PR) submitted a rejoinder, to the reply of the Respondent to the Appeal preferred by the Petitioner, for consideration in the Court. In its rejoinder, Petitioner’s Representative stated inter-alia as under:

1. A perusal of the consumption data revealed that it was a clear case of blocked readings and bills prepared/issued were not genuine/based on actual readings of the Energy Meter as was apparent from the details given below:

|  |  |  |
| --- | --- | --- |
| Period | Actual Energy Consumption | Energy Consumption shown in bill (in kWh) |
| 16.02.2013  to 10.08.2013 | 4930-4066= 864 | 62+559+1178+617= 2416 |
| 22.10.2013  to 13.02.2014 | - | 95+31+43= 169 |
| 14.04.2014  to 17.06.2014 | - | 774+1922= 2696 |
| 04/2015  to 03/2016 | - | 1379 |

1. The consumption in the billing data for the period from 13.03.2017 to 15.07.2017 i.e. for 4 months, was only 453 kWh units and for the period from 16.07.2017 to 12.11.2017 (4 months), 5467 kWh units which was more than double of previous 2 years. Total consumption for the year 2015-16 and 2016-17 shows the annual consumption of 2,671 kWh units and 2,179 kWh units respectively.
2. The Forum, in its order (Page-7) took the energy consumption from 12.09.2017 to 12.11.2017 as 1,226 kWh units which was incorrect because due to computer error, consumption for the period from 12.11.2017 to 10.01.2018 was taken, with ‘P’ Code status, as 192 kWh units without any reason while the Energy Meter was working at Site. However, consumption was taken as 1,226 kWh units for 2 months against actual consumption for 4 months (i.e. for 12.11.2017 to 10.03.2018) with the readings 20127-18901=1,226 units. Thus, billed amount for 192 kWh units paid by the Petitioner was refundable but was not refunded to it.
3. Similarly again a wrong bill was prepared for the month 05/2018 with ‘P’ Code status for 200 kWh units of adhoc consumption which should also be refunded. As consumption for the period of 4 months i.e. from 13.03.2018 to 12.07.2018 was 20584-20127= 457 units, hence, 200 kWh units charged as adhoc consumption became refundable. This period of four months included peak summer months i.e. May, June and 12 days of July 2018. This clearly proved that either working of Energy Meter was doubtful or readings were bogus.
4. The new Energy Meter was installed on 18.11.2018 and total consumption for the period from 18.11.2018 to 10.09.2019 i.e. for 9 months and 21 day was 2551-0= 2551 units only which clearly proved that previous Energy Meter was defective.
5. As per Regulation 21.4.2 of Supply Code-2014, “ where the stolen Meter was installed outside the consumer premises, the cost of Meter should be borne by the distribution licensee”. But cost of Meter amounting to R.515/- was got deposited by the Respondent from the Petitioner, vide receipt BA-16 No.322/83701 dated 08.10.2018. So, the amount charged for Rs.515/- as cost of Meter should be refunded with interest. Similarly FIR against stolen Meter should have lodged by the licensee, but in contravention of the Departmental instructions, the Petitioner was forced to lodge the FIR.
6. After receiving bill for the excess consumption on 16.09.2017 for 3577 kWh units, the Petitioner moved an application to AEE, Cantt. Sub division No.2, Ferozepur to check the Meter as the Energy Bill was abnormal, but the office of the Respondent did not bother to get the working of the Energy Meter checked nor the Energy Meter was replaced.
7. Two separate Energy Meters were installed out side the premises of the Petitioner one each for Ground Floor and 1st Floor as per particulars given below:
	* 1. Account No.3000996451 (Sh.Nand Lal Ahuja)
		2. Account No.3000996452 (Sh.Pardeep Ahuja)

Both the bills issued on 16.09.2017 were showing abnormal consumption. Account No.3000996451 with consumption 3094 units and account No.3000996452 with consumption 3577 units.

 The Petitioner moved DDSC, Ferozepur for resolving dispute in both cases. The Committee allowed the Petition in the first case and decided to add consumption as (3094+349)/2, but surprisingly, the 2nd case for account no.3000996452 was disallowed. Further, DDSC, did not get investigate the working of Meter at site nor the Meter was got tested from the ME Laboratory. As both cases were of similar nature, no specific reason was mentioned to allow first one and disallowed 2nd case, bearing Account No.3000996452. The Petitioner was not satisfied, as very inadequate relief was allowed by the DDSC.

1. It was wrongly mentioned by the Addl.S.E, PSPCL, Ferozepur in its reply to the Petition that Energy Meters were installed in the premises of the Petitioner and the in the same building. The facts may be got verified from the copy of FIR submitted in original to the Forum. The same may also be verified from the work order that when the Energy Meter was shifted to Meter Box which was more than 100 meters away from the house of the Petitioner.

 I find that the Respondent stated that the connected load of the Petitioner’s connection was checked on 23.10.2019, vide LCR No.204/16 and found to be 3.860 kW. The Respondent, on being asked during hearing, intimated that the connection of the Petitioner was disconnected vide Disconnection Order No.100007551610 dated 08.02.2019, affected on 30.08.2019. The Respondent clarified that the Forum passed its order dated 31.07.2019 and sent the same to the Petitioner by Registered Post on the same day. Since the Petitioner did not comply with the decision ibid of the Forum within the stipulated period of 21 days from the date of its receipt, the connection of the Petitioner was disconnected on 30.08.2019. The Respondent also stated that the Petitioner had, after receipt of the decision ibid, not intimated about its intention for filing an Appeal till 03.09.2019 ( date of deposit of requisite amount for filing the Appeal in the Court of Lokpal). Moreover, the Petitioner did not request for not disconnecting its connection in the Appeal preferred before this Court on 04.09.2019. Hence, the action of the Respondent in disconnecting the disputed connection on 30.08.2019 was in order.

1. Petitioner’s Representative (PR) mainly argued that due to marriage

in the Petitioner’s family during 09/2017, the bimonthly energy consumption was higher as per bill dated 16.09.2017 (3577 kWh units).

 I have perused the consumption data and observed that the Energy Meter was not at Site as per bill for the period from 12.09.2018 to 13.11.2018 (63 days). I also find that prior to issuance of the said energy bill, maximum bimonthly energy consumption was recorded on 10.03.2018 and after installation of new Energy Meter ( in lieu of Stolen Energy Meter) on 13.11.2018 was 1,025 kWh units on 10.07.2019. This proves that energy consumption of 3577 kWh units recorded on 16.09.2017 was due to marriage in Petitioner’s house as per evidence ( in the form of Marriage Invitation Card) provided by it.

 I am , therefore, of the view that the account of the Petitioner is required to be overhauled for the period, when Energy Meter was not at site, as per LDHF Formula given in Annexure-B of Supply Code-2014 where:

 L : is load detected during recent inspection.

 D : represents Number of days.

 H : stands for Number of hours.

 F : is Demand Factor.

**5. Conclusion:**

From the above analysis, it is concluded that the account of the Petitioner for the period, when the Energy Meter was not at site, is required to be overhauled as per provisions contained in Regulation 21.5.2(d) read with Annexure-B of Supply Code-2014 without interest and surcharge. The Petitioner’s connection shall be restored after deposit of defaulting amount, if any, as per instructions of PSPCL.

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

**As a sequel of above discussions, the order dated 31.07.2019 of the CGRF, Patiala in Case No. CGP-167 of 2019 is set aside. It is held that the account of the Petitioner for the period when Energy Meter was not at site shall be overhauled as per conclusion arrived at in 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/surcharge.** **The Petitioner’s connection shall be restored after deposit of defaulting amount, if any, as per instructions of PSPCL.**

**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)

 October 29, 2019 Lokpal (Ombudsman)

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