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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 55/2019**

**Date of Registration : 26.09.2019**

**Date of Hearing : 07.11.2019**

**Date of Order : 19.11.2019**

**Before:**

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

**In the Matter of**

Executive Officer,

Nagar Panchayat,

 Moonak,

District Sangrur

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Division,

PSPCL, Lehragaga.

 ...Respondent

**Present For:**

Petitioner : Sh. Gurjinder Singh Chahal, Advocate,

 Petitioner’s Counsel (PC).

Respondent : Er. Ashok Kumar Singla,

 Addl.Superintending Engineer,

 DS Division, PSPCL,

 Lehragaga.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 01.07.2019 in Case No. CGP-141 of 2019 of the Consumer Grievances Redressal Forum (Forum), Patiala stating as under:

*“ The account of the Petitioner be overhauled for a period of six months immediately before 26.06.2017 i.e. the date of taking slowness of the metering equipment as 49.69% as per Regulation 21.5.1 of Supply Code-2014 .”*

**2. Condonation of delay:**

 At the outset, the issue for condonation of delay in filing the Appeal in this Court was taken up. The Petitioner’s Counsel (PC) submitted that the present Appeal could not be preferred in this Court within the stipulated period of one month of date of receipt of order of the Forum due to the reason that copy of the decision of the Forum, sent by the Secretary, CGRF, Patiala, vide Memo No. 1477-78/CGP-141/2019 dated 02.07.2019 by Registered Post, was received by the Petitioner on 09.07.2019. The Petitioner’s Counsel (PC) added that the Petitioner, after receipt of the copy of the said order, took time in seeking legal advice for preferring the present Appeal and arranging funds for depositing the requisite fee for filing the Appeal in this Court. Finally, the Petitioner filed the Appeal in this Court on 26.09.2019. That is why, a delay of 50 days beyond the stipulated period of one month from the date of receipt of the Order ibid of the Forum had occurred which was not intentional and may be condoned in the interest of justice.

 The Respondent, in its reply to the Appeal, did not offer any comments on the submissions made by the Petitioner regarding condonation of delay and also did not raise any objection in this regard during the course of hearing.

In this connection, I have gone through Regulation **3.18 (ii)** of the PSERC (Forum and Ombudsman) Regulation-2016 which reads as under:

“*No representation to the Ombudsman shall lie unless the representation is made within one month of the date of receipt of order of the Forum.*

 *Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month”.*

 *I observe that though the Petitioner has given reasons for not filing the Appeal within the stipulated period, the same are not convicing. It ought to have been vigilant and taken necessary precautions to ensure completion of the requisite formalities for filing the Appeal in this Court within stipulated time. I also observe that non condonation of delay would deprive the Petitioner of the opportunity, required to be afforded, to seek remedy and would also not meet the ends of ultimate justice. With this in view, the delay in filing the Appeal in this Court is condoned and the Petitioner is afforded an opportunity to present the case.*

**3. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Medium Supply Category connection

with sanctioned load of 30.660 kW and was being used for Water works. The Metering was being done by providing LT CT operated Energy Meter of Secure Make, which was installed on 20.03.2015.

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

Sangrur vide ECR No.33/3826 dated 26.06.2017, whereby, it was reported that the accuracy was checked with LT ERS Meter and found that Meter was running slow by 49.69%. The Meter Cup Board and CT Chamber were opened and it was observed that Yellow Phase secondary Wire of CT was connected to the Blue Phase and Blue Phase secondary Wire was connected to the Yellow Phase at Meter Terminal Block, due to which, the Meter was recording less consumption. The connections were set right at site whereafter, the accuracy was checked and results were found within permissible limits.

1. The Enforcement also directed to overhaul the account of

 the Petitioner accordingly.

1. In view of above checking, the Respondent overhauled the

account of the Petitioner from the date of replacement of the Energy Meter on 20.03.2015 to the date of checking i.e. 20.06.2017 by applying slowness factor of 49.69% and served a notice to it vide Memo No.1210 dated 28.06.2017 to deposit Rs.9,43,118/-**.**

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

Petition dated 15.05.2019 in the CGRF, Patiala who, after hearing, passed the order dated 01.07.2019. (Reference Page-2, Para-1).

1. Aggrieved with the decision of CGRF, the Petitioner preferred an

Appeal in this Court and prayed to set aside the order ibid of the Forum and also the disputed demand considering the facts and circumstances of the case*.*

**4. 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. **Submission of the Petitioner:**

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

1. The Petitioner was having Medium Supply category connection with sanctioned load of 30.66 kW.
2. The Petitioner received a Notice from the AEE, Moonak vide Memo No.1210 dated 28.06.2017, asking to deposit Rs.9,43,118/- in view of checking done by the ASE/Enforcement, Sangrur on 26.06.2017.
3. Aggrieved with the said Notice, the Petitioner filed a Petition dated 15.05.2019, bearing No.CGP-141 of 2019, in CGRF, Patiala.
4. The Forum, vide order dated 01.07.2019, decided the Petition of the Petitioner and directed that the account of the Petitioner be overhauled for a period of six months immediately before 26.06.2017 (i.e.date of testing) taking slowness of the Metering Equipment as 49.69% as per Regulation 21.5.1 of Supply Code-2014.
5. The AEE,DS Sub division, Moonak issued a letter, bearing No.2532 dated 02.08.2019, to the Petitioner mentioning that as per order dated 01.07.2019 passed by the Forum, it was liable to pay dues, for 6 months before the date of checking, amounting to Rs. 2,06,863/- and also mentioned that the remaining amount of Rs.7,36,255/- and surcharge of Rs.3,60,691/- including interest amounting to Rs.3,32,823/- had been adjusted.
6. According to the said letter, the Petitioner was liable to pay Rs.2,06,863/- extra from the disputed amount.
7. The Respondent, in its reply, submitted before the Forum, had nowhere mentioned that the seals of Energy Meter were ever tampered by the Petitioner or any other person. Further, the electricity connection was of Medium Supply category duly installed and sealed by the Respondent.
8. Reading of the said Energy Meter was duly taken by the Meter Reader every month, so, the responsibility to fix the relevant terminals on its proper place/phase was of the Respondent.
9. The Petitioner should not be made liable to comply with the aforesaid Notice raising a demand of Rs.9,43,118/-, originally issued and subsequent Notice asking for deposit of Rs.2,06,863/- (amended after adjustment) after passing two years of installing connection and due to omissions on the part of the officials of the Respondent. Therefore, the Petitioner was not required to pay any amount raised in the letter, bearing No.1210 dated 28.06.2017 and subsequently vide letter No.2532 dated 02.08.2019.
10. The Petitioner was a Nagar Panchayat institution and not an

individual person and could not think of tampering with the Energy Meter to reduce the amount of its energy bill.

1. In view of the submissions made above, the decision dated

01.07.2019 of the Forum may be set-aside and the Appeal be allowed.

1. **Submission of the Respondent**:

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

1. The Petitioner was having a Medium Supply category connection

 with sanctioned load of 30.66 kW under DS Sub division, Moonak.

1. The connection of the Petitioner was checked by the

AEE, PSPCL, Moonak, vide ECRNo.32/3782 dated 13.03.2015, in the presence of the Petitioner. On finding that screen of the Energy Meter open, the AEE,DS Sub-division, Moonak directed to replace the Energy Meter.

1. Accordingly, the Energy Meter was replaced by the AEE,DS Sub

division, PSPCL, Moonak vide MCO No.15/35625 dated 13.03.2015,affected on 20.03.2015.

1. The connection was again checked by the Addl.SE/ Enforcement,

PSPCL, Sangrur on 26.06.2017, vide ECR No. 33/3826, in the presence of the Petitioner and accuracy of the Energy Meter was checked on running load of the Petitioner’s connection with Dial Test and LTERS Meter and the Energy Meter was found running slow by 49.69%.Y Phase secondary wire(YS1) of CT was connected to the Blue Phase and Blue Phase secondary wire (BS~~1~~) was connected to the Yellow Phase at Meter Terminal Block due to which, the Energy Meter was recording less consumption.

1. The connections of the Energy Meter were set right by the JE and

staff present at site whereafter, the accuracy was again checked and results were found within permissible limits.

1. As directed by the Enforcement, the account of the

Petitioner was overhauled by the AEE, DS Sub division, PSPCL, Moonak from the date of replacement of the Energy Meter (originally installed) on 20.03.2015 to the date of checking i.e.20.06.2017 and a demand of Rs.9,43,118/- was raised by issuing Notice, bearing No.1210 dated 28.06.2017 by applying slowness factor of 49.69%.

1. The Petitioner did not deposit the said amount, therefore the same

was charged in the energy bill issued in the month of 10/2017.

1. The Petitioner did not agree with the amount charged to it and filed a

Petition in the CGRF, Patiala who, after hearing, decided the case vide order dated 01.07.2019 (Page-2, Para-1).

1. In compliance to the order ibid of CGRF, Patiala, the Sub

Divisional office, Moonak calculated the amount recoverable as Rs.2,06,863/- after overhauling of the account of the Petitioner for a period of six months immediately before 26.06.2017 by taking slowness as 49.69%.

1. Apart from it, refund of surcharge amounting to Rs.3,60,691/- and of

interest amount of Rs.3,32,823/- was given to the Petitioner. As such, in compliance of the order of the CGRF, Patiala, out of the total billed amount of Rs.20,25,760 after adjusting/deducting Rs.14,29,769/-, the remaining recoverable amount of Rs.5,95,991/- was intimated by the SDO, PSPCL, Moonak vide letter No.2533 dated 02.08.2019 to the Executive Officer, Nagar Panchayat, Moonak with the direction to deposit the same.

1. In this way, the order of CGRF, Patiala had been complied

with, but the Petitioner preferred to file an Appeal against the decision of the CGRF, Patiala in this Court.

1. The decision ibid of the Forum was correct and as per instructions of

PSPCL. Therefore, the Appeal may be dismissed.

**5. Analysis**

 The issue requiring adjudication is the legitimacy of overhauling the account of the Petitioner for 6 months immediately preceding 26.06.2017 ( the date of determining th slowness of the metering equipment aby the Enforcement as 49.69%) as per applicable regulations.

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

1. The present dispute arose after the connection of the Petitioner

was checked by the Addl.S.E/Enforcement, PSPCL, Sangrur vide ECR No.33/3826 dated 26.06.2017, whereby, it was reported that the accuracy of the Energy Meter was checked with LT ERS Meter and the Energy Meter was found running slow by 49.69%. As per the said Checking Report, the Meter Cup Board and CT Chamber were opened and it was observed that Yellow Phase secondary Wire of CT was connected to the Blue Phase and Blue Phase secondary Wire was connected to the Yellow Phase at Meter Terminal Block, due to which, the Energy Meter was recording less consumption. The connections were set right at site, the accuracy was checked again and results were found within permissible limits. The Enforcement further directed to overhaul the account of the Petitioner accordingly in compliance to which, the Respondent overhauled the account of the Petitioner from the date of installation of the disputed Energy Meter on 20.03.2015 to the date of its checking i.e. 20.06.2017 by applying slowness factor of 49.69% and served a notice to it, vide Memo No.1210 dated 28.06.2017, to deposit Rs.9,43,118/- The Petitioner did not agree with the above Notice and filed a Petition dated 15.05.2019 in the CGRF, Patiala who, after hearing, decided the matter on 01.07.2019 and issued directions for overhauling its account for a period of six months immediately before 26.06.2017 i.e. the date of checking and taking slowness of the metering equipment as 49.69% as per Regulation 21.5.1 of Supply Code-2014.

 I find from the perusal of the consumption pattern that energy consumption for the disputed period i.e from 20.03.2015 to 26.06.2017 was almost half as compared to the energy consumption of the Petitioner’s connection during the period before 20.03.2015 and after 26.06.2017. The maximum monthly consumption during the disputed period was 5,754 kVAh units with MDI of 16.72 kVA which was 12,788 kVAh units before 13.03.2015 with MDI of 36.8 kVA and was 18,978 kVAh units with MDI of 61.20 kVA after 26.06.2017. The consumption data clearly reveals that the consumption of the Petitioner’s connection from 20.03.2015 to 26.06.2017 was almost half of the energy consumption as declared by the Addl.SE/Enforcement, PSPCL, Sangrur after checking dated 26.06.2017 and is also almost half of the energy consumption recorded by the Petitioner’s connection during pre and post disputed period.

 I observe that the CGRF, Patiala rightly ordered to overhaul the account of the Petitioner’s connection for a period of six months immediately before 26.06.2017 ( the date of checking carried out by the Enforcement) by taking slowness factor of 49.69% as per provision contained in Regulation 21.5.1(a) of Supply Code-2014 which is relevant in the present context and reads as under:

** (ii) During the course of hearing, Addl.SE, DS Division, PSPCL,

Lehragaga apprised this Court and also the Petitioner’s Counsel (PC) that in compliance to decision dated 01.07.2019 of CGRF, Patiala, the account of the Petitioner was overhauled after deducting a sum of Rs.14,29,769/- from the original amount of Rs.20,25,760/-. The amount to be recovered worked out to Rs.5,95,991/- for which, a reference was made to the Petitioner to deposit the same by the AEE, DS Sub- urban, Moonak vide letter 2533 dated 02.08.2019. When the Petitioner’s Counsel requested the Court to set- aside the aforesaid demand, it was asked to intimate the rule/regulation in support of its contention. But, the Petitioner could not refer to any rule/instruction in support of its prayer for relief.

**5. Conclusion:**

From the above analysis, it is concluded that the overhauling of the Petitioner’s account for a period of six months immediately preceding 26.06.2017 ( i.e. the date on which, slowness of metering equipment as 49.69% was determined at site during checking by the Enforcement), in terms of provisions contained in Regulation 21.5.1 of Supply Code-2014 is just and fair as also decided by the CGRF, Patiala vide order dated 01.07.2019.

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

**As a sequel of above discussions, the order dated 01.07.2019 of the CGRF, Patiala in Case No. CGP-141 of 2019 is upheld.**

**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)

 November 19, 2019 Lokpal (Ombudsman)

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