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

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

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

 **APPEAL NO. 62/2019**

**Date of Registration : 04.11.2019**

**Date of Hearing : 19.12.2019**

**Date of Order : 23.12.2019**

**Before:**

**Er. Gurinder Jit Singh,**

**Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

Saloni Mahajan, 2nd Address

Flat No.1004/C, Saloni Mahajan,

Sushma Green Vista, Flat No.203, GH-70,

Gazipur, Zirakpur Sector-20, Panchkula

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division,

PSPCL, Zirakpur

 ...Respondent

**Present For:**

Petitioner : Er.R.C.Mahajan,

 Petitioner’s Representative (PR).

Respondent : 1. Er. Khuswinder Singh

 Addl.Superintending Engineer,

 DS Division, PSPCL, Zirakpur

 2. Sh.Baljinder Singh, UDC

 O/o Sr.Xen, DS Division,

 PSPCL, Zirakpur.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 12.09.2019 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-208 of 2019, deciding that :

*“No interest/surcharge be levied to the Petitioner for the bills issued after 03/2018 till 07/2019 and the amount of interest/ surcharge for the said period be recovered from the delinquent officials who have failed to disconnect the connection of the Petitioner in spite of repeated disconnection orders having been issued”.*

**2. Condonation of Delay:**

 At the outset, the issue for condonation of delay in filing the Appeal in this Court was taken up. Petitioner’s Representative (PR) stated that the Petitioner had not received the copy of order dated 12.09.2019 of the CGRF, Patiala by registered post as it was not residing in the premises, where the disputed connection was installed, instead, it had gone to Gurugram to take care of its sister who was suffering from Dengue and hospitalised at there. Petitioner’s Representative (PR) also stated that the order ibid was collected from the Forum at Patiala due to which, delay beyond stipulated time limit of one month had occurred. Petitioner’s Representative prayed that the aforesaid delay in filing the present Appeal in this Court may be condoned.

 The Respondent did not offer comments on condonation of the delay in its reply to the submissions made by the Petitioner 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) Regulations-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 find that though the Petitioner has given reasons for the delay but the same are not much convincing. The Petitioner ought to have been vigilant and downloaded the copy of the order of the Forum from the PSERC’s website. The other option available with the Petitioner was that it should have given intimation about its correspondence address (at Gurugram) to the office of the CGRF, Patiala for sending the copy of the decision. 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 beyond stipulated time limit 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 Domestic Supply (DS) Category

connection since 04.04.2016 with sanctioned load of 5.980 kW for which, the Metering was being done by providing Single Phase, Two Wire, 10-60A, Static Energy Meter.

1. The Petitioner and its mother Ms Minakshi were co-owners of a

private premises (Flat) which was rented out to Sh. Pardeep Dhawan. Due to non payment of the rent, the Flat was got vacated on 26.05.2019 by filing the Civil Suit and Execution Application in the Court at Dera Bassi. However, the Petitioner had never informed the Respondent about the flat having been rented out.

1. Regular bi-monthly bills were issued to the Petitioner from

25.04.2017 to 05.07.2019 on the basis of the actual energy consumption recorded with OK status of the Energy Meter,

1. The Petitioner deposited Rs.25,480/- ,against Energy Bill issued on

04.09.2017 whereafter, no payment was made till 18.07.2019 when the disputed billed amount of Rs.52,030/- was deposited.

1. The aforesaid bill amounting to Rs.52,030/- was received in the

month of 07/2019 for the period from 02.05.2017 to 05.07.2019 for the energy consumption of 353 kWh units for 64 days and also the current year arrears of Rs.49,130/-.

1. Due to non payment of energy bills issued from 09/2017 onwards,

the PDCO No.140/13335 dated 09.12.2016, 175/13431 dated 28.03.2018 and 17/13463 dated 19.11.2018 were issued but not affected at site and also not returned.

1. The Petitioner was aggrieved with the bill for Rs.52,030/- issued in

the month of 07/2019 and filed a Petition dated 20.08.2019 in the CGRF, Patiala who, after hearing, decided that no interest/surcharge be levied on the Petitioner for the bills issued after 03/2018 till 07/2019 and the amount of interest/surcharge for the said period be recovered from the delinquent officials who had failed to disconnect the connection of the Petitioner in spite of repeated disconnectionorders having been issued.

1. Not satisfied with the above decision of the CGRF, Patiala, the

Petitioner filed an Appeal in this Court and prayed that the order dated 12.09.2019 of the Forum was illegal and unjust to the extent of not considering the factual position and compelling circumstances of the Petitioner. Therefore, the remission of undue and unjust payment of electricity bill for the period from 02.05.2017 till 02/2019 may be allowed as the liability had occasioned due to negligence on the part of PSPCL and not due to the fault of the Petitioner.

1. The order dated 12.09.2019 of the CGRF, Patiala in Case No.

CGP-208/2019 had been implemented by sending advice for refund of the sum of Rs.9,450/-, on account of interest/surcharge relating to the months of 03/2018 to 07/2019, to the Computer Cell on 25.11.2019 vide Sundry No.SCA 48/147/R-123.

**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 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 aggrieved with the order dated 12-9-2019

passed in Petition CGP No. 208/2019 instituted before the CGRF, Patiala and was filing this Appeal challenging this order being illegal and violative of the provisions of Regulation 32.1 read with Regulation 33.1 of the Electricity Supply Code and Related Matters Regulations, 2014, as amended from time to time. As per Regulation 32.1 of Electricity Supply Code and Related Matters Regulations, 2014, as amended from time to time, the Respondent was bound to disconnect power supply to the premises after 15 days of due date in case of non-payment of energy bill. In case of continued default, the connection should have been disconnected permanently and Agreement terminated in terms of Regulation 33.1 of Electricity Supply Code and Related Matters Regulations, 2014, as amended from time to time.

1. This Appeal had been necessitated due to non-consideration of

the submissions of the Petitioner taken at large in the Petition filed before the CGRF.

1. The order dated 12.09.2019 of the Forum was illegal and unjust

being violative of the above mentioned provisions contained in Electricity Supply Code and Related Matters Regulations, 2014, as amended from time to time to the extent of charging/raising of the electricity bills beyond six months for the period from 02.05.2017 to 02/2019. This had occasioned due to negligent approach of the officials of the Respondent-PSPCL and not due to any fault/lapse on the part of the Petitioner.

1. The Forum, in its order, had held that no interest/surcharge be levied

on the Petitioner for the bills issued from 3/2018 till 07/2019 and the amount of interest/surcharge be recovered from the delinquent officials who failed to disconnect the connection. Since the Forum had held the officials of the PSPCL responsible for their negligence, as such, the liability to pay the entire amount of electricity bill rested with the delinquent officials and not with the Petitioner as the officials of the PSPCL failed to take timely action as per the Regulations. The Petitioner could not be made to suffer for the negligence of the Department. Had the Respondent-PSPCL taken timely action, the huge electricity bi1l/1oss would have been avoided and the tenant would have vacated the flat in time thereby avoiding the financial as well as mental harassment. Moreover, as per the provisions of Supply Code Regulations, no responsibility rested with the Petitioner after termination of the Agreement. The findings of the Forum were contrary to the provisions of the Regulations.

1. Briefly stated, the Petitioner and its mother, Ms.Minakshi were the

co-owners of private premises i.e. Flat No. 1004/C, Sushma Green Vista Gazipur falling under DS Division, Zirakpur. An electricity connection, bearing Account No. 274BS225391N, was installed on 04.04.2016 in the said premises. This flat was rented out to a tenant named Sh. Pradeep Dhawan, who stopped paying rent for which, the Petitioner had to file a Civil Suit in Civil Court at Dera Bassi for vacation of the flat. Despite the Court order dated 24.09.2018, the tenant did not vacate the flat for which, the Petitioner was compelled to further institute execution proceedings and the premises was vacated on 26-5-2019 by the tenant only after the intervention of the executing Court. An electricity bill dated 05.07.2019 for Rs. 52,030/- payable by 22.07.2019 was served to the utter surprise adding more mental agony to the Petitioner who was already passing through grave distress due to unauthorized occupation of the house property and non- vacation by the tenant. The billed amount of Rs. 52,030/- was the result of the accumulation of the charges of huge amount due to non- payment by the tenant for no fault on the part of the Petitioner. The Forum provided relief of remission of the electricity bill for the period from 3/2018 till 05.07.2019 but grossly over looked the fact of innocence on the part of the Petitioner who did not have the knowledge of the non-payment of the electricity bills by the tenant and accumulation of charges even for the period from 02.05.2017 till 02/2019. Therefore, the order dated 12.09.2019 of the Forum was illegal and unjust to the extent of not considering the factual position and compelling circumstances of the Petitioner. As such, the remission of undue and unjust paymentof electricity bills for the period from 2-5-2017 till 02/2019 may also be allowed as the liability had occasioned due to negligence on the part of PSPCL and not due to the fault of the Petitioner.

1. The Petitioner had not challenged the order of the Forum before any

other authority/Court.

1. **Submissions of the Respondent:**

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

1. A Domestic Supply (DS) category connection, bearing Account No.

Z47BS22/5391, with sanctioned load of 5.980 kW was released vide Service Connection Order (SCO) No.12/335 dated 04.04.2016.

1. Clause No.16 of the Application and Agreement signed by the

Petitioner with the PSPCL on 04.04.2016 was reproduced below**:**

**“***I/We hereby request Punjab State Power Corporation Limited (hereinafter referred to as the PSPCL) to give supply for load demand/mentioned in Sr.No.5 above. I/We hereby further agree to pay for the said supply in accordance with the relevant schedule of Tariff, as approved by the Commission from time to time and also to pay all such other charges as may become due from me/us. I/We also agree to abide by the provisions of Supply Code-2014, General conditions of tariff/Tariff Schedule/Tariff* *Orders and Electricity Act-2003 as amended from time to time”.*

1. In addition, Regulation 29.3 of Electricity Supply Code and Related

Matters Regulations, 2014, as amended from time to time, also relevant in the case, reads as under:

“*All consumers shall make payment for every billing cycle to the distribution licensee within the time specified in Regulation 31 at the notified offices of the distribution licensee or any other place or through any agency approved by the distribution licensee for the purpose*”.

1. As per provisions of Application & Agreement and Electricity

Supply Code and Related Matters Regulations 2014, as amended from time to time referred to above, the Petitioner was liable to make payment of the energy bills issued by the PSPCL from time to time.

1. The order dated 12.09.2019 of the CGRF, Patiala in Case No.

CGP-208/2019 had been implemented by sending advice for refund of the sum of Rs.9,450/-, on account of interest/surcharge relating to the months of 03/2018 to 07/2019, to the Computer Cell on 25.11.2019 vide Sundry No.SCA 48/147/R-123.

**5.** **Analysis:**

The issue requiring adjudication is the legitimacy of the prayer of the Petitioner for remission of payment made for the energy bills dated 05.07.2019 amounting to Rs.52,030/- on the plea that liability on this account rested with the Respondent-PSPCL for not disconnecting the electricity connection even after issuance of PDCOs on three occasions.

*The points emerging in the case are deliberated and analysed as under:-*

1. During the course of hearing, Petitioner’s Representative (PR)

contended that the order dated 12.09.2019 of the Forum was illegal and unjust being violative of the provisions contained in Regulation 32.1 read with Regulation 33.1 of PSERC (Supply Code and Related Matters) Regulations, 2014 to the extent of charging/raising of the electricity bills beyond six months for the period from 05/2017 to 02/2018. The present dispute had arisen due to negligent approach of the officers/officials of the respondent (PSPCL) and not due to any fault/lapse on the part of the Petitioner. The Forum, in its order, had held that no interest/surcharge be levied on the Petitioner for the bills issued from 3/2018 till 07/2019 and the amount of interest/surcharge be recovered from the delinquent officials who failed to disconnect the connection. Since the Forum had held the officials of the PSPCL responsible for their negligence, as such, the liability to pay the entire amount of disputed electricity bills rested with the delinquent officials and not with the Petitioner as the officers/officials of the PSPCL failed to take timely action as per the Regulations. The Petitioner could not be made to suffer for the negligence of the Department. Had the Respondent-PSPCL taken timely action, the loss to the Petitioner for payment of the disputed electricity bi1l/1oss would have been avoided and the tenant would have vacated the flat in time thereby avoiding the financial as well as mental harassment to the Petitioner. PR also stated that as per the provisions contained in PSERC (Supply Code and Related Matters) Regulations, 2014 as amended from time to time, no responsibility rested with the Petitioner after termination of the Agreement. The findings of the Forum were contrary to the provisions of the Regulations referred to above.

 The Respondent, in its defence, stated that the Petitioner has signed Application and Agreement dated 04.04.2016 (i.e. date of release of connection) and had agreed to pay all charges becoming due for supply/other charges in terms of Clause No.16 of said Application and Agreement which was binding on the Petitioner as reproduced below:

**“***I/We hereby request Punjab State Power Corporation Limited (hereinafter referred to as the PSPCL) to give supply for load demand/mentioned in Sr.No.5 above. I/We hereby further agree to pay for the said supply in accordance with the relevant schedule of Tariff, as approved by the Commission from time to time and also to pay all such other charges as may become due from me/us. I/We also agree to abide by the provisions of Supply Code-2014, General conditions of tariff/Tariff Schedule/Tariff Orders and Electricity Act-2003 as amended from time to time”.*

 The Respondent also stated that Regulation 29.3 of PSERC(Supply Code and Related Matters) Regulations, 2014 as amended from time to time, also relevant in the case, reads as under:

“*All consumers shall make payment for every billing cycle to the distribution licensee within the time specified in Regulation 31 at the notified offices of the distribution licensee or any other place or through any agency approved by the distribution licensee for the purpose*”.

The Respondent defended its plea that liability/responsibility for payment of energy bills of its electricity connection rested with the Petitioner as all the energy bills were regularly hosted on the website of the PSPCL and the Petitioner could not feign ignorance about not being aware/updated about non payment of disputed energy bills.

I observe that the Petitioner failed to disprove the contention of the Respondent that the Petitioner was liable to pay all the electricity dues as per applicable regulations. The Petitioner also did not bring any documentary evidence on record to prove that it had ever made any written reference to the Respondent for disconnection of its electricity connection due to non payment of electricity dues.

1. Petitioner’s Representative (PR) submitted that refund of

surcharge/interest relating to energy bills for the period from 03/2018 to 07/2019 had not been given to the Petitioner and the amount involved was not recovered from the delinquent officials as decided by the CGRF, Patiala vide order dated 12.09.2019.

 The Respondent responded by stating that the order dated 12.09.2019 of the CGRF, Patiala, in Case No.CGP-208/2019, had been implemented by sending advice for refund of the sum of Rs.9,450/-, on account of interest/surcharge relating to the months of 03/2018 to 07/2019, to the Computer Cell on 25.11.2019 vide Sundry No.SCA 48/147/R-123.The Respondent added that the aforesaid amount of Rs.9,450/-(refunded to the Petitioner) had since been deposited by the Junior Engineer concerned in the account of the PSPCL in compliance of the decision of the Forum. The Respondent, on being asked, confirmed that PDCOs issued in this case were not effected at site and were not returned as required.

 I observe that the distribution licensee failed to effect the PDCOs which ultimately resulted into avoidable dispute/litigation for which appropriate disciplinary action is required to be taken against the delinquent officers/officials.

**6. Conclusion**:

From the above analysis, the legitimacy of payment of disputed energy bills dated 05.07.2019 amounting to Rs. 52,030/- by the Petitioner proves beyond doubt in view of its having agreed to pay for supply and all other charges becoming due after having signed Application and Agreement dated 04.04.2016 with the PSPCL at the time of release of electricity connection. As such, the Petitioner is not entitled to relief (as prayed) for remission of payment of disputed energy bill dated 05.07.2019 amounting to Rs. 52,030/- by feigning ignorance about the fact of non payment of the said energy bills from 05/2017 to 02/2019 despite the fact that all the energy bills were regularly hosted on the website of the PSPCL and could not escape the attention of any educated and alert consumer. At the same time, no documentary evidence has been brought on record of this Court to prove that the Petitioner ever requested the Respondent to take appropriate action, as per applicable regulations, for disconnection of the connection installed at the Petitioner’s premises for non payment of defaulting dues.

**7.** **Decision:**

**As a sequel of above discussions, the order dated 12.09.2019 of the CGRF, Patiala in Case No. CGP-208 of 2019 is upheld.**

**8. The Respondent may initiate disciplinary action against the delinquent officers/officials, for not ensuring that PDCOs dated 09.12.2016, 28.03.2018 and 19.11.2018 were effected at site and returned thereafter.**

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

**10.** 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.

(GURINDER JIT SINGH)

Decemnber 23, 2019 Lokpal (Ombudsman)

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