

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 19/2022

Date of Registration : 06.04.2022

Date of Hearing : 20.04.2022

Date of Order : 20.04.2022

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

Sh. Harbhajan Dass,
B-19, MCH-213, St. No.-3,
Central Town, Sutehri Road,
Hoshiarpur.

Contract Account Number: 3001204310 (DS)

...Appellant

Versus

Addl. Superintending Engineer,
DS City Division,
PSPCL, Hoshiarpur.

...Respondent

Present For:

- Appellant: 1. Sh. Surinder Thakur,
Appellant's Counsel.
2. Sh. Harbhajan Dass,
Appellant.
- Respondent : 1. Er. Kuldeep Singh,
Addl. Superintending Engineer,
DS City Division,
PSPCL, Hoshiarpur.
2. Sh. Pawan Kumar, (RA).

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 24.01.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-313 of 2021, deciding that:

- i. *“The account of the petitioner be overhauled by dividing the final reading of 322559 KWH on equal monthly basis during the period, the disputed meter was installed at site to 24.11.2020 (date of replacement of meter) as per applicable tariff time to time.*
- ii. *Dy. CE Hoshiarpur Circle is directed to investigate the matter regarding accumulation of reading, punching of wrong readings and correction of P code bills without site verification and take appropriate action against meter reader/meter reading agency for not recording correct readings and against delinquent officials/officers for correcting P code bills without verification.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 05.04.2022 i.e. beyond the period of thirty days of receipt of decision dated 24.01.2022 of the CGRF, Ludhiana in Case No. CGL-313 of 2021. The Appellant deposited the requisite 40% of the disputed amount on 06.04.2022. Therefore, the Appeal was registered on 06.04.2022 and copy of the same was sent to the Addl. SE/ DS

City Division, PSPCL, Hoshiarpur for sending written reply/parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 346-348/OEP/A-19/2022 dated 06.04.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 20.04.2022 at 12.30 PM and intimation to this effect was sent to both the parties vide letter nos. 357-58/OEP/A-19/2022 dated 11.04.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Condonation of Delay

At the start of hearing on 20.04.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Counsel stated that the Forum closed the case for passing speaking orders on 17.01.2022 and the Applicant was not informed regarding passing of the final order on 24.01.2022. He came to know about the order only on 09.03.2022 when he received the copy of the order vide Memo No. 95 dated 02.03.2022 of the office of Assistant Engineer, DS City Sub-Division Hoshiarpur alongwith notice to deposit ₹ 12,53,235/- after implementing the decision dated 24.01.2022 of the Forum and the Appeal was filed within 30 days from the

date of issue of said demand notice. The Appellant's Counsel further prayed that the delay in filing the present Appeal was neither intentional nor deliberate. As such, the delay may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. The Respondent objected to the condoning of delay in filing the Appeal in this Court in its written reply and argued that the Appellant had the knowledge of the order and the delay was on account of negligence of Appellant. The delay was intentional and deliberate. The Respondent prayed for the dismissal of the Appeal case as the Appeal was not filed within the limitation period.

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

“No representation to the Ombudsman shall lie unless:

- (ii) The representation is made within 30 days from the date of receipt of the order of the Forum.*

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

The Court observed that the Respondent issued the fresh Demand Notice to the Appellant on 02.03.2022 i.e. beyond the period of 21 days from the date of receipt of decision dated 24.01.2022 of the Forum. The Appeal was received in this Court on 05.04.2022 i.e. after more than 30 days of receipt of the said order but within 30 days of receipt of fresh demand raised by the Respondent after implementing the decision of the Forum received by the Appellant on 09.03.2022. The Respondent had not submitted any documentary evidence to prove that the Appellant had received the final order of the Forum before 02.03.2022. It was also observed that non-condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant's Counsel was allowed to present the case.

5. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the

Appellant's Counsel and the Respondent alongwith material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a DS Category Connection, bearing Account No. 3001204310 with sanctioned load of 7.56 kW in his name under DS City Division, Hoshiarpur. The Appellant submitted that he had been paying the electricity bills regularly without any default.
- (ii) The Respondent issued a bill on 15.12.2020 for the period of 122 days i.e. for 4 months from 28.07.2020 to 27.11.2020 of ₹ 13,80,930/-. The Appellant was shocked and stunned to see the electricity bill of such huge amount. The Appellant immediately filed his grievance with the concerned official of the Respondent. However, nothing was heard and the officials of the Respondent remained adamant for illegal demand for the said electricity bill, which was on very higher side.
- (iii) Then the Appellant approached the Forum against the aforementioned bill in question and presented his case with detailed facts and figures. It was also shown and pointed out

that there was no question of such huge consumption of electricity by the Appellant. The premises where the aforesaid electricity meter was installed was residential premise of the Appellant and neither the Appellant had installed any such electricity equipment or machinery or otherwise which could result in such excessive use of electricity. The Appellant duly submitted that there could be some technical glitch with the electricity meter or the official of the Respondent might have wrongly noted down the reading of the meter or it could be due to some other reason best known to the Respondent. The Appellant also showed the old bills pertaining to last year which showed that the electricity bills were never at such higher rate at any point of time and thus, there was absolutely no question of consuming electricity on such a higher volume which resulted in issuing the bill in question.

- (iv) The Respondent replaced the meter of the Appellant on 24.11.2020 and the old meter was sent to the ME Lab on 02.02.2021 for checking and the same was found to be OK. The Appellant very humbly submitted that neither before checking the old meter by the ME Lab, he was informed nor the meter was checked in his presence. Thus, the case of the Respondent that the meter was found to be OK was of no consequence.

(v) The Forum while passing the impugned order had very wrongly and illegally observed that the meter reader had committed irregularities in noting down the meter reading as on the bill delivered to the Appellant, there was different meter reading whereas as per SAP system, the reading record was different and qua that irregularity the Appellant had been victimized. The Appellant very humbly submitted that the Appellant cannot be saddled for any irregularity or ambiguity in reading of the meter. Moreover, there was nothing from the mouth of the Respondent that the concerned meter reader had committed any irregularity nor it had been found that the Appellant had tampered the meter. Rather, this fact supported the case of the Appellant that there had been irregularities and ambiguities on the part of the Respondent and its employees who had issued wrong bill to the Appellant without any basis. To the surprise of the Appellant, the alleged irregularities and ambiguities in meter reading had been shown to come into the knowledge of the Appellant only once the Appellant raised his grievance regarding the wrong issuance of the bill and not otherwise, which casted a cloud of suspicion and made it apparent that the electricity bill for the concerned period had been wrongly issued to the Appellant.

(vi) The Forum had not considered the case of the Appellant in legal and just manner. The Forum had not taken note of the electricity consumption data post 24.11.2020 when the old meter was replaced. Nothing had been mentioned nor considered while passing the impugned order in this respect. The Appellant very humbly submitted that if the electricity consumption data/ bill post 24.11.2020, when the old meter was replaced with new one is seen, it also made clear that the impugned bill in question suffered from irregularities on the part of the Respondent. For the kind perusal of this Hon'ble Court, the details of the bills w.e.f. March 2015 to upto date were reproduced as follows:-

Bill date	Reading date (old)	Reading date	Bill Amount
28.03.2015	14.01.2015	28.03.2015	₹ 9,810/-
09.06.2015	28.03.2015	09.06.2015	₹ 13,400/-
31.07.2015	09.06.2015	31.07.2015	₹ 80/-
29.09.2015	31.07.2015	29.09.2015	₹ 0/-
11.12.2015	29.09.2015	11.12.2015	₹ 0/-
16.02.2016	11.12.2015	15.02.2016	Nil
20.05.2016	15.02.2016	20.05.2016	₹ 3,480/-
23.07.2016	20.05.2016	23.07.2016	₹ 20,880/-
23.09.2016	23.07.2016	23.09.2016	₹ 9,850/-
24.11.2016	23.09.2016	24.11.2016	₹ 5,370/-
08.02.2017	24.11.2016	06.02.2017	₹ 7,330/-
17.03.2017	24.11.2016	17.03.2017	₹ 7,730/-
17.05.2017	17.03.2017	17.05.2017	₹ 14,990/-

20.07.2017	17.05.2017	20.05.2017	₹ 10,020/-
16.09.2017	20.07.2017	16.09.2017	₹ 18,900/-
17.11.2017	16.09.2017	17.11.2017	₹ 5,940/-
28.01.2018	17.11.2017	22.01.2018	₹ 11,110/-
17.03.2018	17.11.2017	17.03.2018	₹ 14,950/-
16.05.2018	17.03.2018	16.05.2018	₹ 9,640/-
23.07.2018	16.05.2018	23.07.2018	₹ 39,970/-
16.09.2018	23.07.2018	16.09.2018	₹ 20,330/-
20.11.2018	16.09.2018	20.11.2018	₹ 11,050/-
21.01.2019	20.11.2018	21.01.2019	₹ 8,530/-
20.03.2019	21.01.2019	20.03.2019	₹ 11,880/-
23.05.2019	20.03.2019	23.05.2019	₹ 0/-
17.07.2019	23.05.2019	17.07.2019	₹ 25,110/-
19.09.2019	17.07.2019	18.09.2019	₹ 21,780/-
18.12.2019	17.07.2019	27.11.2019	₹ 3,620/-
20.01.2020	17.11.2019	20.01.2020	₹ 11,950/-
16.04.2020	20.01.2020	16.04.2020	₹ 4,350/-
09.06.2020	06.04.2020	07.06.2020	₹ 4,350/-
16.08.2020	27.11.2019	28.07.2020	₹ 33,250/-
25.09.2020	28.07.2020	23.09.2020	₹ 44,380/-
15.12.2020	28.07.2020	27.11.2020	₹ 13,80,930/-
16.03.2021	27.11.2020	28.01.2021	Current bill is ₹ 4,404/-
16.07.2021	28.01.2021	14.07.2021	Current bill is ₹ 38,525/-
22.02.2022	14.07.2021	07.02.2022	Current bill is ₹ 52,151/-

The perusal of this data would show that the electricity bill of the Appellant had exceeded suddenly. Thus, it struck in the mind of every prudent man that there were apparent

irregularities in the disputed bill and the Appellant cannot be saddled with any liability for that.

- (v) The perusal of the bills for the different period w.e.f. 2015 would show that it had never been exceeded to the extent as it was there in the disputed bill dated 15.12.2020 and apparently, there was some irregularity on the part of the Respondent where a totally wrong and incorrect bill had been issued to the Appellant. The irregularities on the part of the Respondent were also apparent from the fact that on 25.09.2020 a bill of ₹ 44,380/- was issued to the Appellant pertaining to period 28.07.2020 to 23.09.2020, which was paid by the Appellant on 05.10.2020, whereas in the disputed bill of 15.12.2020 again the bill for the period of 28.07.2020 to 23.09.2020 had been added. Thus, apparently the Respondent had never acted fairly. Moreover, the bills pertaining to period March, 2015 to February, 2022 were issued by the Respondent itself and not by the meter reader and thus saying that the meter reader had noted wrong meter readings was totally ridiculous and unimaginable, particularly when the entire data was available in the office of the Respondent and the bills were issued and generated from the office itself. It was totally surprising that the bill dated 25.09.2020 which was issued by the Respondent itself, the bill amount was ₹ 9,918.66. Thus, saying

that there was difference between the meter reading noted by the meter reader and in online data available with the Respondent and holding the Appellant liable for that was wholly unwarranted.

- (vi) During the month of June-July, 2020, the electric equipment of the Appellant got technical snag and the applicant reported the official of the Respondent in this respect. Thereafter, a team from the Respondent visited the house of the Appellant and they checked the entire electricity connection and they noted that out of 3 phase electricity only 1 phase electricity was running and in the process of removing the snag, there was an electrocution whereby the submersible pump motor of the Appellant was also burnt and on asking, it was told by the officials of the Respondent that it was owing to excessive load. But neither the meter was checked at that time and subsequently the disputed excessive bill was issued to the Appellant.
- (vii) The irregularities on the part of the Respondent was also apparent from the fact that on an earlier occasion on 20.11.2018, the Respondent issued bill to the Appellant for an amount of ₹7,17,250/- pertaining to period 16.09.2018 to 20.11.2018. When the Appellant raised grouse against the said bill and approached the office of the Respondent, the Respondent after

checking the record available with them found it as an error in issuing bill and subsequently, fresh bill for an amount of ₹11,050/- was issued after rectifying the omissions. Thus, apparently the bills were issued by the Respondent sometimes as per their whims and at the cost of their consumers and the impugned bill was also the outcome of irregularities and omissions on the part of the corporation and the Appellant cannot be victimized.

(viii) Now surprisingly on 09.03.2022, the Respondent issued letter to the Appellant for compliance of order of the Forum in which the outstanding amount qua the disputed bill had been shown to be ₹ 12,53,235/-, which was altogether different from the disputed amount, which also depicted that the Respondent was never fair in sending the bills and the bills were issued as per their own whims and fancies.

(ix) As per the conceded position, the old meter of the Appellant was replaced with the new one on 24.11.2020 and as per the case of the corporation itself, the old meter was sent to the ME Lab on 02.02.2021 i.e. after a period of more than 2 months. There was nothing on record as to where the old meter remained during this period of 2 months and as to why the same was not sent to the ME Lab. when it was replaced. Moreover, it was also surprising

that even before the checking of the meter upon grouse raised by the Appellant over the disputed bill dated 15.12.2020, the Respondent remained adamant claiming the bill amount and they never kept it pending awaiting the checking report of the meter. Thus, apparently the act and conduct of the Respondent smacked grave illegalities and irregularities while issuing the bill in question. The old meter remained in the custody of Respondent for a period of about 2 months and thereafter, it was sent for checking in ME Lab. The meter was neither packed nor sealed nor checked in the presence of the Appellant nor consent was taken from the Appellant except obtaining signatures of the Appellant on certain already typed papers. Even the signatures of the applicant were not present on checking report. The meter was checked after 2 months and it remained in the custody of the officials and neither any explanation nor any evidence was forthcoming, for the delay in sending the meter to the ME Lab. As per Regulation 57.3 the meter was required to be forwarded to the ME Lab within one week after the same was replaced, apart from the fact that the checking was to be done in the presence of the Appellant. Thus, a manifest injustice had occasioned to the Appellant. Thus, the Respondent had failed to follow the mandatory guidelines laid down under the Electricity Supply

Instructions Manual and the report of the ME Lab cannot be said to be sustainable.

- (x) It had been consistently observed by the Hon'ble Punjab and Haryana High Court that the rule of hearing and rule of fairness form part of concept of rule of law and the principles of natural justice had been firmly recognized by the Courts and every action had to be free from arbitrariness and discernible reasons. The facts and circumstances of the case in hand would show that the Respondent had not acted fairly where neither the Appellant had been provided opportunity of being present at the time of checking of the meter nor any show cause notice had been issued and opportunity of hearing had been given to the Appellant before raising the illegal demand and in the absence thereof the authorities were not competent at their own. The case in hand was squarely covered with the judgment rendered by the Punjab and Haryana High Court Chandigarh in a case RFA No.2565 of 2018 (O&M) decided on 05.12.2018 titled as Punjab State Power Corporation Ltd. & others Versus Usha Kiran, wherein the Hon'ble Punjab and Haryana High Court on identical facts and circumstances, had answered the verdict in favour of the Appellant and observed as follows:-

“The defence of the Corporation was that the same was changed in the presence of the consumer and she was asked to be present in the ME Lab so that the meter could be checked. It has further been averred that the consumer showed her unavailability and gave consent to get the meter checked in the ME Lab in her absence. The checking was done on 13.01.2015 by the Addl. Superintending Engineer Enforcement-I, Jalandhar along with other Engineers and there was a report that additional outer resistance over the circuit of the electric meter was reducing the electric consumption and thus, a case of theft of electricity was made out and a notice of demand for Rs. 58,085/- dated 14.01.2015 had been raised along with a sum of Rs. 27,000/- on account of compounding charges and a total demand of Rs. 85,085/- was made. A criminal complaint had also been lodged against the consumer.

The consumer, in her affidavit, took the plea that the meter was neither packed nor sealed. The cross-examination of RW-1, Rajesh Kumar Pandey, Revenue Superintendent would go on to show that he admitted that the meter was not removed by him nor packed or sealed in his presence. He also admitted that the meter had been checked in the ME Lab after 20 months and he did not know that as per the mandatory provisions of law, the meter was liable to be checked within 15 days of its removal. He did not know under whose custody it remained for 20 months.

The affidavit of Gagandeep, Junior Engineer, who had been examined as RW-2, would go on to show that a consent letter had been obtained from the representative of the consumer (Ext.R-5) that she had no objection if the removed meter was checked in ME Lab in her absence. He had deposed that the checking was done in his presence as well as the Senior Engineers of the Corporation and thus, a case of theft was made out. In cross-examination, he admitted that if the meter was packed, the official/officer of the ME Lab would have put the tick mark in the column of 'packed meter'. He further admitted that as per Ext.R-3, the relevant column had been left blank by the official of the ME Lab, leading to the inference that the meter was not packed and sealed. He admitted that 20 months' period had lapsed and the meter had remained in his custody in his room and public dealing was also done in the same room where the removed meter was kept. The removal of the meter also did not show the signatures of the consumer and did not even bear any the reference to the tampered meter though he had clarified that the same was to be determined by the ME Lab. He deposed that he was present at the time of checking in the ME Lab but his signatures was not visible on the alleged ME report (Ext.R-3) which was supposed to be a photocopy. He had volunteered that he had brought the original ME report which bore his signatures. Ext.R-5 did not bear any date and the name of the consumer was written by him on the same. He admitted that he had prepared Ext.R-5 which did not bear the signatures of the consumer.

A perusal of Ext.R-5 would go on to show that it was a typed format whereby the consent of the consumer had allegedly been taken. In the said format, the meter number had been filled by hand and the name of the consumer had been put. The translated version of the format, which has also been placed on record as Annexure A-1, reads as under:

“To

The Assistant Executive Engineer,

Commercial Unit No.2

Boota Village, Jullandhar

Subject: For investigation of Meter in ME Lab.

Sir,

It is prayed that my meter having Khata No. MT54/1393 has been changed. This meter has to be brought in ME Lab of your department for further investigation. My removed meter be checked in my absence. Whatever of its results, will be accepted to me.

Yours faithfully”

Thus, it is apparent that even if it is accepted that the same was signed by the consumer, it is a format which was taken at the asking of the officials and it cannot be held against the consumer to get over the regulations whereby the consumer is to be given an opportunity to be present before the ME Lab.

A Division Bench of this Court in M/s Tirupati Industries Vs. Punjab State Electricity Board 2000 (2) PLR 356,

held that the rule of hearing and rule of fairness form part of concept of rule of law and the principles of natural justice have been firmly recognized by the Courts and every action has to be free from arbitrariness and discernible reasons.”

- (xi) As submitted above, neither the meter had been sealed in the presence of the Appellant. The meter was kept for over a period of two months by the official which was accessible to all. Even at the time of checking, the Appellant was not associated and no notice was issued to him and therefore, on all accounts, the Respondent had chosen to violate their own instructions. In such circumstances, the impugned order as well as demand was faulty and was liable to be set aside. It had been consistently held and observed by the various courts of the country as well as the Hon'ble Supreme Court that the rule of hearing and the rule of fairness in State action which form part of the concept of rule of law imposed an obligation on the State and its agencies/ instrumentalities to give notice and opportunity of hearing and also to disclose reason for their actions which might adversely affect the rights of a person or which might visit such person with evil consequences. The rule that no man can be condemned unheard had been treated as an integral part of the concept of rule of law which permeates the scheme of our Constitution. The thin line of distinction between purely

administrative actions and quasi-judicial actions had been completely obliterated by the judicial verdicts.

- (xii) Therefore, it was most humbly prayed that the Appeal may kindly be allowed and the impugned order passed by the Forum may kindly be set aside and consequently the impugned bill dated 15.12.2020 may kindly be set aside with directions to the Respondent that the account of the Appellant be overhauled from 28.07.2020 to the date of replacement of meter i.e. 24.11.2020 and be tentatively billed on the basis of actual consumption recorded in the corresponding period of the succeeding year, in the interest of justice.
- (xiii) It was further prayed that the Appellant may kindly be awarded compensation on account of harassment and embarrassment suffered besides mental stress and agony owing to the illegal demand raised by the Respondent, in the interest of justice.

(b) Submission during hearing

During hearing on 20.04.2022, the Appellant's Counsel (AC) reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent**(a) Submissions in written reply**

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The demand made by the Respondent was legal & valid and the order had been rightly passed by the CGRF, Ludhiana.
- (ii) The Appellant should be directed to obey the order in verbatim and the Appellant should not commit breach of any part of the order.
- (iii) It was submitted that the Appellant was the consumer of PSPCL, but the factum of revenue payment of bill was delay.
- (iv) The bill for the period of 244 days for the period from 27.11.2019 to 28.07.2020 for consumption of 4668 units amounting to ₹ 33,250/- was issued and subsequently second bill dated 23.09.2020 was issued for ₹ 44,380/- which included the balance payment of the earlier bill. But the Appellant challenged the working of meter by depositing of requisite challenge fee and the old meter was replaced with a new meter on 24.11.2020 and accordingly bill was issued from 28.07.2020 to 27.11.2020 for 122 days, in which the consumption of old meter was 151891 units and the consumption of new meter was 147 units and thus Appellant was liable to pay ₹ 13,80,930/-.

The old meter was sent to ME Lab through Challan No. 194 dated 20.02.2021 and as per report of the ME Lab, the meter was found OK. When the meter was sent to ME Lab for checking, its reading was 322559 as declared by ME Lab. Thus, in this way nothing wrong had been done by the Respondent.

- (v) The Forum had in writing passed the impugned order with detailed reasoning. The bill in question was rightly issued to the Appellant. There was never any technical glitch, nor there was wrong reading. The said bill was as per actual consumption.
- (vi) The wrong facts had been stated by the Appellant regarding the checking of the meter in his absence because the job order bear the signatures of Appellant, wherein consent had been given by the Appellant to check the meter in his absence and thus there was no violation of any law and procedure.
- (vii) All the observations given by the Forum were legal and valid based upon true and correct facts. The entire facts of the case falsified the claim of the Appellant. The impugned order passed by the Forum was true and correct and there was not even single shadow of suspicion over the same. In fact, the consumption of the consumer was on higher side that's why the bill was prepared on 'P' code by taking average consumption as

2522 units on 20.11.2019. The true facts were that on 20.11.2019, meter reader had taken the reading of 245804 kWh, the bill was generated with actual consumption of 62768 units for ₹ 7,17,250/-. After receiving bill, the Appellant visited the office on 22.11.2019 in the office of SDO, concerned officer verified the reading through his employee (line staff) and reading was 247693 kWh at site. It meant meter consumption was 1889 units in two days. The concerned SDO got the bill rectified on average basis through computer operator and advised the Appellant to challenge the meter, because the consumption of two days 1889 units seemed not genuine. The Appellant never visited the office about this after his bill was rectified. The meter was challenged on 29.09.2020 and got checked in ME Lab on 02.02.2021 and working of meter was found OK. Thus, the averments made in the Appeal were totally incorrect. Moreover, as per fact stated by the Appellant, the period in dispute was for 122 days but the actual period of dispute was from 20.11.2019 to 27.11.2020 i.e. for 372 days. The Appellant was advised to avail immediate remedy to challenge the working of the meter within the stipulated period and thus, there was no negligence for deficiency of service on the part of the Respondent.

- (viii) The Forum had discussed each and every fact of the case and the impugned order passed by the Forum was legal and valid in all respect. The bill data as reproduced by the Appellant was a matter of record. But the bill generated after 29.09.2020 was as per actual consumption. It was correct that the bill for the period 28.07.2020 to 27.11.2020 was issued on 15.12.2020 for ₹ 13,80,980/- as due to COVID-19, the bill for the period from 28.07.2020 to 23.09.2020 was prepared of 'P' code by taking average of 1090 units which was adjusted in the subsequent bill i.e. for the period of 28.07.2020 to 27.11.2020. There was no irregularity on the part of the Respondent for issuing of bill.
- (ix) There was no irregularity at all. The conduct of the Respondent was throughout fair and the Appellant was liable in all respect.
- (x) It was incorrect that there was technical snag. No officials of the corporation checked the meter before challenging the meter by the Appellant. It was wrong that only one phase was running out of the three phases. It was incorrect that submersible pump was burnt. The meter was duly checked and was found OK before challenging of meter by the Appellant.
- (xi) It was incorrect that the bill for the period 16.09.2018 to 20.11.2018 for ₹ 7,17,250/- was issued by the Respondent then rectified. The Respondent had issued the bill for ₹ 11,050/- for

the said period only. There was no irregularity and omission at all.

- (xii) The notice was rightly issued by the Respondent to the Appellant and the amount was calculated as per the order of the Forum after giving due benefit from the actual amount of ₹ 15,46,250/-, the total consumption was divided in the period from 15.10.2015 to 24.11.2020 by charging no amount of surcharge/interest. Thus, the averments made in this regard by the Appellant were totally wrong.
- (xiii) The due procedure was followed by the Respondent whereby the old meter replaced by the Respondent was kept in custody of JE and the consumer was never pressured to deposit the bill issued on 15.12.2020 because the checking of the meter was pending in ME Lab. Thus, this very ground was not available to the Appellant on account of the procedure to be followed by the Respondent.
- (xiv) The Instruction 57.3 of ESIM was not applicable to the facts of the present proceedings. No justice was manifested. It was incorrect that the meter remained for 4 months in the custody of PSPCL because there was a schedule date for every Sub-Division. When the meter was removed/replaced in the presence of the Appellant, the job order vide which was

removed/replaced was bearing the signature of the Appellant and he had given his consent to check the meter at ME Lab in his absence.

(xv) There was no violation of any natural justice. The principle as laid in a case RFA No. 2565 of 2018 (O & M) decided on 05.12.2018 titled as Punjab State Power Corporation Limited and others Versus Usha Kiran was not relevant in this case. The said judgment related to the theft of energy which was covered under the Indian Electricity Act, 2003 and the present meter related to dispute relating to billing. The other facts relating to cross examination of RW1/ Rakesh Kumar Pandey and Gagandeep Singh, Junior Engineer could not be referred in isolation to the entire statement, because the statement of the witness was to be read as a whole and there could not be any pick and choose. The entire facts could be verified by summoning the record from the Forum otherwise, there could not be any pick and choose on the part of the Appellant. All the documents were to be read as a whole and not in isolation.

(xvi) There was no tempering with the meter at all. In fact, the meter was replaced/packed in the presence of the Appellant. The job order showing the signature of the Appellant proved that the

Appellant was present at the spot while replacing/packing the meter.

- (xvii) The prayer of the Appellant was wrong. The impugned order was legal, valid and could not be set aside. The Appeal of the Appellant was prime facie incorrect and was sure to fail. The Appeal of the Appellant was based upon baseless allegations of law and facts. Hence, it warranted dismissal with costs.

(b) Submission during hearing

During hearing on 20.04.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the bill dated 15.12.2020 for the period of 122 days from 28.07.2020 to 27.11.2020 of ₹ 13,80,930/-, further reduced to ₹ 12,53,235/- after implementation of the decision of the Forum.

My findings on the points emerged, deliberated and analysed are as under:

- (i) The Appellant's Counsel (AC) reiterated the submissions made by the Appellant in the Appeal. He pleaded that the Appellant was issued a bill on 15.12.2020 for a period of 122 days from

28.07.2020 to 27.11.2020 of ₹ 13,80,930/-. The Appellant immediately filed his grievance with the Respondent but he was not heard. So, he approached the Forum and presented his case with detailed facts and figures. But he submitted that he did not get justice from the Forum. He submitted that the disputed meter was changed on 24.11.2020 and sent to ME Lab for checking on 02.02.2021, after a gap of more than 2 months. He was neither informed about the checking nor was the meter checked in his presence. The meter was found working OK in ME Lab. This finding of ME Lab is of no consequence as meter was checked in the Appellant's absence. He quoted the judgment rendered by the Punjab and Haryana High Court Chandigarh in a case RFA No.2565 of 2018 (O&M) decided on 05.12.2018 titled as Punjab State Power Corporation Ltd. & others Versus Usha Kiran, wherein the Hon'ble Punjab and Haryana High Court observed that even if the consent letter was signed by the consumer, but it was a format which was taken at the asking of the officials and it cannot be held against the consumer to get over the regulations whereby the consumer was to be given an opportunity to be present before the ME Lab. He further argued that as per Regulation 57.3 of ESIM, the meter was required to be sent to ME Lab within one week of its

replacement for checking and the checking was to be done in the presence of the Appellant, but the Respondent did not comply with the same. He prayed that the Appeal may kindly be allowed and the impugned order passed by the Forum may kindly be set aside and consequently, the impugned bill dated 15.12.2020 may kindly be set aside with directions to the Respondent that the account of the Appellant be overhauled from 28.07.2020 to the date of replacement of meter i.e. 24.11.2020 and be tentatively billed on the basis of actual consumption recorded in the corresponding period of the succeeding year, in the interest of justice. He further prayed that the Appellant may kindly be awarded compensation on account of harassment and embarrassment suffered besides mental stress and agony owing to the illegal demand raised by the Respondent, in the interest of justice.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the demand made by the Respondent was legal and valid and the order had been rightly passed by the CGRF, Ludhiana. He submitted that the Appellant challenged the working of meter by depositing requisite meter challenge fee

and the old meter was replaced with a new meter on 24.11.2020 and accordingly, bill was issued from 28.07.2020 to 27.11.2020 for 122 days, in which the consumption of old meter was 151891 units and the consumption of new meter was 147 units and thus the Appellant was liable to pay ₹ 13,80,930/-. The old meter was sent to ME Lab through Challan No. 194 dated 20.02.2021 and as per report of the ME Lab, the meter was found OK. When the meter was sent to ME Lab for checking, its reading was 322559 as declared by ME Lab. Thus, in this way nothing wrong had been done by the Respondent. There was never any technical glitch, nor there was wrong reading. The said disputed bill was of actual consumption recorded by the meter found OK in ME Lab and hence the amount was recoverable. He argued that the disputed meter was replaced and packed in the presence of the Appellant and the job order bearing the signature of the Appellant proved that the Appellant was present at the spot while replacing and packing the meter. Also, the Appellant had given his consent to check the meter at ME Lab in his absence. He further argued that the judgment quoted by the Appellant related to case of theft of energy while the present case was related to billing dispute. The averments made by the Appellant in his Appeal were totally incorrect. The

impugned order of the Forum was legal, valid and could not be set aside. The Appeal of the Appellant was prime facie, incorrect and was sure to fail. The Appeal of the Appellant was based upon baseless allegations of law and facts. Hence, it warranted dismissal with costs.

(iii) The Forum in its order dated 24.01.2022 observed as under:

“Forum observed that the bill dated 25.09.2020 was issued to the petitioner on average basis due to P-code with the consumption of 1090 KWH. Not satisfied with the bill, petitioner challenged the meter on 29.09.2020. Connection was checked vide LCR no. 24/290 dated 24.11.2020 wherein reading found was 322559 KWH. Thereafter, bill dated 15.12.2020 issued for the consumption of 147 (new meter) and 151891 (old meter) KWH units for the period of 28.07.2020 to 27.11.2020 for 122 days on ‘O’ code basis, amounted to Rs. 1380930/-. Meter of the petitioner was replaced vide MCO no. 100011059547 dated 29.09.2020 effective on 24.11.2020. The replaced meter was sent to ME Lab vide challan No. 193 dated 02.02.2021, where Meter was found OK and within accuracy limits with final reading 322559. Connection of the Petitioner was got checked vide LCR no. 16/325 dated 16.10.2021 in which connected load found was 6.5 KW.

Year	2015		2016		2017		2018		2019		2020		2021	
Month	Cons	Code	Cons	Code	Cons	Code								
Jan							635	P	1072	O	934	P	469	O
Feb			236	O	265	N								
March	1325	O			823	O	270	O	332	O				
April											441	N		
May			1038	O	935	O	1182	O	26	O				
June	865	O									25	N		
July	250	O	2259	O	1349	O	3427	O	2947	O	3268	O	4332	O
Aug														
Sept	67	O	1338	O	1163	O	2312	O	2522	P	1090	P		
Oct														
Nov			764	O	803	O	1286	O	442	O	1508013147	O MC O O		
Dec	147	O												

Forum observed that as per above consumption data, there had been multiple readings which are recorded at P code and readings as per bill available on PSPCL website were different. Few illustrations of it are as follows:-

Reading date	Reading as per SAP	Reading as per Online bill
18.09.2019	165558	192899
20.01.2020	166934	266703
23.09.2020	171758	321359

Further the reading as on 20.11.2019 is 245804 KWH as per bill delivered to Petitioner through SBM whereas as per SAP reading record reading as on 27.11.2019 was 166000 KWH. Forum observes that the readings taken at different time zones by meter reader were different from readings at site which shows that the incorrect readings were being taken by meter reader by recording less reading than actually at site leading to accumulation of readings. From 09/2020, the accumulated readings were punched leading to suspicion that meter had jumped when it actually did not have. Readings are not recorded properly by meter reader, in a way that sometimes the consumption recorded in winters is similar to consumption recorded in summer. Consumption pattern is erratic and varies from 26 units to 3400 units in bi-monthly billing. The matter needs to be investigated and suitable action needs to be taken against meter reader/concerned official who corrected P code readings in SAP without getting it actually verified from site. Forum further observes that the final reading found is 322559 in ME lab and meter has been found within the accuracy limits.

Therefore, Forum is of the opinion that the reading recorded of 322559 in ME Lab is correct, however the same be divided on equal monthly basis during the period, the disputed meter was installed at site to 24.11.2020(date of replacement of meter) as per applicable tariff time to time.

Keeping in view the above, Forum came to unanimous conclusion that the account of the petitioner be overhauled by dividing the final reading of 322559 KWH on equal monthly basis during the period, the disputed meter was installed at site to 24.11.2020 (date of replacement of meter) as per applicable tariff time to time.”

- (iv) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as

well as oral arguments of both the parties during the hearing on 20.04.2022. It is observed by this court that the decision of the Forum is not based on any regulations/ instructions of the Distribution Licensee and the Forum has erred in passing such order. The Reading Record of the Appellant's consumer account available in SAP system shows that bills were regularly being issued to the Appellant on the basis of 'O' code since 15.01.2015 with last bill issued on 'O' code on 28.07.2020 and the Respondent had failed to prove that the readings recorded by the Meter Reader during the period from 15.01.2015 to 28.07.2020 were incorrect. No action had been initiated against the Meter Reader/ Meter Reading Agency for recording incorrect readings. So, distribution of consumption over a period of time before 28.07.2020 is not correct and also not as per any regulations/ instructions.

- (v) The Appellant agrees with the readings recorded upto 28.07.2020. The reading recorded on 28.07.2020 was 170668 kWh on 'O' code. The Appellant challenged the working of the meter on 29.09.2020 by depositing requisite fee of ₹ 450/-. The meter was changed vide MCO No. 100011059547 dated 29.09.2020 effected on 24.11.2020. The Appellant pleaded that the meter was not checked in ME Lab in his presence where the

working of the meter was found OK. This Court observed that even DDL was not taken from which the reliable final reading could have been derived. Since no DDL was taken to support the final reading recorded by ME Lab, it would not be fair to consider the reading of the Meter recorded by ME Lab as correct and reliable.

- (vi) The disputed period is from 28.07.2020 to 24.11.2020 only as 'O' Code reading was recorded on 28.07.2020 which was neither challenged by the Appellant nor by the Respondent. The decision of the Forum to distribute the final reading derived at ME Lab to bills prior to 28.07.2020 is not correct and not as per Regulations of the PSERC and the Licensee as the previous settled bills issued on 'O' Code cannot be changed or modified. Also, this reading on 28.07.2020 was preceded by readings on 'P' and 'N' Codes which were cleared by the Respondent by issuing bill to the Appellant on 'O' Code on 28.07.2020.
- (vii) From above, it is clear that there is no dispute of reading of 170668 kWh as on 28.07.2020. Now if the Final reading of 322559 kWh derived at ME Lab is to be believed, then the Appellant had consumed 151891 units in 119 days from 28.07.2020 to 24.11.2020, which is very high and not possible. If calculation of consumption is done as per para-4 of

Annexure-8 of Supply Code 2014 on LDHF basis, the consumption for 119 days comes to 2159 units and even if the Factor is considered as 100% and Hours are taken as 24 hours, then also the maximum consumption for 119 days will be 21591 units.

- (viii) In view of the above, this court is not inclined to agree with the decision dated 24.01.2022 of the Forum in case no. CGL-313 of 2021. The final reading of 322559 kWh as recorded by ME Lab does not appear to be correct & cannot be considered for billing purpose. As the readings of the previous year are not reliable, as such the disputed period from 28.07.2020 to 24.11.2020 shall be overhauled on the basis of actual consumption recorded in the corresponding period of succeeding year as per Regulation 21.5.2 (d)& (e) of Supply Code-2014.
- (ix) I am not inclined to award any compensation to the Appellant on account of harassment, embarrassment, mental stress or agony.
- (x) There is violation of Standards of Performance because the meter was not replaced within 10 working days. Also, the meter was not checked within the time as mentioned in Instruction No. 57.3 of ESIM.

7. Decision

As a sequel of above discussions, the order dated 24.01.2022 of the Forum in Case No. CGL-313 of 2021 is hereby quashed.

The Account of the Appellant should be overhauled from 28.07.2020 to 24.11.2020 on the basis of actual consumption recorded in the corresponding period of succeeding year as per Regulation 21.5.2 (d) & (e) of Supply Code-2014.

8. The Appeal is disposed of accordingly.

9. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.

10. In case, the Appellant 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.

April 20, 2022
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.