

**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. 49/2022**

**Date of Registration : 20.09.2022**

**Date of Hearing : 29.09.2022**

**Date of Order : 29.09.2022**

**Before:**

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

**In the Matter of:**

M/s. K.G.Industries,  
Jalalabad.

**Contract Account Number: 3000855877 (LS)**

...Appellant

Versus

Senior Executive Engineer,  
DS Division, PSPCL,  
Jalalabad.

...Respondent

**Present For:**

Appellant: Sh. Ashok Kumar Dhawan,  
Appellant's Representative.

Respondent : Sh. Karnail Singh, Supdt.,  
O/o Senior Executive Engineer,  
DS Division, PSPCL,  
Jalalabad.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 06.09.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana in Case No. CF-96 of 2022, deciding that:

*“Forum observed that as per the rejoinder the remaining amount payable on account of threshold rebate for year 2017-18 is Rs. 109976/- which is less than Rs. 5 lac therefore, the present dispute cannot be considered in this Forum as per CC 39/2021. However Petitioner is at liberty to approach appropriate Forum for redressal of his grievance.*

*The present petition is dismissed being not maintainable.”*

## **2. Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 20.09.2022 i.e. within the period of thirty days of receipt of the decision dated 06.09.2022 of the CCGRF, Ludhiana in Case No. CF-96 of 2022. The requisite 40% of the disputed amount was not required to be deposited in this case being a refund case. Therefore, the Appeal was registered on 20.09.2022 and copy of the same was sent to the Senior Xen/ DS Division, PSPCL, Jalalabad for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 1016-18/OEP/A-49/2022 dated 20.09.2022.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 29.09.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 1022-23/OEP/A-49/2022 dated 21.09.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

### **4. 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 Representative and the Respondent along with 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 LS Category Connection, bearing Account No. 3000855877 with sanctioned load of 999.766 kW and CD as 1000 kVA running in the name of M/s K.G. Industries under DS Division, PSPCL, Jalalabad.

- (ii) The Appellant had filed a petition before the CGRF, Patiala in the month of 11/2021, which was taken on record as Case No. T-411 of 2021, but first hearing was held on 01.04.2022 and thereafter the Court of CGRF, Patiala was disbanded and the case was transferred to the Corporate CGRF, Ludhiana. The case was decided against the instructions of PSPCL as laid down vide Commercial Circular No. 39/2021, issued by the office of the Chief Engineer/Commercial, PSPCL, Patiala.
- (iii) The order of the Corporate CGRF, Ludhiana was not in order as per the criteria fixed by the Hon'ble PSERC and PSPCL rules. The case was not decided on the merits of the case and only monetary limit i.e. less than ₹ 5.00 lac was considered for disposal of the case and even the monetary limit taken was not correct as presumed by the Corporate Forum, Ludhiana.
- (iv) As per the original petition, the following issues were raised before the Forum:-
- (a) To refund/ adjust ₹ 9,06,721/- (now ₹ 1,09,976/-) on account of non-adjustment of threshold rebate for the year 2017-18.
  - (b) To refund/adjust interest as allowed/admissible under Regulation No. 35.1.3 of the Supply Code-2014.
  - (c) To update ACD for ₹ 3,87,400/-. Total ACD was ₹ 20,84,982/- instead of ₹ 16,97,582/- as per bill.

- (d) To allow the interest of ₹ 2,54,845/- against non-updated ACD amounting to ₹ 3,87,400/- as deposited as per detail attached under Regulation 17 of the Supply Code-2014.
- (e) To allow interest on interest as admissible under Regulation 17.3 of the Supply Code-2014.

Thus, total amount as detailed above was ₹ 7,52,221/- which was more than ₹ 5.00 lac.

- (v) But the Corporate Forum decided only the issue for threshold rebate for the year 2017-18, as mentioned above, and all the other issues from (b) to (e) were dropped and no hearing was allowed on the pretext that each issue was less than ₹ 5.00 lac. The action of the Forum was not as per true sense of the CC No. 39/2021, whereas limit of ₹ 5.00 lac was fixed for the whole case and not for each separate issue. Even the issue of threshold rebate for 2017-18 was not decided on merits of the issue and no speaking order was issued in this regard.
- (vi) The issues from (b) to (e), as mentioned above, were dropped without giving an opportunity of being heard and only monetary limit was considered, which was against the instructions as laid down by the Hon'ble PSERC in this regard as per Regulation 2.31 of PSERC (Forum and Ombudsman)

(2<sup>nd</sup> Amendment) Regulations, 2021 and also against the instructions of the CC No. 39/2021.

(vii) Although the Forum had exclusive right to reject any claim or accept it, but the Forum had pre-decided the case without giving any opportunity of being heard which was against the true sense of justice.

(viii) The case was decided after 9 months period, from the date of submission of grievance before the CGRF, Patiala during November-2021, which was against the prescribed time limit of 45 days as laid down vide Regulation 2.31 of PSERC (Forum and Ombudsman) Regulations 2021, reproduced as under:-

*“2.31 On receipt of the comments from the concerned officer of the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, within a period not exceeding forty five (45) days from the date of receipt of the complaint/grievance. The complaint/grievance by senior citizens, physically challenged or person suffering from serious ailments shall be disposed of on priority. However the order in case of grievance relating to non-supply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.”*

(ix) It was further added that several cases registered after November, 2021 were decided by the Forum. Meanwhile the CGRF, Patiala was disbanded which led to further delay, for which Appellant was not responsible.

- (x) The total amount of this case was not less than ₹ 5.00 lac as discussed above. Moreover when the case was initially submitted before the CGRF, Patiala; the monetary limit was not mandatory. So, the case was fully fit to be heard as an Appeal and it was humbly prayed that if this Appeal was not allowed, the Appellant was likely to suffer irreparable losses.
- (xi) It was specifically mentioned that as per Commercial Circular No. 39/2021, the criteria of amount was per case and not per issue. The instructions as mentioned above are reproduced as under:-

***“2.9.1 Corporate Forum***

(i) *The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs.5,00,000/-) in each case. Provided that the complaint /representation is made within two years from the date of cause of action.*

(ii) *Any complainant aggrieved by non-redressal of his grievance within the time period specified by the Commission or is not satisfied with the redressal of the complaint by the Zonal or Circle or Divisional Forum may himself or through his authorized representative, approach the Corporate Forum in writing for the redressal of his grievance.*

*Provided that the Corporate Forum shall entertain only those complaints against the orders of Zonal or Circle or Divisional Forum, as the case may be, where the representation is made within 2 months from the date of receipt of the orders of respective Zonal/Circle/Divisional Forum, as the case may be.*

*Provided further that the Corporate Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements.”*

- (xii) The case was decided on 06.09.2022 and the copy of order was sent through WhatsApp. However, copy sent by speed post was still awaited. Therefore, the Appeal was submitted within one month of the receipt of copy of judgment.
- (xiii) The issue regarding monetary limit had been decided in the Appeal No. A-46 of 2022 by this Hon'ble Court. The Appellant prayed to kindly accept the Appeal in the interest of justice.

**(b) Submission during hearing**

During hearing on 29.09.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same. He prayed that the case may be remanded back to Corporate Forum for hearing/ decision on merits.

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

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

- (i) The Appellant was having LS Category Connection under Mix Load Industry (Rice Mill, Saila Plant and Sortex Plant) in the name of M/S K.G. Industries, Jalalabad bearing A/C No.

3000855877 and Legacy Account No. LS-50 with load 999.766 kW and CD as 1000 kVA. This connection was running under City Sub-Division, PSPCL, Jalalabad under DS Division, PSPCL, Jalalabad.

- (ii) The Appellant filed a dispute Case No. T-411/2021 in the CGRF, Patiala for 4 issues. Out of these, 3 issues (at Sr. no.1,2,4) were less than ₹ 5 lac each, therefore since the dispute less than ₹ 5 lac cannot be considered in the Corporate Consumer Grievances Redressal Forum, Ludhiana as per CC No. 39/2021, the Corporate Forum advised the Appellant to approach Appropriate Forum.
- (iii) Only Issue No. 3 regarding less threshold rebate for the period 2017-2018 for ₹ 9,06,721/- was discussed and after hearing both the parties, the Forum decided on the basis of calculation provided by the Respondent and rejoinder given by Appellant, the disputed amount reduced to less than ₹ 5 lac i.e ₹ 1,09,976/- . Hence, the Forum rightly decided that as per the rejoinder, the remaining amount payable on account of threshold rebate for year 2017-18 was ₹ 1,09,976/- which was less than ₹ 5 lac. Therefore, the present dispute cannot be considered in the Forum as per CC No. 39/2021. However, the Appellant was at liberty to approach Appropriate Forum for redressal of its

grievance. The reply to the issues raised by the Appellant was as under:-

- (iv) **Updation of Security:-** In this regard, it was submitted that the case for updation of Security of ₹ 3,87,400/- was forwarded to AO Field, Faridkot vide Memo No. 2261 dated 22.07.2022 of AE City, Jalalabad. So after the security amount got pre audited from the office of AO/ Field, Faridkot; the same would be updated in the Appellant's account. It was further added that the Appellant had not given any request in the office of AE, City Sub Division, PSPCL, Jalalabad in this regard.
- (v) **Interest on Security:-** Interest on difference of updated security would be credited to the Appellant's account after pre audit.
- (vi) **The claim for threshold rebate for the year 2017-18:-** In this regard, it was submitted that this point was considered in the Forum, being amount more than ₹ 5 lac. But after discussion, the amount came out be less than ₹ 5 lac. Hence, this issue was also discarded by the Forum.
- (vii) **Claim for interest on threshold for the period 2017-2018:-**  
As stated above, if the basic amount/ disputed amount was not considerable, then claim for interest was also not considerable.

**(b) Submission during hearing**

During hearing on 29.09.2022, the Respondent reiterated the submissions made in the written reply to the Appeal. The representative of the Respondent did not have any objection to the proposal of remanding back the case to the Corporate Forum.

**5. Analysis and Findings**

The issue requiring adjudication is whether the decision of the Corporate Forum, to direct the Appellant to approach the Appropriate Forum as the various issues raised by the Appellant amounting to ₹ 19,86,325/- collectively in one case, but individually each dispute was of amount less than ₹ 5 Lac as the Corporate Forum can deal with monetary disputes above ₹ 5 Lac only, is tenable or not.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made in the Appeal. He pleaded that the decision of the Forum was wrong as the total disputed amount involved was ₹ 19,86,325/- which was more than ₹ 5.00 lac. He pleaded that the case was filed with the CGRF, Patiala in the month of

November, 2021 as Case No. T-411 of 2021 and as per Regulation 2.31 of PSERC (Forum and Ombudsman) Regulations, 2021, the case was to be decided within 45 days of the registration. But after holding first hearing on 01.04.2022 by the CGRF, Patiala, it was disbanded and the case was transferred to the Corporate CGRF, Ludhiana as per regulations as the amount of case was more than ₹ 5.00 lac. But out of five issues raised by the Appellant in its case, the Corporate Forum decided to hear only first issue of Threshold Rebate and dropped the other issues without giving an opportunity of being heard, on the ground that all these issues were individually less than ₹ 5.00 lac each. Later on, the Corporate Forum decided the case on 06.09.2022 on first issue of Threshold Rebate also on the same plea that as the amount of Threshold Rebate agreed by both the Appellant and the Respondent during hearing was less than ₹ 5.00 lac, so this issue also cannot be heard in the Corporate Forum. The Corporate Forum did not decide the case of the Appellant on the merits, against the Regulations of the Hon'ble PSERC and CC No. 39/2021. He pleaded that the total amount of this case was not less than ₹ 5.00 lacs and moreover, when the case was initially submitted before the CGRF, Patiala, the monetary limit was not mandatory. He pleaded that

monetary criteria mentioned in the Regulation 2.9.1 of PSERC (Forum and Ombudsman) Regulations, 2021 was per case basis and not per issue basis. He prayed that the Appeal be accepted in the interest of justice otherwise the Appellant would suffer irreparable loss.

- (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 Appellant filed a dispute Case No. T-411/2021 in the CGRF, Patiala for 4 issues. Out of these, 3 issues (at Sr. no. 1,2,4) were less than ₹ 5 lac each. As such, since the dispute less than ₹ 5 lac cannot be considered in the Corporate Consumer Grievances Redressal Forum, Ludhiana as per CC No. 39/2021, the Corporate Forum advised the Appellant to approach Appropriate Forum. Only Issue No. 3 regarding less threshold rebate for the period 2017-2018 for ₹ 9,06,721/- was discussed and after hearing both the parties, the Forum decided on the basis of calculation provided by the Respondent and rejoinder given by Appellant, the disputed amount got reduced to less than ₹ 5 lac i.e. ₹ 1,09,976/-. Hence, the Forum rightly decided that as per the rejoinder, the remaining amount payable on account of threshold rebate for year 2017-18 was

₹ 1,09,976/- which was less than ₹ 5 lac, so this issue also cannot be considered by the Corporate Forum.

- (iii) The Corporate Forum in its order dated 06.09.2022 observed as under:

*“Forum observed that as per the rejoinder the remaining amount payable on account of threshold rebate for year 2017-18 is Rs. 109976/- which is less than Rs. 5 lac therefore, the present dispute cannot be considered in this Forum as per CC 39/2021. However Petitioner is at liberty to approach appropriate Forum for redressal of his grievance.*

*The present petition is dismissed being not maintainable.”*

- (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 29.09.2022. The Corporate Forum dismissed the petition of the Appellant without going into the merits of the case. The Forum directed the Appellant to approach the Appropriate Forum as all the disputes/ issues raised by the Appellant in its case were less than ₹ 5 Lac each. Regulation 2.9 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations-2021 prescribes the limits of Monetary Complaints to be dealt by the different Forums. The Corporate Forum can directly deal with monetary disputes

above ₹ 5 Lacs as per Regulation 2.9.1 (i), reproduced as under:-

*“The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs. 5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action.”*

This Court had observed that the Monetary Limit mentioned in the Regulation 2.9.1 (i) above is on “each case” basis and not on “each issue” basis.

- (v) This Court observed that the Appellant had filed the Petition before the CGRF, Patiala mentioning the disputed amount as ₹ 19,86,325/-. After the CGRF, Patiala was disbanded; this case was transferred to the Corporate Forum as per the Monetary Limits mentioned in Regulation 2.9.1 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations-2021. So, the decision of the Forum that the disputed amount was less than ₹ 5 Lac is not correct and tenable.
- (vi) The Appellant approached the CGRF, Patiala in November, 2021 for the redressal of its grievance and the Corporate Forum, after nearly 9 months, disposed of the case and that too without going into the merits of the case, which is not desirable on the part of the Forum as the case was to be decided within a

period not exceeding 45 days from the date of receipt of complaint/ grievance as per Regulation 2.31 of PSERC (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021 which is reproduced below :

*“2.31 On receipt of the comments from the concerned officer of the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, within a period not exceeding forty five (45) days from the date of receipt of the complaint/grievance. The complaint/grievance by senior citizens physically challenged or person suffering from serious ailments shall be disposed of on priority. However the order in case of grievance relating to non-supply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.”*

(vii) The Forum should have passed a speaking/ detailed order on the issues involved in this case after giving an opportunity of hearing to both parties. Detailed deliberations were not held and due process of law was not followed in the Forum in respect of issues raised by the Appellant in the dispute case filed before the Forum. With a view to meet the ends of ultimate justice, this Court is inclined to remand back this Appeal case to the Corporate CGRF, Ludhiana for hearing, adjudicating and passing of speaking orders in respect of issues raised before this Court as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. This dispute

case is already delayed by more than 10 months. As such, the Corporate Forum may make efforts to decide the case on priority basis.

- (viii) In view of above, this Court is not inclined to agree with the decision dated 06.09.2022 of the Corporate Forum in Case No. CF-96 of 2022.

**6. Decision**

As a sequel of above discussions, the order dated 06.09.2022 of the CGRF, Ludhiana in Case No. CF-96 of 2022 is hereby quashed. The Appeal case is remanded back to Corporate Forum, Ludhiana with a direction to hear and decide this case on merits expeditiously as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time.

7. The Appeal is disposed of accordingly.
8. 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.
9. 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.

September 29, 2022  
S.A.S. Nagar (Mohali)

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

