

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

Appeal No.120 of 2020

Date of Hearing: 28.02.2020 at Chandigarh

Date of Order: 05.03.2020

Shri Shiv Kumar

....Appellant

Versus

The Chandigarh Electricity Department
and others

....Respondent

Parties present:

Appellant

1. Shri Shiv Kumar
2. Shri Naval Kishore (Representative of Sh. Shiv Kumar)

Respondent(s)

1. Shri Anil Dhamija
Executive Engineer
Electricity Department, Chandigarh
2. Shri Kirat Lal,
Sub-Divisional Officer
Electricity Department, Chandigarh
3. Shri Gurnaib Singh
Assistant Revenue Accountant
Electricity Department, Chandigarh



4. Shri Vishal Gulati,
Junior Engineer
Electricity Department, Chandigarh

CGRF

1. Shri Jagmeet Pal Singh
Lower Division Clerk
(For production of CGRF record)

Date of Order: 05.03.2020

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF Chandigarh in C.C. No.A-180/2019 dated 19.11.2019. The Appeal was admitted on 29.01.2020 as appeal No.120 of 2020. Copy of the same as received was forwarded to the respondent with a direction to file counter reply on each of the points. A copy of counter reply was supplied to the Appellant.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman as scheduled on 28.02.2020 at Chandigarh and were heard. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleadings on the matter.

(A) **Submissions by the Appellant:**

Shri Shiv Kumar , appellant had filed a complaint before the Hon'ble CGRF vide complaints C.C. No.A-180/2019 dated 29.10.2019 and the Hon'ble



Forum vide order dated 19.11.2019 has dismissed his complaint without taking into consideration the highly legitimate and strong grounds as per the following details submitted by him :--

- (i) That I am a consumer of Electricity Department bearing A/c No.208/MA41/058901R, OP SDO Manimajra.
- (ii) I was overcharged for Rs.13,260/- by the Electricity Department, Chandigarh.
- (iii) The Hon'ble Chairman, CGRF also admit that interest on the amount in question should be awarded to me, but in their order they only passed the order that the amount in question will be adjusted in future billings.
- (iv) My monthly consumption of electricity is hardly Rs.800 to Rs.1000. This way I have to suffer for another one year to take my money back that to without any fault of mine.
- (v) To pass such necessary order for return Rs.13,260/- plus 18% interest in single installment alongwith Rs.10,000/- as penalty for mental harassment.

(B) **Submissions by the Respondents :**

- (i) As per JERC Regulation licensee is always under obligation to correct any bill disputed by the consumer in a reasonable time period. Further, consumer is at liberty to take up the matter before CGRF, in case, dispute is not settled within reasonable time period. However, in instant



case, consumer has raised the dispute on 08.08.2019 only after making payment on 05.08.2019 as intimated by the dealing officer i.e. O/o SDO, Electricity OP Sub Division No.8, UT Chandigarh.

This clearly indicates that the consumer has willfully created the dispute. Hence, it is prayed that the appeal filed by the appellant be out rightly dismissed with cost.

- (ii) The electricity connection bearing A/C No. 208/MA41/058901R is running in the name of Sh. Shiv Kumar in House No. 8/4, PipliWala Town, Manimajra, UT, Chandigarh. While securitized the consumer ledger regarding recovery of defaulting amount of old PDCO case than an amount Rs. 13260/- has been transferred inadvertently to consumer A/C No. 208/MA41/058901R. The consumer deposited the bill on 05.08.2019 alongwith sundry charges. Shri Shiv Kumar submitted application for refund of Rs.13260/- as sundry charges on dated 09.08.2019 and 16.09.2019. This office has withdrawn Rs.13260/- vide Sundry Item No.73/109 dated 05.11.2019 in billing Cycle 05 Group 04 and the same appeared in the Ledger for the period 18.08.2019 to 18.10.2019 issued on 10.12.2019 due to late issue of ledger by NIELIT. In the mean time consumer also represented before the Hon'ble CGRF on 29.10.2019.
- (iii) Since grievance of the consumer was already redressed, therefore, Hon'ble CGRF decided the case as disposed of vide its order dated 19.11.2019.



(C) CGRF Order dated 19.11.2019, preferred for Appeal:

Consumer Grievances Redressal Forum, Chandigarh vide its order dated 19.11.2019 has decided as under:-

“

1. OBSERVATIONS:

The hearing in the case was fixed for 18.11.2019. The CED had given in writing that they have withdrawn the demand of Rs.13,260/- which was charged from the consumer wrongly. CED warned to be careful in future.

2. ORDER:

a. The Complaint is disposed of with above observations and directions.

”

(D) Deliberations during hearing at Chandigarh :

1. **Appellant submission:**

a. The appellant was asked to explain why he has not submitted the application in Annexure-IV and why the copy of Registered Sale/Purchase Deed as requested vide this Office email dated



24.12.2019 and letter No. JERC (EO) 2(1)2019/1151 dated 26.12.2019, letter number JERC/EO/35/12 dated-17/01/2020, email dated-20/01/2020 and letter number JERC/EO/35/20 dated-29/01/2020 was not submitted. However, the appellant could not reply satisfactorily.

- b. Accordingly the Declaration as required as per Sr. No.-12 of the Annexure-IV was got signed in hearing which confirms that no Court Case is pending. The appellant also submitted an application that he was being represented by his son Shri Naval Kishore.
- c. The representative of the appellant, Shri Naval Kishore reiterated his version as submitted in the appeal and requested to refund the amount of Rs.13,260/- along with 18% interest.

2. Respondent submission:

- a. The respondent reiterated their version as submitted in counter reply to the appeal and requested to dismiss the appeal.
- b. The respondent further submitted the copy of following documents as directed by this office letter No.: JERC/EO/35/20 dated-29/01/2020 :--
 - i. Application and Agreement forms applied by Shri Shiv Kumar for change of name on 26.06.2013.



- ii. Copy of the Ration Card No.76899/52150 dated 16.10.2012 issued by Chandigarh Administration in name of Shri Shiv Kumar S/o Shri Rameshwar Gupta H.No. 8/4, Bank Colony, PWT, Manimajra.
- iii. Copy of Electricity bill dated 21.05.2013 in the name of Shri Budh Ram House No.00084, Town, having old account No.MA41/058900Q, new account No.208/MA41/058900Q. This bill was issued on average basis and the meter No. CHB190243 was shown defective.
- iv. Copy of affidavit dated 20.06.2013 signed by Shri Shiv Kumar S/o Rameshwar Gupta, House No.8/4, Bank Colony, PWT, Manimajra.
- v. Copy of Sale Deed executed on 03.01.2011 in respect of House No.8/4, Bank Colony, PWT, Manimajra between Shri Budh Ram S/o Assa Ram and others and Shri Shiv Kumar S/o Shri Rameshwar Gupta and others.
- vi. No Objection Certificate by Shri Kamal Kishore, Vimal Kishore, Naval Kishore stating that they have no objection in changing the name of Electricity Connection from Sh. Budh Ram to the name of their father Shri Shiv Kumar.
- vii. It was confirmed by Electricity Department, Chandigarh that no NOC was issued to the Appellant in 2013.



(E) **Analysis & Observations:-**

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions have been provided under Clause 6.2 of Electricity Supply Code Regulation, 2010 notified by the Joint Electricity Regulatory Commission :-

6.2 Transfer of Connection and Mutation of Names

(1) A connection shall be transferred in the name of another person upon the death of the consumer or in case of transfer of ownership or occupancy of the premises, upon an application of the consumer.

(2) Application for mutation shall be filed, along with prescribed fee by the transferee or the legal heir or successor of the deceased consumer with the local office of the Licensee.

(3) The application shall be accompanied by documentary evidence of transfer or legal hire ship or succession and proof of no arrears on account of electricity charges on that connection.

(4) The Licensee shall decide the mutation case within the time limit specified in the Standards of Performance of Distribution Licensee Regulation.

(5) If the mutation application is to be disallowed and is refused the orders shall be pass only by a speaking order after the applicant has been given an opportunity to represent himself, Provided



further, that in case where mutation is not allowed, the transferee seeking the transfer, may agree to continue the connection in the old name (but not in case of consumer's death), or may have choice to seek permanent disconnection and apply for new connection.

(6) The transferee or the legal heir shall submit a fresh agreement, in the prescribed format, along with outstanding dues, if any, within 14 Days of receipt of intimation. The transfer shall be affected and a copy of the agreement shall be sent to the consumer within 7 Days after receipt of fresh agreement.

(7).....

(8)

3. An affidavit was submitted by Shri Shiv Kumar while submitting application for change of name and the contents are reproduced below:-

AFFIDAVIT

I, Shiv Kumar Son of Shri Rameshwar R/o H.No. 8/4 Bank Colony, Manimajra Chandigarh declare as under:-

1. That the above said house has been transferred in my name.
2. That now I want to transfer the electricity meter in my name as the said house has been transfer in my name.



3. That I will use the said meter only for domestic use and not for any commercial use.
4. That in case any pending dues found against the said electricity meter than i will deposit the same with interest.
5. That I will abide by terms and conditions of Deptt's concerned.

Sd/-

DEPONENT

Verified that the above statement of mine is true and nothing has been concealed therein.

Sd/-

DEPONENT

20th June, 2013

4. Following provisions has been provided in Sales Deed executed between Shri Budh Ram and others and Shri Shiv Kumar & others:-

3. That the property under Sale as fully described above is free from all sorts of encumbrances till date of any such liability till date shall be found due, then the said vendors shall be liable to clear up the same with his own funds.

5. The Appellant confirmed that they have only paid the last bill in the name of Shri Budh Ram and had not asked for any outstanding dues while applying for change of name in 2013.



6. Electricity Department, Chandigarh on being asked to furnished the details of Rs.13,260/-, could not reply regarding the basis of billing and period of billing . They also confirmed that no notice was served to the appellant regarding details of Rs.13,260/- and further also confirmed that the charged amount has not been got audited from the Internal Auditors of the Electricity Department. Therefore the authenticity of the charged amount of Rs.13,260/- cannot be vouched and cannot be recovered without giving fair opportunity to the appellant .
7. A perusal of the documents supplied by the appellant while requesting the change of name of Electricity Connection from the name of Shri Budh Ram to the name of Shri Shiv Kumar , it has been proved on record that before change of name and installation of new meter on 05.08.2013 vide Service Connection Order book No.123/021 dated 04.07.2013, Shri Shiv Kumar had purchased the premises # 8/4, Manimajra on 03.01.2011, as per Sale Deed and was occupying/ residing there since then, as is evident from the ration card issued on 16.08.2012 by Chandigarh Administration . Though the house was purchased on 03.01.2011, Shri Shiv Kumar got the name of electricity connection changed in his name on 05.08.2013 i.e. after around two and half years.

Therefore, it is clearly documented that for any outstanding dues in this premises from 03.01.2011 to 05.08.2013, the same is liable to be recovered from Sh. Shiv Kumar in view of his affidavit dated- 20/06/2013 and Supply Code Regulations.



8. The action of the Electricity Department, Chandigarh, by first charging the amount of the Rs.13,260/- without proper verification/ audit and thereafter withdrawing the same without proper examination is highly deplorable.

The same office (SDO) first charge the amount and then withdrawn the charged amount , without any supervision at the level of next supervising authority .Even the reply before the CGRF was filled /defended by the same (SDO) office leading to miscarriage of justice , Transparency and non recovery of pending Govt. dues ..

DECISION: -

1. In view of the above analysis, the order passed by Hon'ble CGRF, Chandigarh dated 19.11.2019 is hereby set aside.
2. The Electricity Department, Chandigarh is directed to examine the basis of billing and period of billing of the charged amount of Rs.13,260/-and get the same audited .
3. If audited amount pertains to the period from 03.01.2011 to 05.08.2013 the same is required to be recovered from Shri Shiv Kumar and if the audited amount pertains to period prior to 03.01.2011, the same is required to be recovered from Shri Budh Ram, the earlier owner of the premises # 8/4, Manimajra, in view of the Sale Deed executed.



4. A separate notice for recovery of outstanding dues (if any) with details/basis of billing should be issued to the respective consumer/defaulters as required and further action for the recovery be taken as per Rules/Regulations.
5. The amount of Rs.13,260/- should be refunded in one go, through cheque/bank transfer, to the appellant with interest at the Bank rate declared by Reserve Bank of India prevailing on the 1st April for the year, payable annually with effect from the date of deposit/payment with the Electricity Department .
6. The licensee/ respondent shall duly comply with and implement the decision of the Ombudsman within 15 days of the issuance of the Order and a compliance report be submitted to the Electricity Ombudsman within 30 days positively.
7. Non-compliance of the Ombudsman's orders by the Licensee shall be deemed to be a violation of JERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 and shall be liable for appropriate action by the Commission under the provisions of the Act.

The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 05.03.2020

