

कार्यालय विद्युत लोकपाल  
(गोवा राज्य और संघ राज्य क्षेत्र)  
Office of the Electricity Ombudsman  
(For the State of Goa and Union Territories)  
विद्युत अधिनियम, 2003 की धारा 42(6) के तहत  
Under Section 42 (6) of the Electricity Act, 2003

Appeal No.127 of 2020

Date of Video Conferencing : 01.10.2020

Date of Order: 05.10.2020

Shri .T.R.Sharma  
Chandigarh

....Appellant

**Versus**

The Superintending Engineer,  
Electricity Department, Chandigarh  
and others

....Respondent

**Parties present:**

**Appellant**

1. Shri T.R.Sharma --Appellant
2. Shri Sahaj Punj – Appellant's Grand Son

**Respondent(s)**

1. Shri Anil Dhamija  
Executive Engineer
2. Shri Surinder Kumar  
Assistant Executive Engineer



**Date of Order: 05.10.2020**

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF, Chandigarh in C.C. No.-B-16/2020 dated 24.07.2020. The Appeal was admitted on 24.08.2020 as appeal No.127 of 2020. Copy of the same as received was forwarded to the respondent with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant.

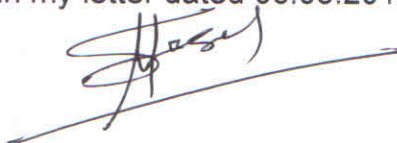
(A) **Submissions by the Appellant:**

**Appellant submitted the brief facts as under:-**

**1. FACTS OF THE CASE**

Sh. TR Sharma, R/o Chandigarh has filed a complaint that in the bill no 017750 dated-26.02.2019, a sum of Rs. 15023/- as Sundry charges pertaining to the YEAR 2017 along with routine bill for the period 25.11.2018 to 25.01 2019, against Account No. 307/3344/1261-00R , total amounting to Rs. 17358/- ( 15023+2335) had been billed/issued and the same was paid by him under protest. Thereafter he approached to the concerned department and questioned there about high amount of sundry charges pertaining to the year 2017 and he got no satisfactory reply. He also filed a complaint before SDO office on 08.03.2019 and he got reply for the same vide memo no. 1554 dated 14.03.2019. In response to the mentioned memo he wrote a letter on dated 19.03.2019 and 18.11.2019, wherein he asked to refund Rs.15023/-. The SDO office replied to his letters vide memo 6823 dated-29.11.2019 , but Appellant was not satisfied with the reply .Therefore he filed a complaint before CGRF , who passed the order dated-24.07.2020 but he was not satisfied with CGRF order on following grounds, hence this Appeal to Hon'ble Ombudsman:-

- (i) The Chairman and the members have arbitrarily taken as granted that I am guilty for the consumption of electricity and have only concentrated on the duration of period of penalty.
- (ii) They have not taken into account the explanation of NO consumption during the period as mentioned in my letter dated 08.03.2019



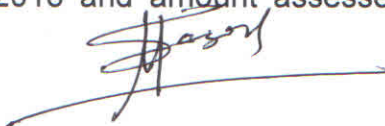
- (iii) Furthermore there is no reference of any show cause notice given to me as explained during my representation before the forum
- (iv) Electricity Deptt. is bound to provide Serviceable electric meter and its periodical Check this fact has been ignored by the forum.
- (v) My voluntarily disclosure of dead meter has become cause of penalty to me.
- (vi) They have failed to allow refund of Sundry Charges levied on me due to the above mentioned lapses on the part of department.
- (vii) He has requested for following reliefs:-

- a) Refund of sundry charges of Rs.15,023/- since I have not consumed electricity as stated in my letter dated 08.03.2019.
- b) Compensation of mental & physical harassment to a Senior Citizen age 84 years.

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

Sh.Anil Dhamija, Executive Engineer, on behalf of Superintending Engineer/Electricity Department, submitted the following counter reply :-

1. That there are 04 nos. electricity connections are existing in the name of Sh.T.R. Sharma bearing Account No.307/3344/126100K, 307/3344/126102Q, 307/3344/1261 and 307/3344/126103R. The sanctioned loads of the said connections are 1.640 KW, 1.750 KW, 3.880 KW and 3.880 KW respectively under domestic category.
2. That consumer submitted an application to this office on dated 15.09.2017 that his electricity meter has gone dead. As per his application, the official of this office visited the premises in question to check the meter and he reported that meter is dead stop.
3. That due to the meter dead stop from 25.01.2017 and consumer's account has been overhauled and average charged w.e.f. 25.01.2017 to 26.09.2017 @ 382 units per month on the basis of future corresponding month 25.01.2018 to 25.09.2018 and amount assessed of Rs.15,023/-. The said



assessment had been reflected in the bill which was issued on dated 26.02.2019 and the same has been deposited by the consumer.

4. That consumption data along with copy of MCO is attached herewith please.
5. That Sh. T.R. Sharma (complainant) aggrieved from the action of this office has filed a complaint No. B-16/2020 dated 04.03.2020 before the Hon'ble CGRF. The Hon'ble CGRF vide order dated 10.06.2020 that the account of the consumer (as per clause 7.12 of JERC Supply code) be overhauled for 03 months w.e.f. March to May 2017 on the basis of monthly consumption of corresponding months of previous year i.e. March to May 2016. Further the Hon'ble CGRF ordered that as per billing data, it is also clear that meter recorded less consumption, being slow w.e.f. 9/2016. So account of consumer is also to be overhauled as per clause 7.5(2)(ii) of Supply code 2010 from 9/2016 to 2/2017 on the basis monthly consumption of corresponding months of previous year i.e. 9/2015 to 2/2016.
6. The order dated 10.06.2020 issued by the Hon'ble CGRF is under implementation as per departmental process. In the meantime the complainant/Appellant filed an appeal before the office of Hon'ble Electricity Ombudsman aggrieved from the orders issued by the Hon'ble CGRF.
7. That the average charged @ 384 units per month for the period 25.01.2017 to 26.09.2017 for which the energy meter of the consumer remained dead stop as per Indian Electricity Act 2003, section 56.

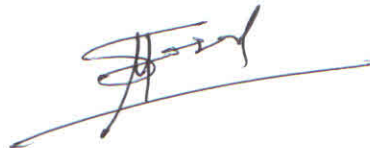
It is, therefore respectfully prayed that in view of the position stated above, the average is charged by this office is correct , hence the appeal may kindly be dismissed in the interest of justice.

(C) CGRF, Chandigarh ,Order dated 24.07.2020 , preferred for Appeal:

“

ORDER

Hearing:-



3. The hearing in the case was fixed for 09.06.2020, when both the parties were present. As per record supplied by CED, meter of consumer got dead w.e.f. 09/16, so as per Electricity Act, a consumer cannot be charged beyond 2 years. So the Forum decided that the account of the consumer (as per clause no 7.12 of JERC Supply Code) should be overhauled for three months w.e.f. March to May 2017. On the basis of monthly consumption of corresponding months of previous year i.e. March to May 2016.
4. As per billing data, it is also clear that meter recorded less consumption, being slow w.e.f. 09/16. So account of consumer is also to be overhauled as per clause no. 7.5 (2) (ii) of Supply Code 2010. From 09/16 to 02/17 as per monthly consumption of corresponding months of previous year i.e. 09/15 to 02/16.

**Decision:**

5. The complaint is disposed as per above observations.

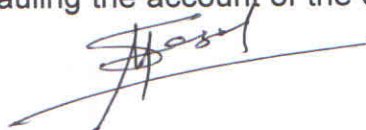
"The Complainant, if aggrieved, by non-redressal of his grievance by the Forum may make a representation/appeal against this order, before the Electricity Ombudsman for JERC for the State of Goa and UTS, "Vanijya Nikunj". HSIIDC Office Complex (2nd Floor). Udyog Vihar, Phase.V. Gurgaon- 122016 (Haryana) Phone No.0124-2340954, Mob. 09871588333, E-mail id ombudsmanjero@gmail.com within one month from the date of receipt of this order"

6. A copy of this order be placed on the main file for record. One copy be sent to the office of XEN being the Nodal Officer with a copy to the consumer for compliance wherever required. File be consigned to the record room after having it properly numbered and indexed.

7. **Dissenting note as per J.S. Sidhu, Nominated Member.**

The present orders signed by the Hon'ble Chairman and Member came before me for my consent however with due respect and utmost humbleness I prefer to differ with the above orders to the extent of the period of assessment chosen by the Hon'ble members for the purpose of overhauling the account of the consumer.

The majority order as per para no. 03 & 04 above has directed to different assessments firstly overhauling the account of the consumer w.e.f 03/17 to 05/17 as



per clause no. 7.12 of JERC Supply code 2018 and secondly overhauling the account from 09/16 to 02/17 as per clause no. 7.5 (2) (ii) of JERC, Supply Code 2010. Meaning thereby the account of the consumer will be overhauled for a period of 08 months, which is against the Regulation 07.12 of JERC Supply Code 2018, Reproduced as under:-

### **Regulation 7.12 of JERC Supply Code 2018**

#### Billing in case of defective/stuck/stopped/burnt meter

“7.12. In case of defective/stuck/stopped/burnt meter the consumer shall be billed on the bases of higher of monthly consumption of corresponding month of the previous year and average monthly consumption of immediately preceding three months. These charges shall be leviable for a maximum period of three months only, during which time the licensee is expected to have replaced the defective meter”

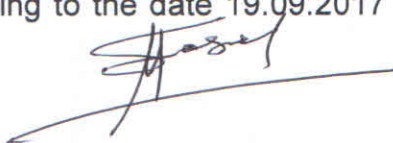
8. Furthermore in terms of the Regulation 1.5 of JERC Supply Code 2018, reproduced as under:-

“The provisions of the supply of Code, 2018 shall be read in conjunction with the Regulations made under the Joint Electricity Regulatory Commission for the state of Goa and UT's (Standard of Performance of distribution Licensee) Regulation 2015 and other relevant regulations and Codes notified by the commission for the State of Goa and UT's and as amended from time to time:

Provided that in case the timelines and other conditions specified in Supply Code 2018 are in variation with Joint Electricity Regulatory Commission for the State of Goa and UT's (Standard of Performance of distribution Licensee) Regulation 2015 (SOP Regulations), the timelines and other conditions as specified in this Supply Code shall prevail and such timelines and other conditions shall be deemed to have been replaced in the existing SOP Regulations.”

The period of assessment cannot exceed the three months duration as specified in Regulation in 07.12 of JERC Regulations 2018 mentioned above.

9. Therefore, the account of the consumer should only be overhauled for the period of three months preceding to the date 19.09.2017 when the MCO was effected,



upto 19.06.2017, on the basis of corresponding period of the previous year i.e. 19.06.2016 to 19.09.2016.

10. It is important to quote here that the MCO dated 19.09.2017 was effected on 28.09.2017, whereas the account of the consumer was overhauled in the month of November 2019, after a period of 26 months, for the reasons best to the CED.
11. Though the majority order of the Hon'ble Chairman and Member is very much Enforceable against the consumer therefore the only remedy with the consumer lies in his right to appeal before the Hon'ble Ombudsman as per Para no.05 above, in case he agrees with this dissenting note

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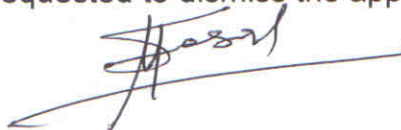
(D) **Deliberations during Video hearing on 01.10.2020:**

1. **Appellant's Submission:**

- a. The Appellant reiterated his version as submitted in appeal.
- b. Shri T.R.Sharma, Appellant, submitted that no notice/show cause was given by the Electricity Department before charging Rs.15023/- and thereafter also no satisfactory reply was given for charging the sundry charges of year 2017.
- c. On being asked to clarify if any document such as rent deed, Income Tax Return, water/gas bills or any document which he thinks relevant to prove the premise to be vacant was supplied. He replied in negative. However he added that the premises are being used by his family. His one son is in Army and other in Media house and they often are on tour/travel and they use the premise as and when needed.

2. **Respondent's Submission:**

- a. The Respondents reiterated their version as submitted in reply to the appeal and requested to dismiss the appeal.



- b. On being asked, if there are any Rules/instructions that before charging sundry charge any Notice/Show cause is required to be given to the consumer ,Sh. Anil Dhamija Executive Engineer admitted that there are instructions and SDO office should have issued the notice before charging the sundry charges .
- c. On being asked, to quote any provision/Rule/judgement which allow them to charge any amount after a period of 2 years , the respondents have no answer .

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

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission:-

**(i) *Section 6.16:-***

*“ 6.16 The consumer shall be responsible for safe custody of meter(s), MCB/CB, etc., if the same are installed within the consumer’s premises. The consumer shall promptly notify the Licensee about any fault, accident or problem noticed with the meter.*

**(ii) *Section 6.35:-***

*“ 6.35 A consumer may request the Licensee to test the meter on his premises if the consumer doubts its accuracy, by applying to the Licensee in the format given in Annexure X to this Supply Code, 2018, along with the requisite testing fee. On receipt of such request, the Licensee shall follow the procedure as detailed in Regulations to of this Supply Code, 2018. ”*

**(iii) *Section 7.40:-***

*“ Recovery of Arrears*





7.40 No sum due from any consumer, on account of default in payment shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied.

Further, dues of any consumer (if any) pending for a period more than 6 months can be transferred to another installation of the same consumer after thorough verification by the Licensee, i.e., proof that the both consumers are same.”

(iv) **Section 7.12**

“Billing in case of defective/stuck/stopped/burnt meter

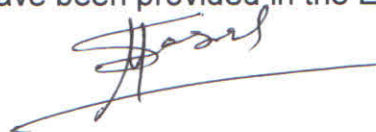
7.12. In case of defective/stuck/stopped/burnt meter the consumer shall be billed on the bases of higher of monthly consumption of corresponding month of the previous year and average monthly consumption of immediately preceding three months. These charges shall be leviable for a maximum period of three months only, during which time the licensee is expected to have replaced the defective meter ”

(v) **Section-10.13**

“Repeal and Savings

10.13. Save as otherwise provided in this Supply Code, 2018, JERC (Electricity Supply Code) Regulations, 2010 together with amendments made from time to time, are hereby repealed.”

3. The Appellant requested the Electricity Department on 15.09.2017 for checking/replacement of defective meter, which was checked and found to be defective and replaced on 26.09.2017.
4. Following provisions have been provided in the Electricity Act, 2003:-



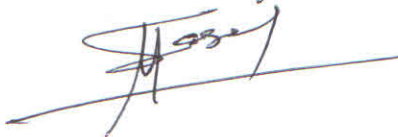
**Section-56**

“ *Disconnection of Supply in default of payment:*

*Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:*

*Provided that the supply of electricity shall not be cut off if such person deposits, under protest, an amount equal to the sum claimed from him, or the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, Whichever is less, pending disposal of any dispute between him and the licensee.*

*Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due, unless such sum has been shown continuously as recoverable as arrear of charges*

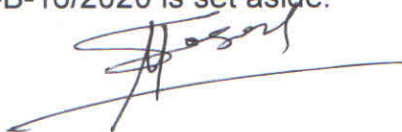
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*for electricity supplied and the licensee shall not cut off the supply of the electricity.”*

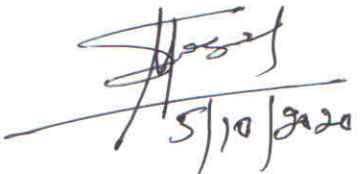
5. Hon'ble Supreme Court in a recent judgement dated- 18.02.2020, in Civil Appeal No.1672 of 2020 titled Assistant Engineer (D1),Ajmer Vidyut Vitran Nigam Limited & Anr. Vs Rahamatullah Khan, has held that the liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer. The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period.
6. The First due/Bill for sundry charges was issued by the Respondents on 26.02.2019 for Rs.15023/- for the average charged @ 384 units per month for the period 25.01.2017 to 26.09.2017 for which the energy meter of the consumer remained dead stop. , whereas in view of provisions of Section 56(2) of Electricity Act-2003 and Section 7.40 of Supply Code Regulations-2018 and the dictum of Hon'ble Supreme Court as above, the Respondents are not entitled to charge any 'Dues' beyond a period of 2 years. Therefore Respondents are barred by their own inactions to charge any 'Dues" from the Appellant beyond two years i.e. before 26.02.2017 in the present case .
7. From the above findings, it is clear that Appellant has fulfilled his obligation after a period of about 8 months , as per section 6.16 and 6.45 of Supply Code Regulations-2018. However he has never informed regarding vacancy of premise or less/no consumption of electricity during the disputed period and no any relevant document was submitted to substantiate his pleadings
8. Hon'ble CGRF, Chandigarh has erred in applying the provisions of clause no- 7.5(2)(ii) of Supply Code Regulations-2010 in their order whereas the same stand repealed by Hon'ble Commission by Electricity Supply Code Regulations-2018 vide notification dated-26.11.2018.

**(F) DECISION**

- (i) For the reasons discussed above, the appeal of the Appellant is allowed with no order as to costs . The order passed by Hon'ble CGRF Chandigarh, dated -24/07/2020 in CC No-B-16/2020 is set aside.



- (ii) The Electricity Department/Licensee is directed to charge the average for the defective period as per section 7.12 of Supply Code Regulations-2018 . Since the defective meter was replaced on 26.09.2017 , the average be charged for three months i.e. from 26.06.2017 to 26.09.2017.
- (iii) Since the Appellant has already paid Rs.15023/- on account of sundry charges , the excess amount be refunded and adjusted within 15 days, through Electricity Bill of 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 .
- (iv) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (v) The Electricity Department/Licensee should submit a compliance report to the office of Ombudsman on the action taken in this regard within 15 days of the issuance of this Order.
- (vi) Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
- (vii) The appeal is disposed of accordingly.



5/10/2020

(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 05.10.2020