

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, Udyog Vihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.145 of 2021

Date of Video Conferencing: 02.09.2021

Date of Order: 03.09.2021

Shri Vinod Kumar
Chandigarh

.... Appellant

Versus

The Superintending Engineer,
Electricity Department,
Chandigarh and others

.... Respondents

Parties present:

Appellant(s)

1. Shri Vinod Kumar

Respondent(s)

1. Shri Pawan Kumar Sharma
Executive Engineer
2. Shri Madan Mohan
Assistant Executive Engineer



Date of Order: 03.09.2021

The Appellant has preferred an Appeal against the order of the Learned CGRF- Chandigarh in order no.- CC -53/2021 dated-30.06.2021. The Appeal was admitted on 21.07.2021 as Appeal No.145 of 2021. Copy of the same as received was forwarded to the respondents with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant. The Appellant has filed the Rejoinder and a copy of the same was supplied to the Respondents.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 02.09.2021 and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. FACTS OF THE CASE

- (i) In brief, the Appellant submitted that the energy meter no. CHSE-124123 was replaced with smart meter bearing no. CH1S-005690 for A/c no: 20529470474A2Y and Respondents submitted inflated/excessive bill for 615 units for billing circle period 07.01.2021 to 07.03.2021. The meter reading on dated 09.01.2021 was 12543 KWH but meter reading noted by the department was 12566 KWH as on 07.01.2021.
- (ii) As per record of Electricity department- Chandigarh, meter reading on dated 07.05.2021 was 334 KWH and Total unit 402 KWH (Including 69 KWH previous cycle adjustment) that was noted by the department which was not correct because actual Meter reading was 235 KWH as on 05.05.2021. The department is showing higher reading on bill dated 27.06.2021 for billing circle 07.03.21 to 07.05.21.
- (iii) The Learned CGRF/Respondents have completely ignored the 1 Year consumption record from 07.01.2020 to 07.01.2021 and current consumption from 07.03.2021 to 07.07.2021, which clearly shows that consumption was not correct for billing period cycle from 07.01.2021 to 07.03.2021.
- (iv) As per consumption chart before and after the complaint period, meter showed average consumption of 180-200 units per billing cycle, which have been ignored.
- (v) He subsequently clarified that though connection is in the name of previous allottee Sh. Ajay Pal, but he is residing with his mother for the past 2 years and after demise of his mother the premise has been allowed to be retained up to 31.10.2021 vide Ordnance Factory, Chandigarh letter dated-17.11.2020.
- (vi) He has prayed for correction of consumption units for the billing period from 07.01.2021 to 07.03.2021 and subsequently also requested that he may not be charged surcharge till the dispute is resolved.



(B) Submissions by the Respondents:

Shri Pawan Kumar Sharma, Executive Engineer on behalf Respondents/Electricity Department- Chandigarh, submitted the counter reply as under: -

Preliminary Objections: -

1. That the electricity connection of H. No. 474-A, Sector 29-A, Chandigarh running in the name of Sh. Ajay Kumar bearing A/c No. 205/2947/0474A2Y with sanctioned load 0.36 KW under the domestic category.
2. That the appellant Sh. Vinod Kumar, House No. 474A, Sector 29A, Chandigarh is not a consumer of the Chandigarh Electricity Department. Hence the present appeal is liable to be dismissed on this ground. The appellant is not covered under the definition of complainant/consumer as per clause 3(d) of JERC (Consumer Grievances Redressal Forum & Ombudsman) Regulation 2019.

On Merits: -

1. That the electricity billing of A/ c No. 205/2947/0474A2Y for the period 07.01.2021 to 07.03.2021 was issued on actual meter reading i.e. new reading 13181 units, old reading 12566 units, consumption = 615 units amounting to Rs. 2526/- which was challenged by the appellant taking the plea of excess bill.
2. That the energy meter no. CHSE-124123 was replaced with smart meter No. CH1S-005690 vide MCO No. 51A/205 dated 29.08.2020, effected on 01.04.2021 showing the final meter reading 13250 units and working in order.
3. That the energy meter no. CHSE-124123 has also been rechecked from the M&P laboratory, UT, Chandigarh by the concerned AEE and showing the meter reading 13253 units.
4. That appellant had also lodged the complaint with Hon'ble CGRF, UT, Chandigarh vide Complaint No. C-53/2021 on dated 15.06.2021 in which he claimed that at the time of meter replacement the reading noted by the staff of CED was not confirmed to him and so raised excess amount of bill. The office of the AEE, Electy. 'OP' Sub Division No. 5 had filed the detailed reply with the Hon'ble CGRF, UT, Chandigarh submitting that the official of his office/agency always confirm the meter reading and append the signature of the consumer on MCO. Inadvertently, in this case the meter reading was not confirmed to the consumer and the concerned AEE further directed the officials to always confirm the meter reading and append the signature of the consumer on the MCO. With regard to excess billing, as per consumption pattern, there is no variation in consumption/billing amount. Hence, the plea taken by the complainant regarding the excess billing is not justified. The forum observed that the billing made by the CED is correct and chargeable.
5. That to the compliance the ADMISSION NOTICE dated 27.07.2021 (point no.3), the appellant was requested by the concerned AEE vide his office memo no. 5066 dated 30.07.2021 to visit in his office on dated 03.08.2021 at 10:30 AM to settle the representation through mutual agreement within 10 days and deposit 1/3 of outstanding amount as on 21.07.2021. The appellant visited in the office of the concerned AEE on dated 03.08.2021 at 10:30 AM, but did not meet him. Thereafter, he filed an email complaint on dated 03.08.2021 regarding he waited approximately for an hour to attend a meeting of mutual understanding, but no response was



received from the concerned person. The office of the concerned AEE had again requested the appellant to attend the office on dated 04.08.2021 at 10:30 AM. He visited in his office on dated 04.08.2021 at 10:30 AM and matter was discussed in detail, but no mutual understanding on the issue was achieved.

6. That the consumption pattern for the period 07.01.2019 to 07.05.2021 of A/c No. 205/2947/0474A2Y is enclosed herewith. (now revised upto 25.08.2021).
7. That there is no variation in consumption/billing amount of the above said account number. In view of the above, it is respectfully prayed that the appeal of the appellant may please be dismissed having no merits.

(C) CGRF- Chandigarh Order in CC-53/2021 dated 30/06/2021 , preferred for Appeal:

- (i) Ld. CGRF-Chandigarh, has passed the following order in the complaint no-53/2021: -

Order.

“

Contention of the complainant

1. Sh. Vinod Kumar, House No. 474, Sector 29-A, Chandigarh, vide his email dated 15.06.2021 has filed a complaint that at time of meter replacement that reading noted by their staff not correct, because CED staff not confirm meter reading with him at time of meter replacement if meter reading confirm by this Forum then provide confirmation signature of User at time of meter replacement. As per old usage attached invoice reading not correct, CED has shown excess reading in their records after meter replacement and raised Excess amount of bill and then how can trust and confirm reading are correct. As per CED knowledge, when meter was being replaced, then their responsibility to take meter reading confirmation by user with signature, but their staff not perform his duty properly and done excess reading of bill through meter replacement. Because user can't prove meter reading are correct or not correct after old meter replacement without user confirmation and their responsible staff have taken benefit through meter replacement. He requested to take necessary action.

Submissions of the CED

2. Comment/reply was called from CED who vide their memo no.3005 dated 29.06.2021 has filed their reply that electricity connection of House No. 474-A, Sector 29-A, bearing A/c No. 2055/29470474A2Y in running in the name of Sh. Ajay Kumar, under domestic category with Sanctioned Load 0.36 KW. The pilot project of smart meter is running and existing energy meters are replaced. Hence the energy meter No. CHSE-124123 of above said premises has been replaced vide MCO No. 51A/205 dated 29.08.2020 effected on 01.04.2021 with final meter reading 13250 with single smart meter no. CHIS-005690 and advice of final reading was sent to computer and reflect in the next billing cycle. That official of their office/agency so replace the meter always confirm the meter reading and append the signature of the consumer on MCO, inadvertently, in this case the meter reading was not confirmed to the consumer and further directed to the concerned official for the same. That with regard to excess billing, as per consumption pattern, there is no variation in consumption/billing amount hence the plea taken by the complainant regarding excess billing is not justified.



Proceedings of Hearing/ Decision.

3. The hearing in the case was fixed for 30.06.2021. Both the parties were heard. The Forum observes that the bill made by the CED is correct and chargeable.

Decision

4. The case is closed with above observation and directions.”

(D) Deliberations during Video hearing on 02.09.2021:

Appellant's Submission:

- a. Shri Vinod Kumar-Appellant, reiterated his version as submitted in the Appeal and Rejoinder.
- b. He further submitted that he was not shown the reading 13250 of removed meter and the Respondents deliberated increased the reading to 13250 after his complaint.
- c. He contested that his consumption of 615 units for the billing of January to March ,2021 is very excessive and as per past record his average consumption range from 180-200 units for two months.
- d. On being asked if he has locked the meter, he stated that being Govt. quarter the meters for two houses are in the same meter box so cannot be locked.

Respondent's Submission:

- a. Sh. Pawan Kumar -Executive Engineer, reiterated his version as submitted in reply to the appeal.
- b. He further submitted that the department is in the process of installing Smart Meters as per Govt of India programme and all meters in the Appellant's area has been replaced for online reading etc. Sometime consumers are available during replacement of meters and sometimes no one is available. As long as meter is accessible and not locked, they are able to replace them.
- c. He further submitted that 13250 is the actual meter reading of removed meter and they have got the removed meter of Appellant along with 16 other meters of different consumers tested from Metering and Testing Laboratory of the department in routine and the working of removed meter was found to be OK at the Final reading was 13253 units.
- d. He further submitted that reading of new Smart Meter taken on 25/8/2021 was 0982 units and reading taken on 02/09/2021 morning is 1041. The consumption of 8 days is 59 units, which comes to 7.37 units per day. Therefore, the actual reading of 13253 is correct and payable by the Appellant as his consumption pattern fortify his version.



(E) Findings & Analysis: -

1. I have perused the documents on record, CGRF orders and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The issues which have arisen for considerations in the present Appeal are as under: -
 - i. Whether the Appellant is entitled to relief for correction of bill for the period 07.01.2021 to 07.03.2021 as claimed?
 - ii. Whether the present agreement with Electricity Department is valid?
4. Regarding issue no 3(i) as above, as whether the Appellant is entitled to relief for correction of bill for the period 07.01.2021 to 07.03.2021 as claimed?

The grievance of the Appellant is that consumption for the period 07.01.2021 to 07.03.2021 is excessive and reading has not been taken properly by the Respondents. He has not challenged the accuracy of the removed meter. I have gone through the contention of the Appellant and his pleadings. The Respondents are taking bi-monthly readings as per schedule fixed i.e. 7th of every odd months. The Respondents have more than 2.47 lacs consumers and therefore it is necessary to divide them in groups, so that meter reading, then processing of computerized billing and distribution of bills are carried out in a pre-scheduled time line. It is practically impossible for a meter reader to read all meters simultaneously on the pre-schedule billing dates. There will always be variations in readings as noted by the Appellant and the Respondents as some grace period of around 1 week is given to the meter readers to note down all meters in the billing group. Therefore, there is no merit in the submission of the Appellant that meter reading noted by him on 09.01.2021 was 12543 units, whereas the Respondents have noted it on 07.01.2021 as 12566 units. There is marginal difference of 23 units (12566-12543) and even considering the latest consumption average as 7.5 units per day, 23 units corresponds to 3 days which is the normal delay/grace period taken by meter reader to note down the readings of all consumers of that area. This itself proves that reading as noted by the department as 12566 for the prescheduled date of 07.01.2021 is correct and not excessive and was as per actual electricity consumption of the Appellant.

Now let us examine the contention of the Appellant that he should be billed on the basis of his 1 Year consumption record from 07.01.2020 to 07.01.2021 and current consumption from 07.03.2021 to 07.07.2021, as his average consumption ranges between 180-200 units per billing cycle.



S. No	Period of Reading	Meter No	New Reading	Old Reading	Consumption	Nos of days	Consumption (Units per day)	Remarks
1	7.1.21 to 7.3.21	CHSE-124123	13181	12566	625	59	10.59	Old meter consumption as per Respondents
2	7.3.21 to 7.5.21	CHSE-124123 plus CH1S-005690	13250 plus 334	13181 plus 001	69+333 = 402	61	6.59	Old meter replaced with Smart meter on 1.4.21 as per Respondents
3	1.4.21 to 7.5.21	CH1S-005690	334	001	333	36	9.25	New Smart meter consumption as per Respondents
4	7.5.21 to 7.7.21	CH1S-005690	563	334	229	61	3.75	New Smart meter consumption as per Respondents
5	7.7.21 to 25.8.21	CH1S-005690	982	563	419	49	8.55	New Smart meter consumption as per Respondents
6	7.5.21 to 7.7.21	CH1S-005690	691	334	357	62	5.61	New Smart meter consumption as per Appellant
7	7.7.21 to 29.8.21	CH1S-005690	1012	691	321	54	5.94	New Smart meter consumption as per Appellant
8	25.8.21 to 2.9.21	CH1S-005690	982	1041	59	8	7.37	New Smart meter consumption as per Respondents in VC hearing

The above consumption pattern shows that Appellant was consuming @6.59 units per day for the month of March-May,2021. When the old meter was replaced with a Smart Meter, he was consuming @9.25 units per day for the month from 1st April to 7th May,2021. He is agitating when he was consuming @10.59 units per day for the month of January-March,2021. The consumption pattern entirely depends on the usage of electricity by the Appellant/individual consumer and after immediately replacement of old meter with Smart Meter he was consuming @ 9.25 per units per day.

His contention is that meter reading noted by him on 09.01.2021 was 12543 units, whereas the Respondents had noted it on 07.01.2021 as 12566 units. There is marginal difference of 23 units (12566-12543) and even assuming the latest consumption average as 7.5 units per day, 23 units corresponds to 3 days which is the normal delay/grace period taken by meter reader to note down the



readings of all consumers of that area. This itself proves that reading as noted by the department as 12566 for the prescheduled date of 07.01.2021 is correct and not excessive and is as per actual electricity consumption of the Appellant. Therefore, his agitation for consuming @10.59 per day from 7.1.2021 to 7.3.21, has no merit.

Another contention that he was not shown the Final reading has no bearing on the disputed period of January to March,2021 and moreover he has not challenged the consumption of 402 units for the month of March to May,2021, as recorded by old removed meter as well as by new Smart Meter. However, the reading recorded on the MCO at the time of replacement of meters on 01.04.2021 was 13250 units for old meter and was 0000001 units for new Smart Meter. Even reading recorded of old meter by the Meter Testing Laboratory of the department was 13253. This proves that meter reading recorded on removing the old meter was correct and plea of the Appellant is just an afterthought to escape the payment of actual reading bill.

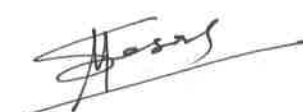
Therefore, I do not find any merit in the submission of the Appellant.

5. Regarding issue no 3(ii) as above, as whether the present agreement with Electricity Department is valid?

(a). Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

“Transfer of Connection

- 3.4** The consumer shall not without prior consent in writing of the Distribution Licensee assign, transfer or part with the benefit of the Agreement executed with the Distribution Licensee nor shall part with or create any partial or separate interest there under in any manner.
- 3.5** A connection may be transferred in the name of another person upon death of the consumer or in case of transfer of the ownership or occupancy of the premises, upon filing an application form in the prescribed format given in either **Annexure IV or V** (as applicable) for change of name by the new owner or occupier: Provided that such change of name shall not entitle the applicant to require shifting of the connection from the present location.
- 3.6** The Licensee shall deal with applications relating to change of consumer's name due to change in ownership/occupancy of property in accordance with the procedure detailed below.
- (1) The applicant shall apply for change of consumer's name in the format prescribed in **Annexure IV** to this Supply Code, 2018, along with a copy of the latest bill duly paid. The request for transfer of connection shall not be accepted unless all dues recoverable against the concerned connection are settled. The application form shall be accepted on showing proof of ownership/occupancy of property. A “No Objection Certificate” from the registered consumer/ authorized person/ previous occupant of the premises shall be required for cases involving transfer of security deposit in the name of applicant. The Licensee shall process the



application form in accordance with Regulations of this Supply Code, 2018.

- (2) In case the No Objection Certificate from the registered consumer/ authorized person / previous occupant is not submitted, an application form for change of name shall be entertained only if security deposit as stipulated in this Supply Code, 2018 is paid afresh. However, the original security deposit shall be refunded to the claimant as and when a claim is preferred by the concerned person.
- (3) Change of consumer's name shall be in effect within two billing cycles after acceptance of application form.

3.7 The Licensee shall deal with applications relating to transfer of consumer's name to legal heir in accordance with the procedure detailed below:.....

(b). Hon'ble Delhi High Court in Tata Power Delhi Distribution vs Neeraj Gulati has observed as under in para-18, which is reproduced as under: -

“18. It appears that the petitioner therein relied upon the judgment of the Supreme Court in the case of Isha Marbles case v. Bihar State electricity Board (1995) 2 SCC 618. The Division Bench insofar as Isha Marbles (supra) is concerned, was of the view that in the said decision the facts were the previous owner of the premises in question had mortgaged/hypothecated the premises to secure a loan from the State Financial Corporation. Since the loan was not repaid, the property was auctioned/sold under Section 29 of the State Financial Corporation Act. The auction purchaser applied for reconnecting of the electricity supply to the premises, which had been disconnected for non payment of dues by the previous owner. The question arose, whether the auction purchaser had to pay the electricity dues of the previous owner to get restoration of the electricity connection. **The Supreme Court held that the Electricity Board had no charge over the property and the Board could not seek enforcement of the contractual liability against the third party.** The Division Bench also held that the aforesaid view of Isha Marbles (supra) was repeated by the Supreme Court in Ahmedabad Electricity Company Ltd. (supra).”

(c) In view of above discussions, I am of the view that the Appellant/his mother should have got the electricity connection transferred in their name after allotment of the premise in 2019, rather than consuming the electricity in the name of a third party.

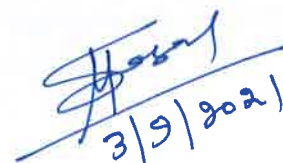
(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is dismissed being devoid of merit. The Appellant is liable to pay the late payment surcharge if the payment has not been made in time. The order in Complaint No-53/2021 dated-30/6/2021 passed by Learned CGRF-Chandigarh is upheld.
- (ii) Since the existing agreement has become null and void, the Electricity Department-Chandigarh/Deemed Distribution Licensee is directed to issue notice to the Appellant to get the existing connection transferred in his name within 15 days. If the Appellant fails to file an



application as per Supply Code Regulations-2018, this electricity connection be disconnected and action be taken to recover the pending dues. If Appellant applies for Transfer of connection/Change of name or a new connection as per provisions of Supply Code Regulations-2018, the same be expedited as per said Regulations.

- (iii) Electricity Department/Distribution Licensee is further directed to issue instructions to their subordinate offices that whenever any meter is replaced it should be done in the presence of the occupant or consumer or his authorized representatives and a copy of Meter Change Order be supplied to the consumers for transparency and in consumer interest.
- (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 Electricity Ombudsman on the action taken in this regard within **30 days** from the issuance of this Order by email.
- (vi) The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 03.09.2021