

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.166 of 2022

Date of hearing: 27.06.2022

Date of Order: 13.07.2022

Shri Brijesh Yadav
Chandigarh

.... Appellant

Versus

The Superintending Engineer,
Electricity Department,
Chandigarh and others

.... Respondents

Parties present:

Appellant(s)

Shri Brijesh Yadav

Respondent(s)

1. Shri Rohit Kumar Sekhri
Executive Engineer
2. Shri. Amit Kumar Saini
Assistant Executive Engineer



Date of Order: 13.07.2022

The Appellant has preferred an Appeal against the order of the Learned CGRF- Chandigarh in complaint N0-C-130/2021 dated-21.03.2022 and Review Order dated-28.04.2022 filed by Shri Brijesh Yadav. The Appeal was admitted on 13.05.2022 as Appeal No.166 of 2022. 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.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman in hearing at Chandigarh, as scheduled on 27.06.2022 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: -

- (i) I am Brijesh Yadav a resident of Maloya-I, Chandigarh-160025; I state that the connection load 0.860 KW of my house, my last year's average consumption is hovering at 50 units. My consumption from 19th July 2021 to 19th September 2021 reflects 1424 which is totally wrong. I have a fan and 3 tubes in my house. I filed my complaint on 24-09-2021 in SDO office sector 40, Chandigarh on which electricity office told the meter OK without lab test. I again on 30-11-2021 filed a complaint with the chairman CGRF, sector 19B, Chandigarh, taking action on which meter number CH1E255671 was sent for lab test. In lab test my meter was found to be 8.46% fast, on this I say meter has jumped. I am billed 8.46% less based on CGRF order.
- (ii) **Below mention are previous Meter reading Consumption: -**

Meter Reading		Meter Reading Date		Consumptions
OLD	NEW	OLD	NEW	UNITS
270	288	16-12-2019	19-01-2020	18
288	371	19-01-2020	19-05-2022	83
371	421	19-05-2020	19-07-2020	50
421	513	19-07-2020	19-09-2020	92
513	534	19-09-2020	19-11-2020	21
534	571	19-11-2020	19-01-2021	37
571	648	19-01-2021	19-03-2021	77
648	793	19-03-2021	19-05-2021	145
793	2217	19-07-2021	19-09-2021	1424
2217	2245	19-09-2021	19-11-2021	28
2245	New meter Install 5 unit	19-11-2021	19-01-2022	0

(iii) Therefore, it is prayed to charge on the basis of the average of my previous 1-year consumption.

(B) Submissions by the Respondents:

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

1. That the deponent is working as Executive Engineer, *Electy. 'OP' Divn. No. 4* and is authorized by the Electricity Wing of Engineering Department, UT, Chd. being Deemed Licensee vide letter No. 8539 dated: 29.10.2010 to file the reply and represent on the behalf of Electricity Wing of Engineering Department, UT, Chd. in the present case of Sh. Brijesh Yadav V/s S.E. Electy.'OP' Circle, UT, Chd. and others.
2. That the deponent is filing the counter reply point wise in the present appeal which is as under:-
 - a) That as per record the electricity connection exists in the name of Smt. Akali Devi bearing Electricity account No. MI42/033200T, meter No.CH1E255671 for sanctioned load of 0.86 KW under DS category.
 - i. That Sh. Brijesh Yadav filed a complaint in the Hon'ble CGRF, U.T. Chandigarh bearing complaint No. C130 wherein he protested that his electricity meter has been jumped whereas the J.E. has reported that his meter is in working order.
 - ii. That reply to the complaint was filed in the Hon'ble CGRF, U.T., Chandigarh.
 - iii. That the Hon'ble CGRF directed the SDO to check the meter in M&P Lab and change the meter of the consumer.
 - b) That accordingly, electricity meter of the consumer was changed and old electricity meter was got checked from M&P Lab and on testing in the lab, it is found that meter was running fast by 8.5% (approx.). The copy of the report is enclosed herewith as **Annexure R-1**.
 - c) That the complaint of consumer was decided vide Hon'ble CGRF order dated 21.03.2022(enclosed herewith as **Annexure R-2**). That thereafter as per the Hon'ble CGRF order dated 21.03.2022, the electricity account of the consumer for the period 19.07.2021 to 10.01.2022 was overhauled and thus refund of Rs. 3252/- was given to the consumer.
 - d) That the consumer filed the review application in the Hon'ble CGRF and the same was dismissed by the Hon'ble Forum vide orders dated 28.04.2022 (enclosed herewith as **Annexure R-3**).
 - e) That the consumer is now protesting in his Appeal that he may be allowed to make payment of his bill on the basis of his one year consumption. That it is pertinent to mentioned here that the consumer account has been overhauled by the office for the period 19.07.2021 to 10.01.2022 in view of Regulation 6.39 of Electricity Supply Code Regulation, 2018, Which is reproduced hereunder:
 - f) *The licensee shall dispatch the test report to the consumer, to be received under acknowledgment, within 7 working days of the date of testing. In case of faulty meter, rectification for a maximum period of six months or from the date of last testing,*



whichever is later, on the basis of the test report, shall be adjusted or accounted for in the subsequent bill.

- g) That additional consumption data of Appellant's electricity connection is enclosed herewith at Ann-R-4 in the desired format as per Sr. no. 7(IV) of the admission Notice.
- h) The acknowledgement of the consumer as per Sr. no. 7(V) of the admission Notice on the SJO no. 63/843 dated 04.01.2022 is enclosed herewith at Ann R-5.
- i) In view of above submission, it is therefore, respectfully prayed that the present Appeal may kindly be dismissed in view of above stated facts please.

(C) CGRF- Chandigarh Order in C-130/2021 dated-21.03.2022 and Review Order dated-28.04.2022 preferred for Appeal:

(i) Ld. CGRF-Chandigarh, has passed the following order in the complaint no- C-130/2021 dated-21.03.2022

ORDER

"Proceedings of Hearing/ Decision.

The hearing in the case was fixed for 29.12.2021. Sh. Varinder Kumar, RA was present in the hearing from CED side and Sh. Brijesh Yadav appeared as complainant. The CED was directed to check the meter in M&P Lab and change the meter. The case was adjourned for the next date of hearing. The next date of hearing was fixed for 02.03.2022. The case was again adjourned for the next date of hearing as the meter could not got checked in M&P Lab. The next date of hearing was fixed for 16.03.2022. Sh. Varinder Kumar, RA was present on behalf of CED. The meter was got checked in M&P Lab on dated 02.03.2022 and during checking meter was found fast by 8.5% approximately. The Account of the complainant may be overhauled as per test report declared by the M&P Lab.

Decision

The case is closed with above observation and directions and 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."

(ii) Ld. CGRF-Chandigarh has passed the following order in Review Order dated-28.04.2022.

ORDER

1. *"This order of even date will dispose of Review Application moved by Sh. Brijesh Yadav, against the order dated 21.03.2022 of this Forum, under the provisions of Regulation 2020 of the JERC.*
2. *Briefly mentioning the facts of the complaint wherein the complainant had sought relaxation in his electricity bill. The acceptance of this request was intimated to the complainant vide memo no. 1655 dated 06.12.2021.*
3. *The complainant preferred the present Review Application against the orders of this Forum dated 21.03.2022 pleading that his consumption in disputed electricity bill is very high as compare to his previous bill. His meter found 8% fast in M&P Lab but his consumption is more than 8% in the disputed period bill. So, his request to consider his previous consumption and correct his bill is without merit.*
4. *The case was reviewed and found that the billing done by CED was as per report of the M&P Lab and is correct so is liable to be paid by complainant.*

5. *In terms of the above observations the Review Application of the complainant is dismissed on account of lack of merit on its part.*
6. *The case is closed with above observation and directions and 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."*

(D) Deliberations during hearing on 27.06.2022:

Appellant's Submission:

- a. Shri Brijesh Yadav-Appellant reiterated his version as submitted in the Appeal and Rejoinder.
- b. He further contested that excessive consumption has been shown by the meter due to its reading had jumped.
- c. He further confirmed that electricity connection is existing in the name of Smt. Akali Devi who is his grandmother and he supplied a copy of the Kutumb Register Nakal, to support his claim.
- d. He further submitted that CGRF has not given him patient hearing.

Respondent's Submission:

- a. Sh. Rohit Kumar Sekhri -Executive Engineer reiterated his version as submitted in reply to the appeal.
- b. He further claimed that meter has been tested in the Meter testing Laboratory in the presence of the Appellant and it was found that meter was running fast by 8.5% and accordingly refund was allowed.
- c. On inquiry he confirmed that connected load of the Appellant is within the sanctioned load of 0.86 KW.
- d. On further inquiry he confirmed that bill for the period of 19.11.2021 to 19.01.2022 has been corrected for 11 units against the 532 units wrongly prepared by the computer considering it to be a case of PDCO.
- e. On further inquiry he confirmed that existing packed meter has provisions for downloading the temper and load flow data.
- f. Therefore, it was ordered vide Interim Order dated-27.06.2022 that existing packed meter be opened in the Meter Testing Laboratory in the presence of Appellant and data be downloaded. The Meter testing Laboratory should analyse the download data and submits its conclusion. Respondents should submit this report within a period of 10 days from the date of Interim Order by email with a copy to the Appellant.
- g. Executive Engineer vide his mail dated-11.07.2022 has confirmed that data downloading software is not available in the M&P laboratory as well as with the Enforcement Wing of the Electricity Department. He further confirmed that matter was taken up with the meter manufacturer who has also shown their unavailability citing change in design and software and meter being of old purchase.



(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, and 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 is as under: -
 - i. Whether the Appellant is entitled for revision of his bill for July, 2021 to September, 2021 on the basis of previous 1 year consumption, considering meter jumping as claimed?
 4. Regarding issue no 3(i) as above, as whether the Appellant is entitled for revision of his bill for July, 2021 on the basis of previous 1 year consumption, considering meter jumping as claimed?
- (a) Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission and further amended on 25.06.2021:-

Testing of Accuracy of Meters

- 6.34 *The Licensee shall have the right to test any meter and related apparatus if there is a reasonable doubt about accuracy of the meter. The consumer shall provide the Licensee necessary assistance in conduct of the test.*
- 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 6.36 to 6.39 of this Supply Code, 2018.*
- 6.36 *The meter may be tested for accuracy at a third-party facility, if so desired by the consumer. The list of third-party agencies, which are accredited by NABL (National Accreditation Board for testing and Calibration Laboratories) shall be available on the website of the Licensee:*
- Provided that in case of testing on the consumer's request, the consumer shall have to pay the testing fee as per the cost specified by the Licensee with the approval of the Commission:*
- Provided further that if the meter is found to be defective / burnt due to technical reasons attributable to the Licensee, viz., voltage fluctuation, transients, etc., the Licensee shall refund the test fee to the consumer by adjustment in the subsequent bill.*
- 6.37 *Before testing a consumer's meter, the Licensee shall give 7 days' advance notice in urban areas and 10 days' advance notice in rural areas intimating the date, time and place of testing so that the consumer or his authorized representative may be present at the time of testing. The Licensee shall inspect and check the accuracy of the meter within 30 days of receiving the complaint both in urban and rural areas. The Licensee, after testing, if needed, shall replace the meter within 15 days thereafter.*
- 6.38 *The consumer/authorized representative present during testing will sign the test report as a token of witness. In case the consumer / authorized representative is not present, the Licensee's representative and the testing laboratory official shall sign on the test report.*

6.39 The licensee shall dispatch the test report to the consumer, to be received under acknowledgement, within 7 working days of the date of testing. When the meter is found to be slow beyond permissible limits, as specified and the consumer does not dispute the accuracy of the test, the Licensee/consumer, as the case may be, shall replace/rectify the defective meter within the period as specified by the Commission. The consumer shall pay the difference due to the defect in the meter at normal rates, based on percentage error, for a maximum period of six months or from the date of last testing, whichever is later, on the basis of the test report, shall be adjusted or accounted for in the subsequent bill.

6.40 If a consumer disputes the results of testing, the consumer may represent to the Consumer Grievance Redressal Forum (CGRF).

(b) As per the orders of the CGRF the meter was got tested and found to be 8.5% fast and Electricity Department has given a refund of Rs.3233/-, as per Regulation 6.39 as stated above, which in fact is for slow meter and not for fast meter as claimed by the Respondents. The Hon'ble Commission has amended the Regulation 6.39 on 25/06/2021 and CGRF orders have been passed thereafter, therefore amended Regulations are to be applicable in this case. More so the Appellant is not satisfied with this action and is agitating that his consumption can never be 1424 units for the period of 19.07.2021 to 19.09.2021.

(c) Therefore, let us examine his previous consumption as per data supplied by the Respondents:-

Period	No s of months	Total consumption	Average per month	Remarks
02.08.19 to 19.01.20	5.5	284	51.6 Say 52	
19.01.20 to 19.01.21	12	256	21.3	
19.01.21 to 19.01.22	12	1701	141.75	Including 1424 units from 19.07.21 to 19.09.21
19.01.21 to 19.01.22	10	277	27.7	Excluding the disputed consumption of 1424 units from 19.07.21 to 19.09.21
19.01.22 to 19.05.22	4	71	17.8 Say 18	

(d) Now let's consider the estimated consumption as per Annexure-XVIII of the Supply Code Regulations, 2018 as amended thereof, which is -

= Load (sanctioned/connected load in K.W) x Load Factor of the category of the consumer x 30 days x H Hours

(i) The Appellant has a sanctioned load of 0.86 K.W, his Load factor is 30% and H=12 Hours as per Annexure-XVIII of the Supply Code Regulations, 2018 as amended thereof. Accordingly, his estimated bi monthly consumption would come to be: -



= $0.86 \times 0.30 \times 30 \times 12 = 92.88$ Units per month x 2 months = **185.76 units for two months.**

- (ii) Let us consider ,hypothetically that he uses his full sanctioned load of 0.86 K.W for 100% Load factor for 24 hours, then his estimated bi monthly consumption would come to be :-

= $0.86 \times 1 \times 30 \times 24 = 619.2$ units per month x 2 months = **1238.4 units for two months.**

(e) From the above examination, it is absolutely clear that consumption of 1424 units for two months is not possible under any normal circumstances and it appears that something went wrong with the meter during the period of 19.07.2021 to 19.09.2021. Whereas the average bi-monthly of the Appellant ranges between 18 to 52 units, since the installation of the meter on 02/08/2019. Due to non-downloading of data from the meter, further reasons for such a high consumption during the period of 19.07.2021 to 19.09.2021 could not be ascertained. Respondents could not show any reason for such a huge consumption during the disputed period. On testing the meter, it was found fast by 8.5%, which suggests that it had started malfunctioning otherwise the electronic meter, being a static device , are not suppose to be running so fast as compared to conventional electromagnetic meters.

- (f) In my considered opinion the meter was not recording true consumption during the period of 19.07.2021 to 19.09.2021 and therefore it is required to be treated as defective and account of the Appellant is required to be overhauled for the period of 19.07.2021 to 19.09.2021 as per Regulation 7.12-7.13 of the Supply Code-2018, regarding Billing in case of defective/stuck/stopped/burnt meter.

(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is allowed without any cost.
- (ii) The orders in Complaint No- C-130/2021 dated-21.03.2022 and Review Order dated-28.04.202 by Learned CGRF-Chandigarh are set aside.
- (iii) The account of the Appellant be overhauled for the period of 19.07.2021 to 19.09.2021 as per Regulation 7.12-7.13, regarding Billing in case of defective/stuck/stopped/burnt meter as per provisions of Supply Code Regulations-2018 as amended thereof within 15 days from the issuance of this Order by email.
- (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) 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 Hon'ble Commission under the provisions of the Electricity Act, 2003.

(vii) The appeal is disposed of accordingly.

Handwritten signature in blue ink, appearing to be 'M.P. Singh Wasal', with the date '13/07/2022' written below it.

(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated 13.07.2022

