

**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,
Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Appeal No.192 of 2022

Date of Video Conferencing: 06.04.2023

Date of Order: 11.04.2022

Ms. J.Narmadha Devi,
Puducherry.

.... Appellant

Versus

The Superintending Engineer com HOD,
Electricity Department,
Puducherry and others

.... Respondents

Parties present:

Appellant(s)

1. Shri P.Vairavamurthy, father of the Appellant.
2. Ms. J. Narmadha Devi-Appellant

Respondent(s)

1. Shri Vimal Kumar-Executive Engineer,
Electricity Department-



Date of Order: 11.04.2022

The Appellant has preferred an Appeal against CGRF- Puducherry's order in Complaint no-181/2022 dated-28.12.2022. Appellant submitted the Appeal on 23.02.2023 by post and the same was admitted on 28.02.2023 as Appeal No.-192 of 2022. Copy of the same as received was forwarded to the Respondents with a direction to endeavour to settle the representation through mutual agreement within 10 days. In case no settlement is achieved through mutual agreement, respondents should file the affidavit of counter reply in the required format, to the appeal/representation within 20 days from the date of Admission Notice. A copy of counter reply was supplied to the Appellant with a request to file the rejoinder.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 06.04.2023 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 pleadings on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

- (i) Appellant was a tenant in the Meenakshi Ammal colony. She complained that monthly bill would be around Rs.1500/- per month. But the bill for the month of March 2022 was issued for Rs. 4,389/- Since the amount is on higher side, she immediately approached the Assistant Engineer-Town-I, Karaikal and informed orally about the problem. The Assistant Engineer-Town-I directed her to give a complaint in writing and hence a complaint was given on 06/05/2022. But no action was taken by the Department and continued to receive bills for the month of April 2022 and May 2022 also. She had approached the Office of the Junior Engineer, Assistant Engineer and Executive Engineer, Karaikal several times; but no action was taken. During the routine visit, the Complainant was informed that the Accucheck meter was taken to Chennai for calibration and meter testing can be done only on receipt of calibrated meter back from Chennai. Finally, on 25/08/2022 meter was checked. Finally, a letter of the Assistant Engineer-Town-I has been received on 27/09/2022 informing that the meter is in good working condition and hence, the bill does not require any correction. The Appellant approached the Ld.CGRF and stated that the abnormal delay by the Department caused mental agony and requested for compensation and also refund of excess amount made.
- (ii) The Excess consumption of electricity was due to immoderate delay by the EB Officials, ignoring the laid down rules of the Department. The



- Forum of Puducherry ordered that if there is any excess payment made by the consumer to adjust in the future bills .
- (iii) The reason given by the EB officials has not been accepted by the forum vide Para4 of the consumer case No. 181/2022 dated 28/12/2022. There is excess consumption for the month of March & April 2022 vide bill statement given by the EB office from Jan 2022 to Aug 2022, comparing other months.
 - (iv) The Honorable Forum has permitted to make an appeal if aggrieved. Since the laid down rules have been disregarded in this case, I wish to make an appeal.
 - (v) Moreover, for the delay of 122 days, I did not have any frame of mind with Mental Tension & agony. Hence, to pacify my mental tension & agony, I pray the competent authority to Order for some Financial Compensation as a token, in addition to refund of excess charges made for the month of March and April 2022. Had the action been taken on time by the EB office, within the stipulated period, the excess consumption of electricity on March and April 2022 and lodging a Case in the Forum could have been avoided.
 - (vi) The Appellant has filed the Rejoinder and has clarified that Appeal has been filed for non-attending the complaint for testing the meter within the stipulated time and not for charging or payment of CC charges

(B) Submissions by the Respondents:

1. Shri. Vimal Kumar. K.K., working as Executive Engineer in the Electricity Department, Karaikal solemnly affirm and state on oath as under:
2. That the deponent is working as Executive Engineer, and is authorized by Electricity Department, Puducherry being Deemed Licensee vide dated,20.03.2023 (certified copy), to file this replay and represent on behalf of Electricity Department, Puducherry, in this case.
3. That para wise counter reply is as under:
 - (i) It is humbly submitted that the Appellant was charged vide letter dated - 06.05.2022 , had sought rectification of the meter in the policy Code 61- 05 - 05 - 0631C and that she had remitted the CC charges for the month of March 2022, is in the jurisdiction of Junior Engineer – Town O&M of Assistant Engineer – Town – I sub division.
 - (ii) Generally the meters challenged by the consumers are tested at the departmental laboratory at Karaikal with an Accucheck of Secure make, duly calibrated by NABL accredited testing and calibration laboratory.
 - (iii) However, the validity of the test certificate expired on 10/03/22 and the recalibration procedure was under process and the calibration certificate was received dated 01/07/22 only.
 - (iv) It is to add that, similar Accucheck at Puducherry laboratory was also calibrated on 12/07/22 only.



- (v) However, the consumer was free to get her meter tested at any third-party facility, accredited by NABL (National Accreditation Board for testing and calibration Laboratories) as per 6.36 of JERC supply code 2018.
- (vi) Also, the complainant was advised to remit the CC charges as billed and that the same will be regularized / adjusted as required after the testing of the meter and its outcome. But she has failed to remit the CC charges for the months from April 2022 and cleared the arrear only in August 2022.
- (vii) The complainant had again given a request dated 24/08/22 for testing of the meter by the department and the testing was done on 25/08/22 in the presence of the complainant and a satisfactory meter performance test report was given vide no.45/EDK/AEE-C&B/JE-Lab/F.12/22-23.dt.26/08/22 and she has also acknowledged the good performance by her signature after testing was done. Thus, the satisfactory performance of the meter was established and revision of CC bills already issued, did not arise.
- (viii) Statement on the consumption recorded for the period of January 21 to December 21 and January 22 to December 22 and January 23 is enclosed. It would be pertinent to mention herein that the complainant was only a tenant of the said premises, during the period under the complaint January 22 to August 22 and whether she was a tenant for the period from January 21 to December 21 is not known to this department for comparison or analysis.
- (ix) Further, she has claimed that, after the testing of the meter on 25/08/22 and ascertaining the good performance, she had undertaken some maintenance work in the internal wiring through a private electrician on 27/08/22 at her end, suspecting some defect in the same, which cannot be ascertained and she herself has claimed that she had to settle any old dues with her house owner before 15/09/22, due to the reason of vacating her house. This department does not have any relevance over the same.
- (x) Whether her so called excess consumption was due to any internal fault cannot be vouched for and hence her claim that there had been excess consumption for March 22 and April 22 also does not hold good and the same might have been due to the onset of summer and subsequent usage, when compared to the winter months of January 22 and February 22.
- (xi) Regarding her first complaint letter dated 06/05/22 seeking testing of the meter at the department laboratory (either in Karaikal or Puducherry office) she had been informed orally of the status of the Accucheck under recalibration process and thereafter she was free to choose other options for getting her meter tested but she had not pursued the same.
- (xii) Based on her second complaint dated 24/08/22 seeking testing of the meter, the same was carried out as per the standard procedure and also witnessed by her.
- (xiii) Hence, it is submitted the so called period of 122 days between the two individual complaints does not have relevance and there is no lapse on the part of The Assistant Engineer/Town -1 or The Executive Engineer, since the accumulation of the CC charges and the subsequent BPSC was purely due to the consumer's fault of non - payment.



- (xiv) The complainant had the option to remit the CC charges under protest, seeking revision of the CC bills in case the meter turned out to be defective, after getting tested either at the departmental laboratory or any other third-party facility.
- (xv) The complainant's so-called claim of mental tension and agony etc., does not warrant any financial compensation, since the accumulation of CC charges was only due to her non-payment of the monthly bills, (at least under protest) and not due to lapse on the part of this department officials.
- (xvi) Therefore, it is submitted and prayed that the appeal may be dismissed.

(C) Ld.CGRF- Puducherry's order in Complaint no-181/2022 dated-28.12.2022, preferred for appeal:

(I) Ld. CGRF-Puducherry, has passed the following order in C.C.NO:181/2022: -

ORDER

- i. *As pointed out in the observation above, the Department should clearly indicate whether the consumption of 1740 has been divided equally for 3 months and issue revised monthly bill statement from January 2022 to August 2022, considering the payment made already by the Complainant. The Respondents are directed to see whether any excess payment made by the Complainant.*
- ii. *The revised working sheet should be furnished to the Complainant within 15 days from the date of the Order with a copy marked to this Forum. If any excess payment was made, the same should be adjusted in the future bills. Since, the meter is in good working condition, revision of bill does not arise.*
- iii. *Thus, the Complaint is allowed to the extent indicated.*
- iv. *The Complainant, if aggrieved, by non-redressal of his / her grievance by the Forum or non-implementation of CGRF Order by the Licensee, may make an Appeal in prescribed Annexure-IV to the Electricity Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd Floor, Plot No. 55-56, Pathkind Lab Building, Service Road, Udyog Vihar, Phase IV, Sector -18 Gurugram, Haryana-122015; Phone 0124-4684708; email ombudsman.jercuts@gov.in within 30 days from the date of this Order under intimation to this Forum and the Respondents.*
- v. *Non-compliance with the directions of Forum by the Licensee shall attract remedial action under Sections 142 and 146, of the Electricity Act 2003."*

(D) Deliberations during Video hearing on 06.04.2023 :-

(i) Appellant's Submission:

- a. Shri P.Vairavamurthy, father of the Appellant alongwith the Appellant herself reiterated their version as submitted in the Appeal/Rejoinder .
- b. Shri P.Vairavamurthy, further emphasized that meter was not tested for 111 days and therefore, they should be paid compensation.

(ii) Respondent's Submission:



- a. Shri Vimal Kumar, -Executive Engineer, reiterated his version as submitted in reply to the appeal.
- b. On being asked that if the Accucheck Meter (Standard Reference Meter) was not available due to annual calibration from National Physical Laboratory , why the Appellant meter was not tested with Pulse method or by installing another calibrated meter in series with the Appellant meter. He explained that they thought this is not a legal method as the same has not been approved by the Hon'ble Commission.
- c. He admitted that prior to application dated-24.08.2022, the Appellant had written two complaints dated-06.05.2022 and dated-30.05.2022, regarding testing of the meter.
- d. On being asked that as per Appellant request dated-06.05.2022 and 30.05.2022, why the Appellant meter was not removed and packed for testing and a new meter installed in its place, he has no answer.

(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 is as under: -
 - (i) Whether the Appellant is entitled to relief for correction of Electricity Bills for the month of March, 2022 and April, 2022 due to higher consumption and also for compensation for not testing the meter for 111 days, as prayed for?
4. (a). Regarding issue no 3(i) as above, as to the Appellant is entitled to relief for correction of Electricity Bills for the month of March, 2022 and April, 2022 due to higher consumption and also for compensation for not testing the meter for 111 days, as prayed for ?
 - (b). Following provisions have been provided in the Supply Code Regulations- 2018, notified by the Hon'ble Commission w.e.f-26.11.2018: -

“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 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.*

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

(c) Following provisions have been provided in the Standard of Performance Regulations- 2015, notified by the Hon'ble Commission w.e.f-24.07.2015: -

Schedule -1

Guaranteed Standards of performance



14. Complaints about Meters

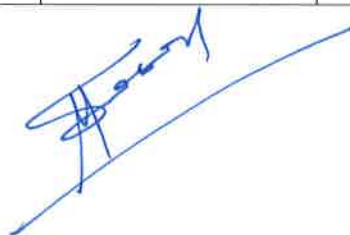
Subject to the provisions of the Electricity Supply Code:

| <i>Sr.No.</i> | <i>Nature of Complaint</i> | <i>Time to be taken by Licensee</i> |
|---------------|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>i.</i> | <i>Complaint lodged for accuracy</i> | <i>Within 30 days of receiving the complaint, the Licensee shall test the meter and if needed the meter shall be replaced within 15 days thereafter.</i> |
| <i>ii.</i> | <i>Complaint lodged for defective/ stuck meter</i> | <i>Within 15 days of receiving the Complaint, the licensee shall check the meter and if needed, the meter shall be replaced within 15 days thereafter.</i> |
| <i>iii.</i> | <i>Complaint lodged for burnt meter</i> | <i>The Licensee shall restore supply within 6 hours upon receipt of complaint by passing the burnt meter, and new meter shall be provided within 15 days.</i> |

SCHEDULE –III

COMPENSATION

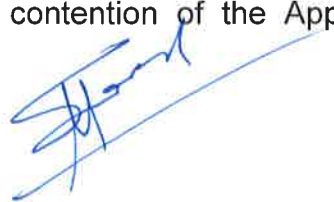
| IV. Meter Complaints | | | | |
|-----------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------|
| <i>i.</i> | <i>Testing of meter</i> | <i>Within 30 days of receipt of complaints</i> | <i>Rs. 50/- for each day of default</i> | <i>Not Applicable</i> |
| <i>ii.</i> | <i>Replacement of burnt meter</i> | <i>Within 6 hours restoration of supply by bypassing the burnt meter. Meter to be replace within 15 days</i> | <i>Rs. 50/- for each day of default</i> | <i>Not Applicable</i> |
| <i>iii.</i> | <i>Replacement of defective meter</i> | <i>Within 15 days of declaring Meter defective after testing</i> | <i>Rs. 50/- for each day of default</i> | <i>Not Applicable</i> |



5.(a) I have gone through the first contention of the Appellant and her pleadings that her meter consumption for the month of March,2022 and April,2022 was on higher side due to incorrect meter. This issue was deliberated at length by the Ld.CGRF and even in the Rejoinder the Appellant has admitted that Appeal has been filed for non-attending the complaint of testing the meter within the stipulated time and not for charging or payment of CC charges. As long as the meter is recording correctly (as tested in the Laboratory in the presence of the Appellant) , it can not be said that the electricity consumed do not reflect the actual consumption. There could always be variation in the meter reading recorded physically as compared to the reading logged by the meter software, because there is always a time lag. But the difference of initial and final reading gives the actual consumption during the period under observation. As per CEA (Measures relating to Safety and Electric Supply) Regulations-2010, every consumer shall also ensure that the installation under his control is maintained in a safe condition. Therefore, the onus to keep the wiring healthy rest with the Appellant/owner only.

Since the meter was tested and proves to be correct within permissible limits, the first contention of the Appellant has no weight in it and has been correctly admitted in the Rejoinder that he is not disputing the consumption charges. Also, it's Appellant/owner's responsibility to keep the wiring healthy. Accordingly, her first contention is hereby rejected being devoid of merits.

(b) Regarding her second contention that the Respondents delayed the testing of the meter for 111 days (i.e from 06.05.2022 to 25.08.2022), which causes her mental agony and therefore she should be compensated. I have gone through the Standard of Performance Regulations-2015, in which it has been clearly provided that if a complaint has been lodged by the consumer for testing the accuracy of the meter, it should be carried out within 30 days failing which compensation @Rs.50/- for each day of default is required to be paid by the Respondents. The complaint was first lodged on 06.05.2022 and the Respondents did not test the meter on the pretext that the Accucheck meter (Standard Reference Meter) was sent to a NBAL Laboratory at Chennai for certification of calibration. This reply cannot be accepted being against the SoP Regulations. The Respondents should be adequate number of Accucheck Meters (Standard Reference Meters), so that if any of them is sent for annual recalibration from a NABL Laboratory, the process of testing as per SoP is not delayed. Further Respondents have also failed to carry the preliminary testing by traditional methods such a Dial/Pulse Test or installing another duly tested/calibrated meter in series with the Appellant meter. At least this traditional testing would have given a chance to the Appellant to get the testing done from a third party as per section -6.43 of the Supply Code Regulations, if required. However no timely action was taken by the Respondents and not even a single communication was made to the Appellant informing her the non-availability of Accucheck Meter or of availing her rights to get the meter tested from a third party, as per section -6.43 of the Supply Code Regulations. Their contention is just an afterthought to escape the compensation as per SoP Regulations. Therefore, the contention of the Appellant has merit and deserves to be accepted.



Since the Respondents has taken 111 days (i.e from 06.05.2022 to 25.08.2022) for testing against the stipulated period of 30 days, the Respondents are required to pay compensation @Rs.50/- for each day of default. The Respondents are required to pay compensation for 81 days (i.e-111days-30 days) of default as per SoP Regulations. Ld. CGRF has erred in not granting the compensation to the Appellant as per SoP Regulations.

(F) DECISION

- a) For the reasons discussed above, the appeal of the Appellant is allowed.
- b) The order No-C.C.NO:181/2022 passed by the Learned CGRF-Puducherry is modified to the extent regarding payment of compensation in terms of SoP Regulations, as per this Final order in Appeal.
- c) The Respondents should pay Rs.4050/- (Four thousand and rupees fifty only) to the Appellant, @Rs.50/-per day for 81 days of default in not testing the accuracy of the Appellant's meter as per her application dated-06.05.2022, as compensation as per SoP Regulations, within 15 days from the issuance of this Order by e-mail, failing which the Respondents are liable to pay the interest at the Bank Rate declared by the Reserve Bank of India prevailing on the 1st of April for the year, payable annually.
- d) 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
- e) 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.
- f) Non-compliance of the orders of the Electricity 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.
- g) The appeal is disposed of accordingly.



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

Dated: 11-04-2023
Gurugram (Haryana)