

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/P. No. 41 of 2023

Date of Hearing : 15.11.2023

Date of Order : 15.11.2023

IN THE MATTER OF:

Complaint under Section 142, 146 and S.149 of Electricity Act, 2003 for violating the order dated 31.01.2023 passed by the Hon'ble Consumer Grievances Redressal Forum, DHBVN in DH/CGRF/4335/2022 and for violating the various Circular and Regulation passed by this Hon'ble Commission.

Petitioner

EE Condominium Association, Medawas, Sector 65, Gurugram, Haryana

Respondents

1. Dakshin Haryana Bijli Vitran Nigam Limited through its M.D. Vidyut Sadan, Vidyut Nagar, Hisar-125 005
2. S.D.O OP S/Division Badshahpur, Dakshin Haryana Bijli Vitran Nigam Limited, Haryana

Present

On behalf of the Petitioner

None

On behalf of the Respondent

Ms. Sonia Madan, Advocate

QUORUM

Shri Naresh Sardana, Member

ORDER

1. Petition

- 1.1 That the present Complaint is being filed by the Complainant as the respondents have failed to comply with the order dated 31.01.2023 passed by Hon'ble Consumer Grievance Redressal Forum, Dakshin Haryana Bijli Vitran Nigam, Hisar, Haryana in case bearing DH/CGRF/4335/2022. That the brief facts of the case are as given below :-
- 1.2 That the Complainant i.e. E E Condominium Association is an association of residence of Emerald Estate and Mr. Waqar Hussain is the Estate Manager of the society, who is authorized by the administrator appointed by the registrar

of the co-operative society to sign, file, verify and represent the present complaint on behalf of the Condominium/society before this Hon'ble Commission.

- 1.3 That the Complainant has obtained an electricity connection through its Account No. 5332333111 (G22 BPHT 0228) at, Medawas, Sector 65, Gurugram, Haryana. having the sanctioned load of 8079 KW under the category of BLDS Category in the name of M/S Emaar MGF Land and paid the Security deposit amount of Rs.6059250/- (Rupees Sixty Lac Fifty Nine thousand two hundred fifty only) as mentioned on the bill . The electricity connection is purely used by the Condominium for residential purpose only by its members and now the Company has nothing to do with the said connection as the Association is now user of the connection.
- 1.4 That on the basis of application made by the complainant to issue occupancy certificate on 30.06.2017 to Director of Town & Country Planning Department, on 05.03.2019 the aforesaid department vide Memo No. ZP-441/SD(DK)/2019/5982 dated 05.03.2019 has issued the occupancy certificate for 536 main dwelling units and 239 EWS. Similarly on 11.11.2020 vide Memo No. ZP-441-Vol-II/AD(RA)/2020/20094 dated 11.11.2020 Director of Town & Country Planning Department has issued the occupancy certificate for 666 main dwelling units to the complainant Society.
- 1.5 That on 09.01.2013 a notification was issued by this Hon'ble Commission for Single Point Supply to Residential Colonies or Office cum Residential Complexes of Employers, Group Housing Societies and Commercial cum Residential Complexes of Developers, Regulations and as per aforesaid notification an energy difference up to 4%/5%, in case of supply on 11 KV/33KV shall be permissible towards transformation and/or LT losses. The units has to be billed after deducting the 4%/5% from the total units consumed during a particular month but the respondents have failed to comply with the aforesaid notification which was applicable w.e.f. 09/01/2013 and did not deduct 4%/5% units for the total units consumed and thus cause huge loss to the complainant.
- 1.6 That the respondents are also required to give the slab benefit to the complainant from the date of the connection to the occupants of the flats but the respondents have failed to give the slab benefit to the complainant.
- 1.7 That the complainant started billing to the occupant of the society members from the date of occupancy given to its members but the respondents fails to

give the slab benefit prior to March,2022 when the respondents started giving the slab benefit for 1160 units, whereas the respondents are required to give the slab benefit from the occupancy of the flats.

- 1.8 That the complainant has provided the complete billing details of the occupancy of the society flats to the respondents showing the billing to number of the occupant month wise starting from March 2019 onwards but the respondent fails to give the benefit prior to March 2022.
- 1.9 That the respondents also charged the municipal tax from the association even prior to January 2021, whereas as per the notification issued by Government, the complainant was not liable to pay the M Tax prior to 05/01/2021 to the respondent. The Hon'ble CGRF in Complaint No. DH / CGRF / 3628 / 2021 observed as under "Proceedings were held on 06.12.2021. The SDO as well as the complainant were present. The SDO submitted reply vide memo no. 1939 dated 06.12.2021 stating that clarification from MCG had been received that the premises was outside the municipal limits. Also, that the M Tax would be refunded after the Forum passes the order in that regard. The Forum observed it very seriously and asked the SDO if the M Tax was lawfully refundable, then why should he require an order from the Forum in that regard. The Forum also asked the SDO if something was not lawfully chargeable but had been charged due to some error, then why he expected such consumers to come to Forum with a complaint, get an order in favour of the complainant and only then the wrongfully charged amount would be refunded by him."but despite the aforesaid observation there was no affect on the SDO concerned and no refund on account of M Tax was made.
- 1.10 That as per the Directive issued by this Hon'ble Commission under clause 5.8.1 & 5.8.2 of Regulation No. 34/2016 i.e. the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016 and Sales Instruction 9/2016 issued by the respondent no.1 , the respondents are required to pay the interest in the month of April of each year and in case the interest accrued during the year is not adjusted in the consumer's bill for the first billing cycle of the ensuing financial year, then the respondents are liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed but the respondents never paid the interest in time and hence the respondents are required to pay the penal interest for the delayed period.

For the kind perusal of this Hon'ble Forum the relevant provisions are reproduced as under:-

"5.8.1: The licensee shall pay interest to the consumer at the Bank rate as determined by the Reserve Bank of India on 1st April of each year or more as specified by the Commission payable annually on the Consumer's security deposit. The interest accrued during the year shall be adjusted in the consumer's bill for the first billing cycle of the ensuing financial year.

5.8.2: In case the interest accrued during the year is not adjusted in the consumer's bill for the first billing cycle of the ensuing financial year, the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed."

1.11 That since the respondents failed to comply with the tariff provision, regulation to give the slab benefit, refund the municipal tax charged illegally and not paid the interest in time and hence the Complainant was forced to issue the legal notice through the counsel on 06.06.2022 through email to the SDO but no action was taken by the respondents to make the payment as per the Regulation and Sales Instruction 9/2016.

1.12 That since the respondent failed to comply with the Supply Code /Regulation passed by this Hon'ble Commission and various circular issued by the respondent and hence the Complainant was forced to file a Complaint before the Consumer Grievances Redressal Forum, Hisar vide Complaint No. DH/CGRF/4335/2022.

1.13 After hearing both the parties the following order was passed by the Hon'ble Forum on 31/01/2023, the operative part of the order is as under:-

1.13.1. In the present complaint, only compliance of instructions issued by the DHBVN is required. It is the prime duty of the S/Div. to make compliance of the instructions issued by the DHBVN without harassment to the consumer(s). SDO is directed to resolve the issue of the complainant and comply with the instructions of the Nigam in this case.

1.13.2. The complainant is also directed to submit the list of electricity consumer(s), if required by the SDO, so that the calculations/accounts be overhauled accordingly. The case is closed.

1.14 That the complainant's counsel through email dated 15.01.2023 and 27.01.2023 sent the billing details to the respondent and requested to the respondent to visit the premises to verify the record but there was no response from the respondent. Even after passing the order by the CGRF there was no

communication from the SDO office, however, the record was verified by the respondent and satisfied with the dwelling units.

- 1.15 That despite the order was passed by the Hon'ble Forum on 31/01/2023 no action was taken by the respondents to comply with the order within 21 days of the order passed by the Hon'ble Forum and now 4 months has already been passed and there is still non compliance of the order till date.
- 1.16 That since there is violation of the regulation /tariff and order passed by the Hon'ble Forum and hence the respondents are liable for the action under Section 142 Read with Section 146 & Section 149 of The Electricity Act, 2003 and hence this Petition.
- 1.17 That as per Section 142 of the Electricity Act, 2003 if in case any person contravened the rules/regulation made under the Electricity Act, 2003 then he is liable to be punish under Section 142 of the Electricity Act, 2003 and in the present case the respondents have contravene the Rules/Regulation/Tariff Provision/Order passed by the Forum and hence liable for the action and hence this Complaint.
- 1.18 That the cause of action arose in favour of the complainant and against the respondents when the respondents are failed to comply with the order passed by the Hon'ble CGRF within the stipulated period of 21 days. Cause of action is still subsisting.

P R A Y E R :-

- 1.19 In view of the above facts and circumstance it is most respectfully prayed that this Hon'ble Commission may kindly be pleased to :-
 - 1.19.1. Initiate an inquiry against the respondents for violating the order dated 31.01.2023 passed by the CGRF for DHBVN in DH/CGRF/4335/2022 , also for violating the tariff provision and Single Point Supply to Residential Colonies or Office cum Residential Complexes of Employers, Group Housing Societies and Commercial cum Residential Complexes of Developers, Regulations to give slab benefit , Regulation No. 34/2016 and also failed to refund M Tax as it was not payable as per notification and take strict action against the guilty officers under section 142, 146 and 149 of Electricity Act, 2003 and;
 - 1.19.2. Direct the respondents to refund the excess payment received on account of slab benefit, pay the Penal interest for delayed payment of interest, M Tax prior to January 2021, along with the interest as per provision of law and:

- 1.19.3. Award the compensation and costs of present proceedings in favour of Complainant and against the Respondent and;
- 1.19.4. Any other or further order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case in favour of the Complainant in the interest of justice.

2. Petitioner's submissions vide email dated 14.11.2023:

- 2.1 That the aforesaid complaint is pending before this Hon'ble Commission and fixed for 15/11/2023.
- 2.2 That the complainant the counsel for the respondent has given the statement of account for refund of the excess amount and thereafter an amount of rupees 59,33,284/- was adjusted in the bill issued in the month of Oct. 2023 and hence now nothing survive in the complaint.
- 2.3 That on instructions from the complainant I state the complainant doesn't want to continue with the present complaint
- 2.4 It is therefore prayed that the present complaint may kindly be disposed of being satisfied.

3. Proceedings:

- 3.1 The case was heard on 15/11/2023, as scheduled, in the court room of the Commission.
- 3.2 Ms. Sonia Madan advocate for the respondent stated that CGRF order has been complied with.
- 3.3 Further, taking cognizance of the E-mail dated 14/11/2023 received from counsel of the petitioner, the commission perceives that the respondents have revised the bill and complied with the order passed by the CGRF and thus the dispute between the parties stands resolved and nothing remains to be adjudicated in the present petition.
- 3.4 The petition is disposed off accordingly. However, the petitioner is at liberty to approach the commission in case of any grievance in the matter.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 15/11/2023.

Date: 15/11/2023
Place: Panchkula

(Naresh Sardana)
Member