

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT  
PANCHKULA**

**Case No. HERC/P. No. 39 of 2024**

**Date of Hearing : 03/12/2024**

**Date of Order : 12/12/2024**

**IN THE MATTER OF:**

**Complaint under Section 62,135,138,142,146 and 149 read with Section 94 of the Electricity Act, 2003 for recovering a price or charge exceeding the tariff determined, damage as interfere with the proper or accurate metering of electricity, Interference with meters or works of licensee, offence by group of individuals, non-compliance of the orders of the forum for redressal of Zonal Consumer Grievance, Dakshin Haryana Bijli Vitran Nigam Limited, SE-OP-1, Gurugram dated 12.02.2024 in case No. DH/CGRF-25/2024.**

**Petitioner**

Sh. Sandeep Fogaat, R/o Tower 18 Flat 601, Gurgaon Greens, Sector 102, Gurugram

VERSUS

**Respondent(s)**

1. Sh. Jagdeep Kumar, GGCA RWA Secretary, Gurgaon Greens, Tower 24 Flat 1102, Sector 102, Gurugram -122505.
2. Sh. Ashwani Garg, GGCA RWA Vice- President, Gurgaon Greens, Tower 01 Flat 1202, Sector 102, Gurugram -122505.
3. Sh. Aniket Mathews Garg, GGCA RWA Joint Secretary, Gurgaon Greens, Tower 07 Flat 1202, Sector 102, Gurugram -122505.
4. Sh. Harshit Agrawal, GGCA RWA Treasurer, Gurgaon Greens, Tower 02 Flat 902, Sector 102, Gurugram -122505.
5. Sh. Yash, GGCA Admin Manager, Community & Facility Management, Gurgaon Greens, Sector 102, Gurugram -122505.
6. Er. Vipin Yadav, SDO Sec37, DHBVN, Gurugram-HR.
7. Er. Vipin Yadav, SDO Kadipur, DHBVN, Gurugram-HR.
8. Chairman/Managing Director, DHBVN, Haryana.

**On behalf of the Petitioner**

Sh. Sandeep Fogaat, Petitioner

**On behalf of the Respondent**

1. Sh. Raheel Kohli, Advocate for R-6 to 8
2. Sh. Tarsem Rana, Associate to advocate
3. Sh. Aniket Mathew, Joint Secretary, RWA
4. Sh. Harshit Agarwal, Treasurer, RWA
5. Sh. Jagdeep Kumar, Secretary, RWA

## QUORUM

**Shri Nand Lal Sharma, Chairman**  
**Shri Mukesh Garg, Member**

### ORDER

1. **Petition:**

- 1.1 That, I, Sandeep Fogaat is owner of Flat no. 601, Tower 18, Gurgaon Greens, Sector 102, Gurugram (Haryana) PIN 122505. There is total 672 apartments in the condominium.
- 1.2 That, I am a consumer of Dakshin Haryana Bijli Vitran Nigam (DHBVN) via single point electricity connection Account Number 3967990571/EMAAR MGF LAND LTD in the society named "Gurgaon Greens". My smart pre-paid meter number is LIR77070.
- 1.3 That, on 02nd October 2023, I received a notice on my email id about deduction of Common Area Maintenance (CAM) & Common Area Electricity (CAE) from electricity meters.
- 1.4 That, from 02nd October 2023, amount deduction other than the energy consumption started from my electricity meter. As per section 135(C) of the electricity act, 2003, this act of respondents is damaged or destroyed as to interfere with the proper or accurate metering of electricity of my smart meter LIR77070.
- 1.5 That, the respondents have been charging Common Area Maintenance (CAM) & Common Area Electricity (CAE) charges from my pre-paid meter/electricity bill without my consent or agreement starting from 02nd October 2023. This act of charging money other than energy consumption from my electricity meter is a theft of my money through electricity meter.
- 1.6 That, I have lodged a complaint on 09.01.2024 before the forum for redressal of Zonal Consumer Grievance, Dakshin Haryana Bijli Vitran Nigam Limited, SE-OP-1, Gurugram.
- 1.7 That, the forum held the proceeding on 10.01.2024 after serving the notice to the respondents. But none of the respondents presented before the forum on 10.01.2024.
- 1.8 That, the 2nd proceeding held on 16.01.2024 and the respondents didn't submit any reply.
- 1.9 That, the 3rd proceeding held on 23.01.2024 and the respondents again didn't submit any reply.
- 1.10 That, the 4th proceeding held on 06.02.2024 and the respondents again didn't submit any reply.
- 1.11 That, the 5th proceeding held on 09.02.2024 and the respondents didn't submit any reply again.

- 1.12 That, the 6th proceeding held on 12.02.2024 and the respondents was absent and again no reply was submitted before the forum by any of the respondents. This proved their ignorance towards the law of the land.
- 1.13 That, finally after giving excess opportunity and favours to the respondents, the forum pronounced the order dated 12.02.2024 on 28.02.2024.
- 1.14 That, as per the speaking order dated 12.02.2024, issued by the forum for the redressal of consumer grievances under Dakshin Haryana Bijli Vitran Nigam Limited, SE-OP1, Gurugram-HR the necessary actions and rectifications were mandated to stop charging nonelectrical charges i.e. Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges from the pre-paid electricity meter of my apartment.
- 1.15 That, the forum directed the SDO Kadipur & Sector 37 to issue notice to RWA to stop ongoing practice of deducting Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges from the pre-paid electricity meter and also directed to carry out the billing of the residents of the society through unified billing portal as per sale circular no. D23/2022.
- 1.16 That, during the period from 02.10.2023 till date many time my electricity supply was cut for hours and I have to struggle for many hours to recharge my meter even after making payment. A police complaint made regarding this is also attached herewith.
- 1.17 That, it has been proved that there has been a persistent failure to comply with the order of CGRF by the respondents intensely. The email reminders dated: 20.04.2024 to all the respondents, resulted in no action from the competent authorities.
- 1.18 That, the non-compliance is in direct violation of the provisions outlined in Section 142 and Section 146 of the Electricity Act 2003, which stipulate the obligations of parties to adhere to the orders issued by the CGRF.
- 1.19 That, from 02.10.2023 till date around 50,000 Indian rupees from my electricity meter have been deducted illegally.
- 1.20 That, after several verbal and written requests, the respondents failed to provide any resolution of condominium association, letter of authorisation or any other legal document to charge CAM & CAE from pre-paid electricity meters.
- 1.21 That, the respondents used this act to harass the residents and used an instrument to extort the money from residents.
- 1.22 That, the question of law arises here, do an act of a group of few individuals to violate the Electricity Act, 2003, is legal in the eyes of Law & if it is illegal, have then total 672 residents of my condominium to file complaint in HERC or any court of law to remove this illegality?

- 1.23 That as per Regulation No. HERC/49/2020 section 5.3 of the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential Cum Commercial/Commercial Complexes of Developers and Industrial Estates/IT Parks/SEZ) Regulations, 2020: -  
“The individual consumers in the GHS/Employer’s Colonies/Residential cum Commercial/Commercial Complexes/ Shopping Malls/Industrial Estates/IT Park where Single Point Supply has been provided shall be treated at par with the consumers of the distribution licensees and shall have the same rights and obligations as that of other consumers of distribution licensee. These consumers shall also be covered under all other relevant Regulations of the Commission including CGRF and Ombudsman Regulations, and tariff order issued by the Commission, provided that in case of the provision of section 126, 135 and 138 of the Act the distribution licensee shall be authorized to take necessary action as per these provisions of the Act in coordination with such Employer’s Colony/GHS/ RWAs/Users Associations.”
- 1.24 That as per Regulation No. HERC/49/2020 section 6.6(b) of the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential Cum Commercial/Commercial Complexes of Developers and Industrial Estates/IT Parks/SEZ) Regulations, 2020: -  
“In case any Employer/GHS/Users Association charge the individual consumers within its complex for electricity supplied at rates higher than the Domestic supply tariff/ other relevant category tariff (as per usage of electricity) approved by the Commission, the aggrieved Residents/Members shall have the right to jointly file a complaint against such GHS/Employer/Users Associations before the CGRF/Ombudsman as per these Regulations for Redressal of their grievances.”  
“That, the Commission in its various order(s) has made it clear that common area maintenance charges (CAM)/backup supply charges should not be clubbed with the licensee’s supply charges and the connection ought not be disconnected in case the consumer has paid the charges for grid supply.”
- 1.25 That the respondents have damaged my electricity meter by adding specific codes to charge money other than the energy consumption from my prepaid electricity smart meter.
- 1.26 That there is already order passed by CGRF with case number DH/CGRF-13/2023 Nitin Nanda Vs Jagdeep Kumar & honourable authority also decided the matter same under case number HERC/Petition No. 71 of 2023. So, the respondents are habitual offenders and in larger public interest maximum punishment should be awarded to the respondents.

1.27 The specific details of the case are as follows:

- Case No.: DH/CGRF-25/2024
- Date of CGRF Orders: 12.02.2024
- Nature of Orders (in brief): to stop charging nonelectrical charges i.e. Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges from the pre-paid electricity meter and the SDO Kadipur & Sector 37 to issue notice to RWA to stop ongoing practice of deducting Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges from the pre-paid electricity meter and also directed to carry out the billing of the residents of the society through unified billing portal as per sale circular no. D23/2022. .  
Violation of multiple sections of the Electricity Act, 2003 and failure to comply with the CGRF order not only undermines the credibility of the redressal process but also raises legal implications as per the provisions of the Electricity Act, 2003.

As a consumer, it is my expectation that the regulatory framework is upheld, and I am entitled to the rights and remedies provided by the Electricity Act, 2003.

#### PRAYER/RELIEF SOUGHT

- 1.1 Pass orders to penalize the respondents from serial number 1 to 5 in consonance with the provision of Section 135(Theft of Electricity) of the Electricity Act, 2003 with maximum imprisonment and fine.
- 1.2 Pass orders to impose maximum imprisonment and fine on respondents from serial number 1 to 5 in consonance with the provisions of Section 138(Interference with meters or works of licensee) of the Electricity Act, 2003.
- 1.3 Pass orders to impose maximum penalty & imprisonment on respondents from serial number 1 to 5 in consonance with the provisions of section 142 and 146 of the Electricity Act, 2003.
- 1.4 Pass orders to impose maximum penalty & imprisonment on respondents serial number 6&7 (SDO Kadipur & SEC37) in consonance with the provisions of section 142 and 146 of the Electricity Act, 2003 as they failed to fulfil their duties and also failed to comply the CGRF order dated 12.02.2024.
- 1.5 Direct the respondents to refund / reimburse the consumers the extra amount charged other than energy consumption from 02.10.2023 till date with interest without any further delay in consonance with the provision of section 62 of the Electricity Act, 2003.
- 1.6 It is also prayed that the cost/penalty imposed on all respondents may please be given to the harassed & aggrieved complainant.
- 1.7 Pass an order to stop collection of common area maintenance & common area electricity charges from electricity meters of all the residents of the condominium in consonance as per Regulation No. HERC/49/2020 of the honourable commission.

- 1.8 Initiate Contempt proceedings against all respondents for their failure to get the CGRF order dated 12.02.2024 implemented in consonance with the provision of section 94 of the Electricity Act, 2003.
- 1.9 Levy cost on all respondent for being a habitual and repeat offender and showing disrespect to the law. Please levy Rs. 25 thousand legal cost on each respondents.
- 1.10 Pass any such order or direction as the Honourable Commission may deem fit.

#### GROUND FOR RELIEF

- 1.1 Regulation No. HERC / 49 / 2020 in exercise of powers conferred on to the Haryana Electricity Regulatory Commission by Section 61(d) and Section 181 of the Electricity Act, 2003.
- 1.2 Vide Section 5.3 of the Regulation No. HERC/ 49/ 2020- “The individual consumer in the GHS/ Employer’s Colonies/ Residential cum Commercial/ Commercial Complexes / Shopping Malls/Industrial Estates/ iT Parks where Single Point Supply has been provided shall be treated at par with the consumers of the distribution licensees and shall have the same right and obligations as that of other consumers of distribution licensee.”
- 1.3 Section 135. (Theft of Electricity): -1[(1) Whoever, dishonestly, - (c)- *“damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity.”*  
“So as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.”  
(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity.
- 1.4 Section 138. (Interference with meters or works of licensee): (1) Whoever, - (d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or wilfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator, or apparatus from duly registering, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a daily fine which may extend to five hundred rupees;”
- 1.5 Section 142 of the Electricity Act 2003 “Punishment for non-compliance of the directions by Appropriate Commission stipulates that ' in case of any complaint is filed before the Appropriate

Commission by any person or if that Commission is satisfied that any person has contravened any provisions of this Act or rules or regulations made thereunder , or any direction issued by the Commission , the Appropriate Commission may after giving such person an opportunity of being heard in the matter , by order in writing , direct that, without prejudice to any other penalty to which he may be liable under this Act , such person shall pay , by way of penalty , which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction."

- 1.6 Section 146 of the Electricity Act 2003 “ Punishment for non – compliance of orders or directions stipulates that ' Whoever, fails to comply with any order or direction given under this Act , within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder , shall be punishable with imprisonment for a term which may extend to three months or with fine , which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence.”
- 1.7 The act of the respondents no. 1 to 5 is against the norms and direction of the Haryana Electricity Regulatory Commission notification dated 22.04.2020, which under para (iii) states as follows:  
*“The Commission in its various orders has made it clear that common area maintenance charges, backup charges should not be clubbed with the licensee’s supply charges and the connection ought not be disconnected in case the consumer has paid the charges for grid supply.”*
- 1.8 Section 62. (Determination of tariff): --- (6)If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.
- 1.9 Also, in HERC/PRO-38 of 2018, it was ordered in para iv) that “the disconnection of electricity should not normally be done on account of non-payment of charges other than Discom Supply charges i.e. on account of maintenance charges, backup charges and other miscellaneous charges etc.”, indicating not to use the pre-paid meters for purposes other than electricity charges.

- 1.10 According to the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 “Meter means a device suitable for measuring, indicating and recording the conveyance of electricity or any other quantity related with electrical system”, thereby limiting the role and use of a meter to electricity purposes only.
- 1.11 As per the guidelines of HERC and Central Electricity Authority, the applicant filed a complaint with the Forum for Redressal of Consumer Grievances of Dakshin Haryana Bijli Vitran Nigam (CGRF SE-OP1, Gurugram) which passed an order dated 12.02.2024 in case no DH/CGRF – 25/2024 and the same was not complied by the respondents.
- 1.12 Section 149. (Offences by companies): - (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.
- Explanation. - For the purposes of this section,-
- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.
- 1.13 Section 94. (Powers of Appropriate Commission): --- (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -
- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning of any public record;
- (e) issuing commission for the examination of witnesses;
- (f) reviewing its decisions, directions and orders;
- (g) any other matter which may be prescribed.
- (2) The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.

(3) The Appropriate Commission may authorise any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

1.14 That no action under Section 142 read with section 146 of the Act shall be initiated taking into considering that there is no wilful disobedience of the orders. Reliance is placed upon judgments of the Hon'ble Supreme Court in Ashok Paper Kamgar Union Vs, Dharam Godha & Others., (2003) 11 SCC 1 (Para 17) and Ram Kishan vs. Tarun Bajaj & Others (2014) 16 SCC 204 (Para 10), wherein it was held that element of willingness is an indispensable requirement for holding a person guilty of contempt, Para 17 of the said judgment is extracted hereunder: "17 Section 2(b) of Contempt of Courts Act defines civil/ contempt' and it means wilful disobedience to any judgment, decree, direction, order writ or other process of a Court or Wilful breach of undertaking given to a Court 'Wilful' means an act or omission which is done voluntarily and intentionally and With the specific Intent to do something the law forbids or with the specific Intent to fail to do something the law requires to be done that is to say with bad purpose either to disobey or to disregard the Law. It signifies a deliberate action done with evil intent or with a bad motive or purpose. Therefore, in order to constitute contempt, the order of the Court must be of such a nature which is capable of execution by the person charged in normal circumstances. It should not require any extra ordinary effort nor should be dependent, either wholly or in part, upon any act or omission of a third party for its compliance. This has to be judged having regard to the facts and circumstances of each case."

2. The case was heard on 08/08/2024. None appeared on behalf of the RWA i.e. R-1 to 5. The Commission enquired why the petitioner has impleaded individuals by name whereas only RWA was the CGRF respondent in the complaint before CGRF? Sh. Sandeep Fogaat, petitioner submitted that he is president of the GGCA RWA and the office bearers of the RWA are not complying with the directions of the CGRF. The Commission observes that if the office bearers of an RWA are in dispute, this Commission is not a right forum to address such issues. However, this Commission can intervene for redressal of the complaints of the consumers relating to electricity supply only. The petitioner is directed to clarify his position in this regard along with supporting documents i.e. copy of Rules & Regulations of the Society/RWA. Sh. Raheel Kohli counsel for the respondent-6 to 8 i.e. DHBVN submitted that the directions of the CGRF imparted to DHBVN have been complied and the RWA has been instructed to stop charging of CAM & CAE through prepaid electricity meters and issue electricity bills through unified billing system. The Commission enquired from the

concerned SDO what action can be taken against the RWA if the same is not following directions as per guidelines, various orders/ circulars? The counsel for the respondent & Concerned SDO could not give a satisfactory reply to the query of the Commission. The Commission, thus directs the respondent-DHBVN to file its reply within 3 weeks with an advance copy to petitioner

**3. Reply of respondent-DHBVN submitted on 27/08/2024**

3.1 The present reply is being filed on behalf of Dakshin Haryana Bijli Vitran Limited (“DHBVN”) in response to the above captioned petition filed by Sh. Sandeep Fogaat (“Petitioner”) and all submissions are made in the alternative and without prejudice to each other. All allegations made by the Petitioner are denied in totality and the same may be treated as a denial as if it was made in seriatim. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

3.2 It is utmost relevant to mention that the present petition is not maintainable qua DHBVN, as DHBVN is not in violation of the order dated 12.04.2024 passed by the Consumer Grievance Redressal Forum (“CGRF Order”) and has in fact duly complied with the directions issued by CGRF. In this regard, attention of this Hon’ble Commission is drawn to the below reproduced operative portion of the CGRF Order:

*“The forum is satisfied that the RWA is not entitled to add the common maintenance charges, common area electricity in the account of prepaid meter of the complainant and the forum directed to RWA to immediately stop recovery of Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) through the prepaid energy meter. The complainant will only pay the current consumption charges of prepaid meter. If the complainant continues to pay his electricity dues his electricity connection should not be disconnected on account of Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA).*

*The SDO is directed to issue notice to the RWA to stop ongoing of practice of deducting Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) from the prepaid energy meter of the Complainant and the RWA is also directed to carry out billing of the residents of the society through the portal developed for unified billing as per sale circular no. D23/2022.”*

3.3 In terms of the above highlighted direction, the Answering Respondent duly issued letter dated 02.03.2024 (annexed at page 35 of the petition) to the General Secretary Emaar Gurgaon Green, Sector 102, Gurugram. In addition, numerous emails dated 14.05.2024, 29.05.2024, 32.07.2024 were written seeking compliance of the CGRF Order. Therefore, the Answering Respondent has duly complied with the direction passed by CGRF, by issuing

requisite notices, and hence the present petition is not maintainable qua DHBVN. Copies of emails dated 14.05.2024, 29.05.2024, 32.07.2024 are annexed.

- 3.4 Further, it is pertinent to mention that DHBVN is not charging Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) from the residents of Emaar Gurgaon Greens, which is evident from the electricity bill being raised DHBVN for supply of electricity though single point.

In light of the above submissions, this Hon'ble Commission may be pleased to dismiss the present petition in relation to DHBVN.

4. The case was heard on 27/09/2024. Sh. Raheel Kohli counsel for the respondent-6 to 8 i.e. DHBVN submitted that the directions imparted to DHBVN by the CGRF have been complied and the RWA has been instructed to stop charging of CAM & CAE through prepaid electricity meters and issue electricity bills through unified billing system. Sh. Sandeep Fogaat, petitioner submitted that RWA has neither complied with the directions of CGRF nor put any heed to the communication from the SDO, DHBVN. The Commission enquired as the petitioner is president of the GGCA RWA and thus petitioner himself is not complying with the directions of the CGRF. The petitioner replied that he has filed this petition as consumer of DHBVN, not as president of RWA. The RWA is not adhering to the directions. The Commission observes that in case of a single point supply connection, RWA is responsible for the distribution of electricity and collection of bills within the society and directions of CGRF have to be complied with by the RWA. The Commission, thus directs the respondent-DHBVN to file a consumer wise report indicating whether the CAM and CAE charges are being collected through electricity meters as alleged by the petitioner within 3 weeks. Further, the petitioner is directed to file a copy of Rules & Regulations of the Society/RWA. The President, Secretary and Treasurer of RWA to be present in person on next date of hearing.
5. The case was heard on 13/11/2024. Sh. Jagdeep Kumar, Secretary of RWA put forward his presence alongwith Sh. Harshit Agarwal, Treasurer in compliance of interim order order dated 15/10/2024. He further submitted that Sh. Sandeep Fogaat is no more president of RWA. He submitted a copy of the Minutes of meeting indicating that RWA in its General Body meeting dated 11/08/2024 elected Sh. Brahm Parkash Walia as new president thereby terminating Sh. Sandeep Fogaat. Sh. Sandeep Fogaat, petitioner submitted that the General Body of RWA is not empowered to terminate the president. He submitted a copy of the Rules & Regulations of the Society/RWA in compliance of interim order dated 15/10/2024. Sh. Raheel Kohli counsel for the respondent-6 to 8 i.e. DHBVN submitted that out of

672 unit holders in the society only 84 opted for delinking of CAM/CAE charges. The counsel requested for 3 days' time to submit the final report as per direction of the Commission. After hearing the parties, the Commission pointed out that the internal dispute between the office bearers of the RWA should not be dragged in this court and the respondent-DHBVN to file a consumer wise report within 3 days. Further, the petitioner and respondents are directed to file written statements within 2 weeks. The matter to come up for final arguments on 03/12/2024.

**6. Compliance affidavit of Gurgaon Greens Condominium Association dated 12/11/2024**

I, Jagdeep Kumar S/o Shri. Dariya Singh, aged about 43 years, Secretary, in Gurgaon Greens Condominium Association, Sector 102, Gurugram, Haryana, do hereby solemnly affirm and state on oath as under:

- 6.1 That I am Secretary in the Gurgaon Greens Condominium Association, Gurgaon Greens, Sector 102, Gurugram, Haryana. I state that, I am filing the present affidavit respectful compliance of the order of CGRF dated 12/02/2024 in Case No. DH/Circle CGRF/25 of Sh. Sandeep Fogaat. I state that, I'm well versed with the facts of the present case and I am authorized to file the present affidavit on behalf of the Gurgaon Greens Condominium Association.
- 6.2 It is humbly submitted that, Gurgaon Greens Condominium Association complied the order of CGRF dated 12/02/2024 to delink the CAM (Common Area Maintenance) & CAE (Common Area Electricity) Charges from the smart device of Complainant Mr. Sandeep Fogaat on July 1<sup>st</sup> 2024, same was delinked by the Community Facility Management Team on July 1<sup>st</sup>, 2024. It is further submitted that, the due reflection of delink of CAM (Common Area Maintenance) & CAE (Common Area Electricity) charges from the flat of Mr. Sandeep Fogaat is captured in Accounting ledger and smart device invoice of Flat No. 601, Tower-18, Gurgaon Greens, Sector 102, Gurugram.

**7. Report of respondent-DHBVN submitted on 13/11/2024**

- 7.1 That this Hon'ble Commission vide order dated 15.10.2024 directed Dakshin Haryana Bijli Vitran Limited ("DHBVN") to file a consumer-wise report indicating whether the CAM and CAE charges are being collected through electricity meter as alleged by the Petitioner.
- 7.2 That in terms of direction issued by the Hon'ble Commission, the deponent vide letter dated 09.10.2024 informed the Secretary RWA Emaar Gurgaon Greens that he will be visiting the society on 11.10.2024. Accordingly, on 11.10.2024, the deponent visited the society and sought necessary consumer-wise information/

documents from the Sh. Rishab Jain Estate Manager to ascertain the veracity of the Petitioner allegation i.e., CAM and CAE charges are being collected through electricity meter. In response, the deponent was informed that the requisite information will be provided in due course.

- 7.3 That on 21.10.2024 a telephonic reminder was given by the deponent to General Secretary in relation to the consumer-wise information/documents sought by the deponent.
- 7.4 That on 24.10.2024 Community and Facilities Management office of the society inter-alia informed the deponent that on 12.04.2024 a notice were issued to all resident inviting them to delink CAM and CAE charges from their prepaid smart device. Consequently, out of 672 flats, 87 flats residents have opted by to delink their CAM and CEA charge from the prepaid smart device. The remaining 585 flat residents, along with 15 commercial shops, had chosen to continue with the deduction through their respective prepaid smart device. In support of this various document's consumer-wise document were provided on 24.10.2024 & 08.11.2024.
- 7.5 That, after reviewing the consumer-wise document/information provided to the deponent, it is stated that the contents of letter dated 24.10.2024 issued Community and Facilities Management office of the society to the deponent are in conformity with the record (consumer-wise document/information) provided to the deponent.
- 7.6 That I am well conversant with the facts and circumstances of the present case and am duly authorized by Dakshin Haryana Bijli Vitran Nigam and competent to swear and affirm this affidavit.
- 7.7 That the facts stated in the above affidavit are true to my knowledge. No part of the above affidavit is false and nothing material has been concealed therefrom.
- 8. Written submissions of petitioner dated 21/11/2024**
- 8.1 That, as per the speaking order in case number DH/Circle CGRF/25 dated 12.02.2024, issued by the forum for the redressal of Zonal consumer grievances under Dakshin Haryana Bijli Vitran Nigam Limited, SE-OP1, Gurugram-HR the necessary actions and rectifications were mandated to stop charging non-electrical charges i.e. Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges from the prepaid electricity meter of my apartment. Below are the few observation mentioned in the order:  
"The proceeding held on 12/02/2024, the complainants (Sh. Sandeep Fogaat) and concerned SDO were present. But RWA representative (Sh. Jagdeep Kumar) did not present and he did not submit his written reply after giving more opportunities by the forum, the defence of respondent RWA is stuck off."

- This observation mentioned proved that the respondent willingly & intentionally did the disobedience of the forum and law of the state.
- 8.2 That, as per the compliance affidavit dated 12-11-2024 submitted by respondent, it is accepted that they have delink the CAM & CAE charges from my smart meter device which proved that they have interfered with my smart meter by deducting Common Area Maintenance charges & Common Area Electricity charges i.e. the deduction other than the grid supply charges. As per the notification dated 22 April 2020 by HERC made clear guidelines that “Common Area Maintenance charges (CAM)/backup supply charges should not be clubbed with the licensee's supply charges and the connection ought not to be disconnected in case the consumer has paid the charges for grid supply”.
- The one respondent Mr. Jagdeep Kumar is a lawyer himself and is very well aware about the HERC guidelines and regulations. With ulterior motives, knowingly, willingly, intentionally all the respondents have violated the regulations of the HERC. This showeth their intention of contravention of the law.
- 8.3 That, as per the affidavit submitted on behalf of DHBVN dated 12 November 2024 where the deponent name is not mentioned in the affidavit hence should be resubmitted with deponent details. As per the affidavit submitted, the respondents are still charging Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges in 585 smart electricity meter devices of the condominium even after orders of CGRF and HERC. As per the affidavit, residents were asked by CFM team to send email or put in a written request to delink the CAM charges. This act is again an evidence of respondents’ blatant intention of contravention of the HERC regulations. Did they take apartment owners’ approval before starting the deduction of Common Area Maintenance (CAM) and Common Area Electricity (CAE) charges through Smart electricity meter devices?
- 8.4 That, the concerned Kadipur & Sec 37 SDO had failed in compliance of the CGRF orders multiple times and also expressed their debility in commission’ hearings of this petition. DHBVN officials failed in implementations of HERC regulations and CGRF orders.
- 8.5 That, as per affidavits submitted by respondents, it is proved that the respondents violated multiple sections of the Electricity Act, 2003 and failed to comply the CGRF orders and HERC regulations. This act not only undermines the credibility of the redressal process but also raises legal implications as per the provisions of the Electricity Act, 2003.
- 8.6 That, as a consumer of DHBVN, it is my expectation that the regulatory framework must be upheld, and I am entitled to get the rights and remedies provided by the Electricity Act, 2003 by passing the orders requested below:
- a) Pass order to penalise the respondents from serial number 1 to 5 in consonance with the provision of Section 135(Theft of Electricity) of the Electricity Act, 2003 with maximum imprisonment and fine.

- b) Pass orders to impose maximum imprisonment and fine on respondents from serial number 1 to 5 in consonance with the provisions of Section 138(Interference with meters or works of licensee) of the Electricity Act, 2003.
- c) Pass orders to impose maximum penalty & imprisonment on respondents from serial number 1 to 5 in consonance with the provisions of section 142 and 146 of the Electricity Act, 2003.
- d) Pass orders to impose maximum penalty & imprisonment on respondents serial number 6&7 (SDO Kadipur & Sector 37) in consonance with the provisions of section 142 and 146 of the Electricity Act, 2003 as they failed to fulfil their duties and also failed to comply the CGRF order dated 12.02.2024.
- e) Direct the respondents to refund / reimburse the amount charged for CAM & CAE through smart electricity meter device of petitioner from 02.10.2023 till date with interest without any further delay in consonance with the provision of section 62 of the Electricity Act, 2003.
- f) It is also prayed that the cost/penalty imposed on all respondents may please be given to the harassed & aggrieved complainant.
- g) Pass an order to stop collection of common area maintenance & common area electricity charges from electricity meters of all the residents of the condominium in consonance as per Regulation No. HERC/49/2020 of the honourable commission.
- h) Initiate Contempt proceedings against all respondents for their failure to get the CGRF order dated 12.02.2024 implemented in consonance with the provision of section 94 of the Electricity Act, 2003.
- i) Levy cost on all respondent for being a habitual and repeat offender and showing disrespect to the law. Please levy Rs. 25 thousand legal cost on each respondents.
- j) Pass any such order or direction as the Honourable Commission may deem fit.

Written Submission as President of RWA

1. That, I, Sandeep Fogaat, R/o T18-601, Gurgaon Greens, Sector 102, Gurugram (HR) is the president of Gurgaon Greens Condominium Association (Reg. No. HR018201803328) duly elected and approved by District Registrar of Firms & Societies, Gurugram (HR) via Memo Number 2022-01-0000065 dated 20-01-2022 (attached herewith as Annexure-A).
2. That, I have no role in implementing the decision of deducting CAM & CAE from the smart electricity meters of the condominium. In my written submission to SE(Op) Circle-1, DHBVN, Gurugram (HR) in the case number DH/Circle CGRF/13 of 2023, I clearly stated that linking of CAM & CAE charges with Smart Electricity Meter devices is done without any information to me and I haven't provide any written or verbal consent regarding this illegal act. This illegal act was done by other office bearers of the association without any governing body meeting or any resolution passed and approved by District Registrar.

My written submission to SE(Op) Circle-1, DHBVN, Gurugram (HR) dated 31 October 2023 is attached herewith as Annexure-B.

3. That, I have written multiple emails to office bearers of the associations and facilities management team to delink the deduction of CAM & CAE from the smart electricity meters of the condominium, but they paid no heed to my request. This act is purely done by the respondents with ulterior motives and as a President of association, I opposed this act many times including serving a notice dated 16 January 2024, hence can't held any responsibility for their illegal act. Email written & notice served have been attached herewith as Annexure-C.

9. **Commission's Analysis and Order:**

- 9.1 The case was finally heard on 03/12/2024, as scheduled, in the court room of the Commission.
- 9.2 At the outset, Sh. Jagdeep Kumar, Secretary of RWA Submitted that the RWA issued a notice to the residents of the society had sought option of the residents for de-linking CAM / CAE charges from their Pre-paid billing device and out of 672 residents only 87 opted for the de-linking.
- 9.3 To the query of the Commission on the alternate arrangement of recovery of charges, Sh. Jagdeep Kumar intimated that a quarterly invoice is raised to each resident for approx. Rs. 19000/-. As the residents feel it difficult to pay Rs. 19000/- quarterly most of the residents opt for such payments along with energy bills. The RWA is charging @Rs.3.25 per Sq.ft. towards CAM Charges and @ Rs. 0.62 per Sq.ft. towards CAE charges. He further submitted that the account of the petitioner has already been de-linked and approx. Rs.80,000/- is outstanding in account of petitioner.
- 9.4 The petitioner argued that nothing extra can be charged through pre-paid device except electricity charges through pre-paid meter and per regulations. He further contested that RWA is still charging CAM/CAE through pre-paid meter from other residents.
- 9.5 The Commission observed that the petition has been filed on individual capacity and RWA has already delinked the account of the petitioner.
- 9.6 The Commission has considered the submissions made by the Petitioner in the Petition/Rejoinder, submission made in the reply filed by the Respondent and the pleadings made by both the parties and has also critically examined the entire material/information placed on the record by both the parties.
- 9.7 The operative part of the CGRF order is as under  
*"The forum is satisfied that the RWA is not entitled to add the common maintenance charges, common area electricity in the account of prepaid meter of the complainant and the forum directed to RWA to immediately stop recovery of Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) through the prepaid energy meter. The complainant will only pay the current consumption charges of prepaid meter. If the complainant continues to pay his electricity dues his electricity connection should not be disconnected on account*

*of Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA).*

*The SDO is directed to issue notice to the RWA to stop ongoing practice of deducting Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) from the prepaid energy meter of the Complainant and the RWA is also directed to carry out billing of the residents of the society through the portal developed for unified billing as per sale circular no. D23/2022.”*

9.8 The issue before the Commission is non-compliance of CGRF order by the respondent RWA and respondent DHBVN. Based on the facts placed before the Commission, the following issues surfaced:

9.9 **Impleading of members of RWA and officers of DHBVN by name:**  
During the course of hearing the Commission took exception to Impleading of members of RWA and officers of DHBVN by name and asked the petitioner “why the petitioner has impleaded individuals by name whereas only RWA was the CGRF respondent in the complaint before CGRF? Sh. Sandeep Fogaat, petitioner submitted that he is president of the GGCA RWA and the office bearers of the RWA are not complying with the directions of the CGRF. The Commission observed that if the office bearers of an RWA are in dispute, this Commission is not a right forum to address such issues. However, this Commission can intervene for redressal of the complaints of the consumers relating to electricity supply only.

9.10 **Non-compliance of Orders of CGRF**

The Petitioner alleged wilful and repeated non-compliance with CGRF orders issued on February 12, 2024, mandating the termination of CAM and CAE deductions through prepaid meters and adoption of a unified billing system. Argued several reminders and follow-ups to DHBVN and the RWA, yielded no substantial action. Submitted that the persistent inaction undermines the credibility of CGRF orders and violates Sections 142 and 146 of the Electricity Act, 2003.

RWA in its compliance affidavit has submitted that, Gurgaon Greens Condominium Association complied the order of CGRF dated 12/02/2024 to delink the CAM (Common Area Maintenance) & CAE (Common Area Electricity) Charges from the smart device of Complainant Mr. Sandeep Fogaat on July 1<sup>st</sup> 2024, same was delinked by the Community Facility Management Team on July 1<sup>st</sup>, 2024. It is further submitted that, the due reflection of delink of CAM (Common Area Maintenance) & CAE (Common Area Electricity) charges from the flat of Mr. Sandeep Fogaat is captured in Accounting ledger and smart device invoice of Flat No. 601, Tower-18, Gurgaon Greens, Sector 102, Gurugram.

DHBVN: Claimed compliance by issuing multiple directives to the RWA to delink charges and adopt unified billing. Cited procedural challenges in enforcement, as the RWA manages internal distribution.

The Commission observes that the direction of the CGRF “RWA is not entitled to add the common maintenance charges, common area electricity in the account of prepaid meter of the complainant and the forum directed to RWA to immediately stop recovery of Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) through the prepaid energy meter. The complainant will only pay the current consumption charges of prepaid meter.” has already been complied by the respondent RWA in respect of the complainant.

With reference to the direction of the CGRF “The SDO is directed to issue notice to the RWA to stop ongoing of practice of deducting Common Area Maintenance (CAM) and Common Area Electricity Charges (CEA) from the prepaid energy meter of the Complainant and the RWA is also directed to carry out billing of the residents of the society through the portal developed for unified billing as per sale circular no. D23/2022.”

DHBVN in their reply submitted that the directions imparted to DHBVN by the CGRF have been complied and the RWA has been instructed to stop charging of CAM & CAE through prepaid electricity meters and issue electricity bills through unified billing system.

The Commission observes DHBVN fulfilled its role by issuing directives but should have followed up more rigorously to ensure full enforcement

9.11 In view of the above facts and discussions, the commission observes that Gurgaon Greens Condominium Association vide affidavit dated 12.11.2024 has submitted that it has complied the order of CGRF dated 12/02/2024 to delink the CAM (Common Area Maintenance) & CAE (Common Area Electricity) Charges from the smart device of the petitioner on July 1<sup>st</sup> 2024. The complaint before CGRF was filed by the complainant in his individual capacity and the orders of CGRF have already been complied with. The petition is disposed off with following directions to respondents.

- a) The respondent DHBVN is directed to develop a mechanism for effective implementation of regulation in this regard.
- b) The respondent RWA is directed to strive to issue electricity bills through Unified Billing Software in coordination with DHBVN.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 12/12/2024.

**Date: 12/12/2024**  
**Place: Panchkula**

**(Mukesh Garg)**  
**Member**

**(Nand Lal Sharma)**  
**Chairman**