



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
Haryana Electricity Regulatory Commission
Bays No. 33 - 36, Sector - 4, Panchkula-134109
Telephone No. 0172-2572299; Website: - herc.nic.in
E-mail: eo.herc@nic.in

(Regd. Post)

Appeal No : 11/2024
Registered on : 12.03.2024
Date of Order : 02.04.2024

In the matter of: -

Appeal against the order dated 12.01.2023 passed by CGRF DHBVNL, Gurugram in case No. DH/CGRF/3832/2021.

M/s Shiv Bholey Roller Flour Mills Pvt. Ltd., Hisar

Appellant

Versus

1. The Executive Engineer Operation Division No. 1, DHBVN, Hisar

Respondent

2. The SDO Operation Sub Division Civil Lines, DHBVN, Hisar

Before:

Shri Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Shri Ankit representative of the appellant

Present on behalf of Respondents:

Shri Sanjay Bansal, Advocate

Shri Amit, SDO Operation Sub Division Civil Lines, DHBVN, Hisar

ORDER

A. Shri Vijay Kumar Dhall, Director, M/s Shiv Bholey Roller Flour Mills Pvt. Ltd. has filed an appeal against the order dated 12.01.2023 passed by CGRF, DHBVNL, Gurugram in complaint No. DH/CGRF/3832/2021. The appellant has requested the following relief: -

As we have raised a grievance in CGRF on dated 13.08.2021 (Grievance Explanation of the same is enclosed herewith in email) after of many hearings (approx. 10) in CGRF, the Concerned SDO give reply with written letter to CGRF that he will refund our security before next hearing. But before issue refund to us, forum generate final order with mentioning that "issue raised is settle and complainant also satisfied. Case is Closed. No cost on either side". While there is cost on respondent's side, they have not mentioned the same in the order. So due to this till now our security amount not refunded to us. So, here we want to appeal against the order of forum/CGRF.

As we had an electricity connection bearing ph. no. LS-92 and account number 1140520000, which was permanently disconnect after payment of final bill in 2017. After the disconnection we applied for our security amount with interest (deposited at your end) & again on 01.07.2020 (application attached

herewith), but we have not received the amount and any update in this regard till date. Again, we visited the Civil Line office of DHBVN and they told us that they were not able to find our record in system, without any physical efforts.

We request to you that kindly get refunded our security amount (detailed as below) with interest as soon as possible. As we have no security fees deposited receipt due to misplace of file, for this we have given affidavit signed by one of director of the company. We have enclosed herewith copy of last electricity bill and copy of our earlier application and affidavit for your ready reference.

Detail of Security Deposit is as below: -

	First security deposit at the time of connection	As we have no security fees deposited receipt, but we have a tentative month of deposit i.e. Mar 1997	
1	Security Deposit Balance with interest at the end of F.Y. 2007-08		244,200.00
2	Further Security Deposited Date	As we have no security fees deposited receipt, but we have date of deposit i.e. 25.11.2008	
			271,636.00
3	Add: Interest and amount of TDS as per DHBVN		
	SESSION	INTERSET	TDS
	2010-2011	36,469.00	3,647.00
	2011-2012	36,469.00	3,647.00
	2012-2013	36,469.00	3,647.00
	2013-2014	51,665.00	5,167.00
	2014-2015	51,664.00	5,166.00
	2015-2016	54,704.00	5,470.00
	2016-2017	51,664.00	5,166.00
	2017-2018	26,156.25	2,616.00
	After the F.Y. 2017-18 we have not received any interest amount in our Form 26 as per DHBVN, Please ADD accordingly	345,260.25	34,526.00
	TOTAL Security Amount with Interest		310734.25
			826570.25

B. The appeal was registered on 12.03.2024 as an appeal No. 11/2024 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 02.04.2024.

C. The counsel for the respondent SDO vide email dated 01.04.2024 has submitted reply, which is reproduced as under:

1. As per HERC regulations, the appeal must be filed within one month after the CGRF (Consumer Grievance Redressal Forum) order has been passed. Since the order was passed on January 12, 2023, the appeal filed on March 12, 2024 (noted as "appeal 11 of 2024") is not eligible to be heard in HERC.
2. That as per the regulations of the Nigam when a consumer gets an electricity connection then he deposits the security amount and the

department updates his security amount in his bills. If a consumer gets disconnected his connection, the department refunds his security amount. But in the present case the connection is very old (1997-98) and the record of this connection is not available as the old software system is not available/working.

3. That when a consumer wants to get his security amount back, then the division office has to VAT his account. Every receipts needs to be tally with the cash book, only after that, the department can approve the security amount to be refunded to the consumer. But in the present case the proper record is not available, so due to unavailability of record the respondent department is not able to refund the security amount.
4. That this is well settled law as well as principle of natural justice that anybody claiming any amount have to produce the receipts of the claimed amount. It is the duty of the consumer to carry the receipts of every consumable product which he is using for his personal use. Without receipt consumer has not valid claim, even if he is on the right side. Because due to the lack of receipt, proper document, which is a proof to a claim, no court can judge the claim of the claimant whether it is true or false. It is pertinent to mention here that under the consumer protection Act 1986, no court can decide the claim in the absence of proper receipt. In the present appeal the appellant is not providing the receipt of ACD amount to the respondent department. So, this is not possible for the respondent department to give the ACD amount to the consumer.

Facts: -

1. That M/s Shiv Bholey Roller Flour Mills, Dabra Road, Hisar had an electricity connection LS-92 which they got disconnected in July 2020. Complainant is complaining that even after the disconnection of his LS category connection, his security amount has not been refunded. That complainant has requested and convinced the department many times.
2. That in present complaint/ appeal the complainant said that the reason cited by the sub division for non refund of ACD amount is that, that the sub division has no records of ACD deposited by them and instead they are asking the complainant to produce receipts of such deposits. The complainant said that since the ACD amount had been deposited long time back, the complainant is not able to find out such receipts.

3. That it is an amazing fact that the consumer is not having the receipts of ACD deposited by him of his own LS category connection, which he has used for his own personal use and monetary gains. And the consumer is making the department liable and accountable for the record of his electricity connection which he is firstly liable to keep his personal record carefully.
4. That the consumer complaints that DHBVN in its bills, has been showing the total ACD deposited. And that the Nigam has been also paying interest on ACD, regularly, year after year. It is pertinent to mention here that the consumer is unable to provide the ACD receipt of Rs. 2,44,200/- and as the proof of ACD amount of Rs. 2,71,636/- which is the bill presented by the consumer issued on 14-11-2008. In which it is not clearly mentioned that the same amount is ACD or any sundry and the same cannot be confirmed by this office due to non-working of old software. And as per the consumption basis of the same bill i.e. Rs. 1,09,701/- the ACD amount of Rs. 2,71,636/- cannot be seemed justified.
5. That it is hereby pertinent to mention that four instalments of ACD paid by the consumer which has been traced of Rs. 22,700/- each in the consumer Revenue Cash Book of year 1997-98 may be refundable.
6. That so the amount of Rs. 90,800/- (ACD) may be refunded after approval from the competent authority as per consumer revenue cash book.

So, it is, therefore, respectfully prayed in the light of the above-mentioned submissions that in the absence of receipts of ACD deposited by the consumer/ appellants, it is not possible to refund the security amount to the consumer. So, the present appeal may be dismissed and passed any appropriate order in the interest of justice.

- D.** Hearing was held today, as scheduled. Both the parties were present through video conferencing. At the outset, the representative of the appellants briefed the appeal and submitted that the appellants has an electric connection bearing account no. LS-92 which was got permanently disconnected in the year 03/2017 but in spite of the repeated request, the ACD deposited has not been refunded till date.

Per contra, the counsel for the respondent submitted that the appeal is beyond the limitation in view of HERC Forum and Ombudsman Regulations clause no. 3.18 (2) as the CGRF decided the case on dated 12.01.2023 and the appeal filed

in this forum on 27.02.2024. Further, no receipt has been provided by the appellant which is a prerequisite for refund of ACD.

The representative of the appellant submitted that the appellant was satisfied after submission of a letter by the respondent SDO, bearing Memo No. 1520/21 dated 30.12.2022 addressed to the Member, CGRF, Gurugram, wherein it had been mentioned that amount of Rs. 2,25,000 + Rs. 90,800 = Rs. 3,15,800/- and interest of Rs. 63,339/- may be refunded after the approval of competent authority but the reference of the ibid letter was not made in the CGRF order dated 12.01.2023. He further argued that he made number of requests to the CGRF and the respondent SDO through email to refund ACD but no response is received. As he was busy in making correspondence with the respondent with hope that matter will be resolved, appeal could not be made before the Ombudsman in stipulated time. At last the present appeal is made. He requested to condone delay.

- E.** After hearing both the parties and going through record made available on file, it is observed that the Corporate Forum vide order dated 12.01.2023 closed the case. The operative part of the decision is as under:

“Proceeding was held on 12.12.2022 at Hisar. The complainant as well as SDO was present. The Forum again directed SDO to verify from accounts wings the claim of complainant that Nigam has been paying interest on ACD which now the Nigam says is not in the records. The Forum again made it clear that some proof, from either side, has to come on record for conclusion of the case. Now to come up for hearing on 11.01.2023.

Proceeding was held on 11.01.2023 at Hisar. SDO as well as representative of complainant was present. SDO stated that issues raised has been settle and complainant also satisfied. Case is closed. No cost on either side.”

During hearing the appellant contended that CGRF in its order has not mentioned the respondent’s letter dated 30.12.2022 addressed to the Member CGRF DHBVN Gurugram, wherein the respondent had indicated to refund ACD.

- F.** In view of the above facts and discussions, it is observed that no speaking order has been passed by the CGRF. Therefore, the matter is remanded back to the Corporate Forum for relook and deciding the prayer of complainant on merit as

per relevant instructions of HERC Regulations / Nigam by passing speaking order. The instant appeal is disposed of accordingly.

Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on 2nd April, 2024.

Sd/-

(Virendra Singh)

Electricity Ombudsman, Haryana

Dated: 02.04.2024

CC:

Memo. No. 92 to 98/HERC/EO/Appeal No. 11/2024

Dated: 03.04.2024

1. Shri Vijay Kumar Dhall, Director, M/s Shiv Bholey Roller Flour Mills Pvt. Ltd., 5th K.M. Stone, Dabra Road, Hisar - 125001 (Email jcpldealer@gmail.com).
2. The Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited, Vidyut Sadan, Vidyut Nagar, Hisar -125005 (Email md@dhbvn.org.in).
3. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula – 134109 (Email lr@hvpn.org.in).
4. The Chief Engineer Operation Zone, DHBVN, Hisar (Email ceophisar@dhbvn.org.in).
5. The Superintending Engineer Operation Circle, DHBVN, Hisar (Email seophisar@dhbvn.org.in).
6. The Executive Engineer Operation Division No. 1, DHBVN, Hisar (Email xeop1hisar@dhbvn.org.in).
7. The SDO Operation Sub Division Civil Lines, DHBVN, Hisar (Email sdoopcivillinehisar@dhbvn.org.in).