

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

Case No. HERC/P. No. 52 of 2024

Date of Hearing : 08/01/2025

Date of Order : 13/01/2025

IN THE MATTER OF:

Complaint under section 142, read with Section 146 & Section 149 Of The Electricity Act,2003 & Regulation 2.32 of HERC (Forum & Ombudsman) Regulations,2020 for imposing penalty u/s 142 and institution of complaint u/s 146 of the electricity act, 2003 on account of non compliance of the order/ direction passed by Ld. Corporate Forum for Redressal Of Consumer Grievances (CGRF) Gurugram as well as continuing failure to comply with the direction of order number 4663/2024 dated 05-06-2024 by respondent(s) and for direction(s) to ensure strict compliance of the direction issued by the Corporate CGRF DHBVN Gurgaon vide order dated 05-06-2024.

Petitioner

Shiv Stone Crusher, Village Asawari, Charkhi Dadri (Haryana) Through its proprietor Mr. Vikram Singh Sangwan

VERSUS

Respondents:

1. SDO 'OP' Sub Division, DHBVN, Near 132 KV Sub Station, Jhojhu Kalan Distt- Charkhi Dadri
2. XEN 'OP' Division, DHBVN, Railway Road, Charkhi Dadri.

Present

On behalf of the Petitioner

Sh. Akshay Gupta, Advocate

On behalf of the Respondent

1. Sh. Tarsem Rana, Associate to Advocate
2. Sh. Anil Gupta, SDO, Jhojhu Kalan DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman

Shri Mukesh Garg, Member

ORDER

1. **Petition:**

1) That Sh. Vikram Singh Sangwan (Complainant petitioner) S/o Sh. Karamvir Singh, Village Asawari is the Prop of Shiv Stone Crusher and having an HT industrial electricity connection bearing account number 5237572000 under the jurisdiction of SDO Op Sub Division Jhojhu, Complainant petitioner is the resident of Village Asawari, Distt- Charkhi Dadri (Haryana). Complainant petitioner filed a complaint before Corporate CGRF, DHBVN GURGAON on dated 29-03-2024 which was instituted on 05-04-2024 and prayed:

To Declare the action of the respondent for charging average units on very higher side without any consumption as illegal, arbitrary and unjustified and be quashed and:

- i. Direct the respondent to correct the bill for the period 1.11.2023 to 11.12.2023 and refund the excess amount charged with 1.5% P/m LPSC/surcharge.
 - ii. Direct the respondent to refund PLEC charges charged from June/July-2023 onwards with 18% P/a interest.
 - iii. Direct the respondent to pay the compensation of Rs 1,00,000 to complainant on account of harassment, mental agony, pain suffered by its functionaries and legal expenses incurred and;
 - iv. Pass any other or further order which this Hon'ble Forum deems fit and proper in the facts and circumstances of the case in favor of complainant in the interest of Justice. Copy of complaint dated 29.03.2024 is attached.
- 2) That during the hearing at Op Circle Bhiwani, the respondent SDO vide him office memo number 171 dated 25.04.2024 tendered his reply wherein he submitted that "The defendant is about correcting the bill for the period from 1.11.2023 to 1.12.2023 which has been adjusted through sundry with surcharge amount of Rs. 696950/- vide sundry number 374/147.
Regarding PLEC load charges, it has been submitted that as per guidelines issued by Sales Circular No 25-2014. The PLEC load has been adjusted through sundry with amount of 64741/- vide sundry number 375/ 147. (Copy of reply submitted by respondent is attached)
- 3) That Corporate CGRF DHBVN Gurgaon vide order dated 05-06-2024 disposed of the case with direction to respondent SDO to take action as per his reply vide memo number 171 dated 25.04.2024. (Copy of order attached).
- 4) That Order dated 05-06-2024 was to be complied within 21 days i.e by 26-06-2024 but it's been around 3 months since passing of order dated 05-06-2024 by Ld. Corporate CGRF DHBVN Gurgaon and the same has not been complied with by the respondent SDO as the amount excess reading charged amounting to Rs. 696950 and PLEC charges amounting to Rs. 64741 has not been adjusted in the bill as directed by the Ld. Corporate CGRF DHBVN Gurgaon and there has been deliberate and willful disobedience of order dated 05-06-2024 passed

by Ld. Corporate CGRF DHBVN, Gurgaon. Respondent is required to refund/ adjust Rs. 696950 and Rs. 64741 PLEC charges to complainant petitioner but nothing has been paid /adjusted in the electricity bill of the complainant petitioner so far.

- 5) That the respondent has failed to comply with the order passed by Ld. Corporate CGRF DHBVN Gurgaon and forced complainant petitioner to file the complaint Before Hon'ble HERC under Section 142 Read with Section 146 & Section 149 of Electricity Act-2003 for non-compliance of order passed by Ld. Corporate CGRF DHBVN Gurgaon dated 05.06.2024.
- 6) Electricity Act, 2003- Section 142 "Punishment for Non-Compliance of directions by Appropriate Commission): in case any complaint is filed before the Appropriate Commission by any person or if that Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the 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 if 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 direction.
- 7) Section 146: "Punishment for Non-Compliance of orders or directions- 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, with both in respect of each offence and in the case of 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:
(Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.)
- 8) Section 149 (1) Where an offence under this act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:
 - (2) Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
 - (3) 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.

- 9) Regulation 2.32 of HERC (Forum and Ombudsman) Regulations, 2020 (Regulation 2.32):

“The decisions of the Forum will be recorded and duly supported by reasons. The Order of the Forum will be communicated to the complainant and the licensee in writing within 7 days of the passing of the Order. The licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the licensee, may extend the period for compliance of its order up to a maximum of three months. The aggrieved consumer may approach the Ombudsman who will provide the consumer as well as the licensee an opportunity of being heard and decide the appeal.

In case of non-compliance of the order of the appropriate Forum, the aggrieved consumer may approach the Commission who will provide the consumer as well as the Licensee an opportunity of being heard. The Commission may initiate proceedings under section 142 of the Act for violation of the Regulations framed by the Commission.”

- 10) That as per HERC (Standard of Performance of Distribution Licensee and determination of compensation) Regulation, 2020 Schedule – II Sub Clause 20 provides that in case of compliance of CGRF is not made within the time framed defined in such order or the regulations specified by the commission in this regard, the compensation of Rs.100/- per day or part thereof is payable.

Prayer:

It is, therefore, most humbly prayed that considering the submissions brought out above, this Hon'ble Commission may kindly be pleased to:

- i. Direct the respondent(s) to comply with order passed by the Ld. Corporate CGRF DHBVN vide order dated 05.06.2024.
- ii. To impose penalty of Rs. 1 Lakh on respondent(s) under Section 142 of Electricity Act 2003 for failure to comply with the order / direction passed by Ld. CGRF on 05.06.2024 as well as continuing failure to comply with the directions and pay the dues to the complainant.
- iii. To direct institution of complaint under Section 142 RW Section 146 of Electricity Act, 2003 for failure to comply with the order / direction passed by the Ld. CGRF on dated 05-06-2024 as well as continuing failure to comply with the directions against the respondent SDO.
- iv. To direct the respondent(s) to pay compensation @ Rs.100/ Day for non-compliance of order passed by CGRF within 21 days.
- v. To award the penalty imposed on respondent(s) in favour of the complainant- petitioner.

- vi. Direct respondent(s) to pay Rs. 1,00,000/- (Rs. One Lac only) as court fee and litigation expenses.
 - vii. To allow any other relief as deemed fit by the hon'ble Commission.
2. The case was heard on 03/12/2024. Sh. Raheel Kohli, counsel for the respondent submitted that the orders of the CGRF have been complied and the amount has been adjusted. The same will be reflected in the bill for the month of Dec, 2024. Sh. Akshay Gupta submitted that he has not received any compliance report or intimation from the respondent on the implementation of the CGRF order. He further requested that the compliance report should be accompanied with the supporting documents. After hearing both the parties, the Commission directed the respondent to file a compliance report within 3 weeks.
- 3. Compliance report submitted by respondent:**
- 1) The present compliance report is being filed on behalf of Dakshin Haryana Bijli Vitran Limited ("DHBVN") in terms of the order dated 09.12.2024 passed by' this Hon'ble Court in the captioned matter in relation to the order dated 05.06.2024 passed by the Corporate CGRF DHBVN Gurgaon ("CGRF Order").
 - 2) It is submitted that in compliance of the CGRF Order an amount to the tune of INR 7,05,170/- (Rs 643731 SOP including surcharge Rs. 61405, Rs 11647 M. Tax, Rs. 41157 FSA Rs. 8635 ED) and INR 157843 (PLEC charges for the period from March 2024 to November 2024) has been adjusted in the Petitioner's account. The said amount is reflected in the bill of November, 2024 generated on 13.12.2024. In this regard, copy of the sundry (406/147 & 412/147)is attached herewith and marked as "Annexure — A", and copy of the invoice dated 13.12.2024 is attached herewith and marked as "Annexure — B".

4. Proceedings:

- 1) The case was heard on 08/01/2025, as scheduled, in the court room of the Commission.
3. At the outset, Sh. Tarsem Rana, appearing on behalf of the respondent submitted that the orders of CGRF have been complied and compliance report has been submitted.
- 2) Sh. Akshay Gupta counsel for the petitioner submitted that the orders of the CGRF have been complied and expressed his satisfaction to the compliance of the orders.
- 3) The Commission in cognizance to the acceptance conveyed by the petitioner observes that nothing remains to be adjudicated in the present petition and disposed off the petition, accordingly.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 13/01/2025.

Date: 13/01/2025
Place: Panchkula

(Mukesh Garg) **(Nand Lal Sharma)**
Member **Chairman**