



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

Haryana Electricity Regulatory Commission

Bays No. 33 - 36, Sector – 4, Panchkula-134109

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(Regd. Post)

Appeal No. : 11/2019
Received on : 12.04.2019
Registered on : 22.04.2019
Date of Hearing : 23.07.2019
Date of Order : 29.07.2019

In the matter of: -

Appeal against the order of the CGRF, UHBVNL, Kurukshetra in case no. 47 of 2018 dated 20.2.2019

Sh. Hardesh Goyal, Village Tikkar Taal, Sub-Tehsil Morni Hills, Distt. Panchkula.

Appellant/Complainant

Vs.

UHBVNL

Respondents

Before:

Mrs. Surbhi Jain, Electricity Ombudsman

Present on behalf of Appellant

1. Sh. Hardesh Goyal
2. Adv. Ajay Sharma

Present on behalf of Respondents

Sh. Ravinder Singh, SDO 'Op.', UHBVNL Raipur Rani

ORDER

Sh. Hardesh Goyal, Village Tikkar Taal, Sub-Tehsil Morni Hills, Distt. Panchkula through his Ld. Advocate has filed an appeal against the order dated 20.02.2019 of CGRF Kurukshetra in case No.47 of 2018, which was received on 12.04.2019 and was registered on 22.4.2019. Accordingly, notice of motion was issued on 22.4.2019 and the first hearing was fixed for 06.05.2019.

Hearing was held on 06.05.2019, as scheduled. Both the parties were present. During the hearing Respondent SDO requested some more time to submit para-wise reply of the appeal. The request of the Respondent SDO was accepted and the matter was adjourned to 29.5.2019.

The hearing was again held on 29.5.2019 and on 11.6.2019, as scheduled. Para-wise reply submitted by the Respondent SDO on 27.5.2019 was taken on record. It was directed to supply a copy of the reply to the appellant. On both these occasions, the matter was adjourned on the request of the appellant.

The hearing was held on 13.6.2019, as scheduled. Both the parties were present. During the hearing, Ld. Advocate submitted written arguments on behalf of the appellant, which was handed over to the Respondent SDO for reply. He was directed to submit the reply on written arguments within a period of 15 days from the date of this order with a copy to the appellant. The written arguments submitted by the Ld. Advocate for the appellant are as under: -

1. *That the CGRF has found that SDO respondent should have issued a notice to the appellant for regularization of the extended load. It has been further stated that the respondent has wrongly extended the load by charging the ACD and service connection charges through the bills of the appellant.*
2. *That there is great deficiency on part of the respondents that they have not provided the required infrastructure for regularization of extended 6.3 Kw of load and have not provided three phase meter and three-phase line to the premises of the appellant which is required above 5 KW load.*
3. *That the respondents have already charged the appellant for the extension of the load and did not provide the same for approximately 9 years which cannot be justified, due to deficiency of service by the respondents the appellant has using his big Generator to meet the necessity of load of Geysers and AC,s as the single wire of Utility gets burnt whenever the load is put on it or when the load is put for whole night.*
4. *That there is great deficiency in service on the part of the respondents and appellant received wrong and highly inflated electricity bill on the basis of excessive average consumption which is null and void and same are liable to be quashed.*

5. *That the Learned Trial Court has passed the impugned order giving the reasonings and did not give relief to the appellant. Whereas, the Hon'ble Supreme Court of India in S.N. Mukherjee versus Union of India cited in AIR 1990 SC 1984 held that the recording of reasons by an administrative authority serves a salutary purpose of decision making. It excludes chances of arbitrariness and ensures a degree of fairness in the process of decision making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. The need for recording of reasons is greater in a case where the order is passed at the original State. In other judgment Raj Kishore Jha versus State of Bihar 2003) 11 SC 519 it has been held by Hon'ble Supreme Court that reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same it became lifeless.*
6. *That in Vasant D. Bhavsar Versus Bar Council of India (1999) 1 SCC 45, the Apex Court held that an authority must pass a speaking and reasoned order indicating the material on which its conclusion is based.*
7. *That appreciating the impugned order of the Trial Court it is an ample clear that prayer made by the appellant in his petition are not been adjudicated properly and conclusion has been given by not recording reasons and same is non-speaking order. For the kind perusal of the impugned order prima facie reveals that the reasonings given in support of some finding by the appellant authority are bad in law and contrary to the position of law settled by the Hon'ble Supreme Court of India.*
8. *That in the impugned order the Trial Court finds the clear deficiency in service on the part of the respondents but did not quash that wrong and highly inflated electricity bill on the basis of the excessive average consumption which is null and void and the same are liable to be quashed. The Trial Court did erroneously did not waive the penalties and surcharges charged in the bill which are charged arbitrarily and illegally. It is further submitted here that the respondents have not adopted the proper procedure for the assessment dated 30.6.2010 as the same has been conducted by the SDO whereas, same has to be conducted by the XEN as per the provisions laid down in sale circular No. U-60/2007 copy of the same is enclosed herewith.*
9. *That since it was admitted that Utility had failed to release 7.3Kw connection and provide 3 phase connection, admittedly in line of observation by CGRF, Kurukshetra.*

SDO Raipur Rani gave false assurance to the appellant that the appellant will be covered under Government Scheme vide Sale Circular No. U-15/2018 and asked the appellant to deposit Rs.1,85,000/- as settlement amount qua the billing dispute, to the false assurances the appellant deposited the said amount in the month of Dec, 2018.

10. *That the appellant has paid amount of Rupees 5,98,475/- to the respondents and today i.e. 13.6.2019 appellant is paying Rupees one lac through demand draft to the respondents. It is submitted here that there is no malafide on the part of the appellant whereas, the respondent as adamant and leveling the exorbitantly surcharge and penalties which is against the principal of natural justice and equity.*
11. *That the Hon'ble Punjab and Haryana High Court in the judgment Ram Singh versus Punjab State Power Corporation CWP No. 1635 of 2013 has held that since the opportunity of being heard was admittedly not granted to the petitioner, the impugned orders have resulted in miscarriage of justice. Valuable rights of the petitioner was taken away and principles of natural justice as well as mandatory provisions of law contained in section 126(3) of the act stood violated. Under these circumstances, the impugned order cannot be sustained.*
12. *Consequently, the impugned final assessment order (Annexure P-3) as well as impugned appellate order (Annexure P-6) are hereby ordered to be set aside. However, the competent authority shall be at liberty to pass fresh order of final assessment ensuring due compliance of the provisions of section 126(3) of the Act, granting an opportunity of being heard to the petitioner. The amount deposited by the petitioner shall also be kept in view by the competent authority at the time of passing the final assessment order.*

Next hearing was held on 28.6.2019, when neither of the parties were present. The final hearing in the matter was held on 23.7.2019 where both the parties reiterated their written submissions. The reply of the respondent SDO received through e-mail is reproduced as under:

Para No-1 *is matter of record.*

Para No-2 *is totally denied that this office has wrongly extended the load as after inspection the consumer's premises on dated 26.06.2010 this office had issued notice bearing memo 643 dated 30.06.2010 and 782 dated 22.07.10 to pay the penalty, ACD and*

Service connection charges to regularized the un-authorized use of electricity and Extension of Load.

Para No-3 is also denied as this office has issued demand notice to consumer for depositing the amount to provide infrastructure for extension of his load and providing three phase supply applied by Consumer vide A&A No-1452/NDS/Extn dated 14-01.11, due to non-compliance the application was cancelled accordingly however it is submitted that the consumer had never applied/approach to this for providing three phase supply.

Point No-4 In this context it is submitted that the consumer was using excessive load from initial installation of meter and during this tenor also using the same load as per load data already provided by this office.

Point No-5 is also denied and there is no deficiency on this office as the bills were issued by this office on average consumption for ensuing corresponding period recorded by meter.

Para No.6 to 8 are matter of record.

Para No-9 is also denied that this office had issued wrong and highly inflated electricity bills on average consumption, the bills were issued on actual consumption recorded by meter and during the period of defective meter billed on average consumption for ensuing corresponding period recorded by meter. It is further added during inspection it was declared as the case of un-authorized use of electricity and un-authorized extension of load and further proceeding were taken by this office accordingly against Domestic supply of 1K.W.

Para No-10 is totally denied as this office has never assured the consumer that he will be covered under Govt scheme Vide S.C 15/2018 on Sanctioned load of 7.3 KW. The consumer is habitual to give false statement to avoid payment of electricity bills which are billed on actual consumption and paid Rs.1,85,000/- to save his connection from disconnection

Para No-11 All bills were issued by this office on actual consumption of unit recorded by meter installed at consumer's premises but due to nonpayment of bills on time surcharge levied on bills as per instruction of nigram's.

Para No-12 & 13 are matter of Record.

It is therefore once again requested to dispose of the appeal of consumer in view of S/C No. 60/2007 and pass an appropriate order to the appellant to pay outstanding dues of UHBVN at the earliest as order dated passed by Ld. Forum i.e. (CGRF) had been complied by this office but pending at the consumer part (Not paying bills) or issue necessary direction to disconnect the supply of the consumer on default not paying bills installment as per his own request dated 06.04.2019 whose next installment was due on 06.05.2019 please.

The Respondent SDO also confirmed that the required infrastructure has been provided upto the premises of the appellant in compliance of the orders of CGRF in the matter.

Keeping in view the material available on record and the submission made by both the parties, it is observed that findings recorded by CGRF in the issues framed in the matter are complete in all respects. Accordingly, I find no cause to interfere with the order of CGRF dated 20.2.2019 in view of the compliance of the said order by Respondent, SDO. The appeal is, therefore, dismissed being devoid of merit.

File may be consigned to record.

Given under my hand on this day of 29th July, 2019.

**Sd/-
(Surbhi Jain)**

Electricity Ombudsman, Haryana

Dated: 29.07.2019

Endst. No. HERC/EO/Appeal No. 11/2019/7100-06

Dated: - 1.8.2019

A copy of the above is forwarded to the following: -

1. The Chairman cum Managing Director, UHBVNL, Sector – 6, Shakti Bhawan, Panchkula-134109.
2. The Chief Engineer 'Op.' UHBVNL, Sector – 5, Panchkula-134109
3. The Chairman, Forum for Redressal of Consumer Grievances, UHBVNL, Vidyut Sadan, Sector – 8, Kurukshetra - 136118.
4. The SE, 'Op' Circle, UHBVNL, Ambala - 133001.
5. The Executive Engineer, Operation, Division, UHBVNL, Sector 15, Panchkula-134109.
6. The SDO/Operation, UHBVNL, Raipur Rani, Panchkula 134204
7. Sh. Hardesh Goyal, Village Tikkar Taal, Sub-Tehsil Morni Hills, Distt. Panchkula- 134205.