



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. : 30/2021
Received on : 31.08.2021
Registered on : 27.09.2021
Date of order : 08.12.2021

In the matter of: -

Appeal against the order dated 29.07.2021 passed by CGRF, UHBVN, Kurukshetra in case No.82/2021.

M/s Suncity Projects Private Limited through Sh. Sunil Kumar Srivastava Authorized Signatory, Suncity Height, Sector 36 A, Rohtak.

Appellant/Complainant

Versus

UHBVNL

Respondents

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Sh. B. P. Aggarwal, Advocate

Present on behalf of Respondents:

Sh. Ashish Chauhan, SDO 'Op', Sub Division No. 3 UHBVN, Rohtak

Sh. Sanjay Bansal, Counsel for the respondents

ORDER

1. Sh. B. P. Aggarwal, Advocate, on behalf of M/s Suncity Projects Private Limited, Suncity Height, Sector 36 A, Rohtak, has filed an Appeal against the order dated 29.07.2021 passed by CGRF, UHBVN, Kurukshetra in case No.82/2021. The appellant submitted as under: -

1.1 *That the present appeal is being filed against the order 29/07/2021 passed by Hon'ble Consumer Grievance Redressal Forum, Uttar Haryana Bijli Vitran Nigam,*

Kurukshetra, Haryana in case bearing C.G. NO. 82/2021 which was received on 30/07/2021 through email.

1.2 *That the brief facts of the case are as given below: -*

- I. *That the appellant is a Private Limited Company and Sh. Sunil Kumar Srivastava is authorized by board of directors by way of resolution to file the present complaint on behalf of the company.*
- II. *That the appellant has obtained an electricity connection through Account No.9552287326 Installed at Suncity Height Sector 36-A, Rohtak, Haryana-124001, Division- R43-No.III, Rohtak, Division- City Rohtak, under the category Tariff BULK SUPPLY – DOMESTIC with the Sanctioned Load of 480 KW at 11 KV Supply Voltage and paid the Security deposit as demanded by the respondents.*
- III. *That the electricity connection was sanctioned for the society “SUNCITY HEIGHT” having 1036 apartments for which occupancy certificate was issued by Town Planner but out of 1036 , the Appellant has allotted 180 number of dwelling units till January 2019 and the Appellant started billing all these occupant as per the tariff provision .Similarly the Appellant started billing 311 flats owners in Dec.2019 and 330 flats owners in April 2020 and , 432 flats owners in Dec. 2020 and 491 flat owners in June 2021 which is as per the sheet submitted to the SDO and also filed before the Hon’ble CGRF.*
- IV. *That on 09.01.2013 a notification was issued by the HERC 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%, in case of supply on 11 KV, 5% in case of supply on 33 KV shall be permissible towards transformation and/or LT losses. The units have to be billed after deducting the 4% or 5 % from the total units consumed during a particular month depending upon the supply obtained by the society but Respondent has failed to comply with the aforesaid notification which was applicable w.e.f. 09/01/2013 and did not deduct 4% units from the date of connection. The respondent has stopped the benefit for the period April 2020 to Oct. 2020 and thus action of the respondents is illegal, arbitrary and unjustified.*
- V. *That as per Section 47(1) of Electricity Act, 2003, a distribution licensee may require from a person, who requires a supply of electricity in pursuance of*

section 43, to give reasonable security as Advance Consumption Deposit (ACD) and accordingly the complainant was asked to deposit for 1500 KW load and the same was paid by the complainant but in the bill, security was shown less than the amount deposited by the complainant. Similarly, as per 47(4) of the said Act the distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) but the respondent have failed to comply with this provision.

VI. That as per the Directive issued by HERC 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, the respondent was required to pay the interest in the month of April of each year but the respondent failed to make the payment of the interest in the month of April of each year, if the respondent has paid the interest for some year then the respondent is required to make the payment of the interest of balance year at the penal interest. The relevant para is reiterated as under:

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"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."

VII. That before filing the present complaint the Appellant has issued a legal notice on 24.03.2021 through the counsel to refund the excess amount paid by the Appellant along with the interest but the respondent has failed to respond to the legal notice and hence the present complaint.

VIII. That since the respondent fails to comply with the Supply Code and various circular issued by the respondent and fails to give the slab benefit and hence the appellant was forced to file a complaint before the Consumer Grievances Redressal Forum, vide complaint No. 82/2021 and in response to the

complaint the respondent filed the reply. The appellant filed the rejoinder to the reply and submitted the affidavit and record to show that number of flats were billed by the Appellant.

1.3 That the matter was heard on 27.07.2021 the Hon'ble Forum and the order was passed by the Hon'ble Forum on 29.07.2021.

Aggrieved from the order the Appellant preferred the appeal on the following grounds amongst the others which may be read as under: -

- I. Because the Hon'ble Forum has failed to consider the fact that while raising the bill, the respondent has failed to follow the law, tariff provision, circular issued by the HERC and tariff orders and raised illegal bills causing huge loss to the appellant.*
- II. Because the Hon'ble Forum has failed to consider the facts that at the time of the sanctioned of the connection the Appellant has applied for the electrification of the entire project and partial load was sanctioned to the Appellant society.*
- III. Because the Hon'ble Forum has failed to consider the facts that the respondent was ready to give the benefit of slab from the date of filling the complaint before the Hon'ble Forum subject to verification but the site was never verified by the respondent.*
- IV. Because the Hon'ble Forum has failed to consider the facts that the Town and Country Planning Department has issued the occupancy certificate vide Memo No. ZP-647-Vol.-1/AD(RA)/2018/19934 Dated 09.07.2018 for 442 dwelling units and also issued the 2nd occupancy certificate vide Memo No. ZP-647-Vol.-1/AD(NK)/2019/2284 Dated 24.01.2019 for 378 dwelling units and thus the total occupancy certificate was issued for 442+ 378= 820 dwelling units till January 2019.*
- V. Because the Hon'ble Forum has failed to consider the facts that after obtaining the occupancy certificates, the Appellant has allotted 180 number of dwelling units till January 2019 and the Appellant started billing all these occupant as per the tariff provision .Similarly the Appellant started billing 311 flats owners in Dec.2019 and 330 flats owners in April 2020 and , 432 flats owners in Dec. 2020 and 491 flat owners in June 2021 which is as per the sheet submitted before the SDO and also filed before the Electricity Ombudsman.*

- VI. *Because the Hon'ble Forum has failed to consider the facts that as per the tariff provision and as per the Single Point Supply to Residential Colonies or Office cum Residential Complexes of Employers, Group Housing Societies and Commercial cum Residential Complexes of Developers, Regulations 2013 and 2020 the Appellant has to give the slab benefit while raising the bills to the occupants of the society and if the society will not get the slab benefit then it is not feasible to give the slab benefit to the occupants.*
- VII. *Because the Hon'ble Forum has failed to consider the facts that the respondent company is giving the slab benefit to 800 dwelling units having the sanctioned load of 850 KW having CA No.2972260000 but refused to give the same benefit to the Appellant which amounts to discrimination and thus the respondent is discriminating between two consumers.*
- VIII. *Because the Hon'ble Forum has failed to consider the facts that in the tariff provision it is only mentioned that the respondent has to bill the consumer based on the consumption recorded per flat, if the consumption is more than 800 units then flat rate of Rs.6.20p will be charged and if it is less than 800 units then Rs.5.25p will be charged and the tariff provision does not say regarding the sanctioned load.*
- IX. *Because the respondent in its reply has categorically stated that they are ready to give the slab benefit from the date of filling the complaint before the Hon'ble Forum subject to verification and two JE will be deputed and despite the site verification no action was taken to give the slab benefit.*
- X. *Because the Appellant has given the details all the members of the society to whom the Appellant started billing from 2019 onwards and allowing the tariff benefit but this aspect was not considered by the Hon'ble Forum.*
- 1.4 *That the appellant has not filed any other similar appeal either before this Hon'ble Commission or before any other Commission.*

PRAYER: -

It is therefore, most respectfully prayed that this Hon'ble Commission may kindly be pleased to: -

- I. *Accept the appeal of the appellant and the order 29/07/2021 passed by Hon'ble Consumer Grievance Redressal Forum, Uttar Haryana Bijli Vitran Nigam, Kurukshetra, Haryana in complaint bearing No. 82/2021 with respect to slab benefit may kindly be set aside and;*

II. *Direct the respondent to revised the bill w.e.f. January 2019 till date as per the Regulation dated 09.01.2013 and as per Regulation 2020 and deduct the 4% units from the total units consumed and thereafter allow the slab system benefit to 180 number of dwelling units till January 2019 and 311 flats dwelling units from Dec.2019 and 330 flats dwelling units from April 2020 , 432 dwelling units from Dec. 2020 and 491 dwelling units from June 2021 on the balance 96% units out of the total units consumed or as this Hon'ble Ombudsman deems fit and pass 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 appellant in the interest of justice.*

2. The appeal was registered on 27.09.2021 as an appeal No. 30/2021 and accordingly, notice of motion to the Appellant and the Respondents was issued on 27.09.2021 for hearing the matter on 06.10.2021.
3. SDO 'Op', Sub Division No. 3 UHBVN, Rohtak vide his email on 05.10.2021 has submitted the reply to the appeal as under: -
 - I. Point No 1: - As per record of this office the electrification plan was got sanctioned for 80 No's of flats whose documents was submitted by the firm Sun City Heights. Now the firm has submitted to this office that they have 1036 apartments but 396 houses are occupied. The firm has submitted the representation regarding the slab rate of tariff to the society since DOC i.e.1.9.2018 which is not feasible being the plan sanctioned for 80 houses. As per order of CGRF the benefit of slab rate is not justified and therefore not allowed. The consumer has not submitted the completion certificate and CEI report for 396 flats and never apply for extension of load and the consumer applied for extension of load from 480 KW to 1000 KW on dated 29.7.2021 after MDI has been increased. The load of the consumer for 1036 apartments may be increased to approx. 4000 KW future.
 - II. Point No-2: - The connection was released on dated 1.9.2018& from the date of connection the rebate of 4 % was given by the Nigam vide S/C No. 27/2017 but for the period of 2018-19 & 2019-20 rebate given was charged of Rs. 246840/- & now amount charged is withdrawn and amount has been adjusted in the billing of consumer in future bills. The rebate for the period 4/2020 to 9/2020 of Rs 155700/- @ of 4 % as per order of CGRF on dated 29.7.2021 on complaint number 82/2021 also has been adjusted in the consumer account. Hence the rebate is given from the date of connection to up to date.

- III. Point No 3: - The interest of the ACD for the year 2018-19 is given Rs 22827.22/-. Similarly, for the 2019-20 the interest of ACD is given 23329.36/- The interest of 2017-18 is not applicable.
4. The hearing was held on 06.10.2021, as scheduled. The appellant submitted that no copy of the reply has been provided by the respondent. The respondent SDO is directed to provide a copy of the reply to the appellant. The matter was adjourned to 18.10.2021.
5. The hearing was held on 18.10.2021, as scheduled. The counsel for the appellant submitted that all issues raised in the complaint before the CGRF have been resolved except providing slab benefit on the basis of dwelling units. The respondent SDO has argued that no benefit of slab on account of increase in number of dwelling units can be given to the appellant retrospectively as no intimation for the same was given by the appellant in the Nigam's office earlier. After hearing the parties, the respondents were directed to submit their stand in written on the issue within ten days with advance copy to the appellant. The matter was adjourned to 09.11.2021.
6. The Appellant vide his email on 06.11.2021 has emailed some orders passed by CGRF of DHBVN in similar matter for reference.
7. The hearing was held on 09.11.2021, as scheduled. At the outset, the respondent SDO submitted that L.R. HPU has engaged a counsel in this Appeal to defend the case on the behalf of Nigam and further, requested to fix another date of hearing. Acceding to the request of the respondent SDO, the matter was adjourned to 01.12.2021.
8. SDO 'Op', Sub Division No. 3 UHBVN, Rohtak vide his email on 24.11.2021 has submitted the reply to the appeal through counsel as under: -

Preliminary Objection: -

- I. That the appeal filed by the appellant is nothing but a blatant abuse of the process of law and same has been filed with ulterior motives to harass and humiliate the respondents. The appellant has put bare allegations on the respondent department without any evidence. As appellant has not submitted the completion certificate and CEI report of 396 flats and never applied for extension of load. When Hon'ble Forum questioned the appellant that why the load for the remaining flats was not got sanctioned in due course of time, then the appellant had no answer to the query raised by the Forum. Then how is it possible that the respondent department is liable to give the benefit of slab rate for 396 flats to the appellant and moreover, on hearing's order dated 18-10-

2021 of Appeal, before Ld. Electricity Ombudsman the counsel for the appellant has submitted that all issues raised by the appellant have been resolved except providing slab benefit. And reply regarding slab benefit is already given above. So, the appeal is not maintainable in the eyes of law and same is liable to be summarily dismissed.

Para wise reply:

- I. That the contents of para no. 1 of Appeal are a matter of record and needs no reply.
- II. That the reply of sub paras of para no. 2 is as under: -
 - i. The contents of sub para (i) of para 2 are matter of record.
 - ii. The contents of sub para (ii) are matter of record.
 - iii. The contents of sub para (iii) is replied in this way that as per record of this office the electrification plan was got sanctioned for 80 No's of flats whose documents was submitted by the firm Sun City Heights, Now the appellant firm has submitted to this office that they have 1036 apartments but 396 houses are occupied and submitted that the representation regarding the slab rate of tariff to the society since DOC i.e. 01-09-2018, which is not feasible being the plan sanctioned for 80 houses. The appellant has not submitted the completion certificate and CEI report for 396 flats and never apply for extension of load. So, the contents of this sub para are denied.
 - iv. The contents of sub para (iv) is replied in this way that the connection was released on dated 01-09-2018 and from the date of connection the rebate of 4% was given by the respondent Nigam vide S/C No. 27/2017 but for the period of 2018-19 & 2019-20 rebate given was charged of Rs. 2,46,840/- and now amount charged is withdrawn and amount has been adjusted in the billing of consumer in future bills. The rebate for the period 4/2020 to 9/2020 of Rs. 1,55,700/- @ of 4% as per order of CGRF on dated 29-07-2021 on complaint number 82/2021 also has been adjusted in the consumer account, Hence the rebate is given from the date of connection to up to date. So, this issue is resolved.
 - vi. The contents of sub para (vi) is replied in this way that the amount of ACD deposited at the time of connection and interest is calculated by system itself as per instruction of Nigam as per time to time and adjusting by system automatically in bill on yearly basis. Further it is intimated that the interest of the ACD amount of Rs. 22,827.22/- has been credited in the consumer account in the year 2018-19. Similarly interest of ACD

amount of Rs. 23,329.36/- is given in the year 2019-20. But the interest of ACD for the year of 2017-18 is not applicable. Hence the contents of this sub para are denied.

- vii. The reply of sub para (vii) is same as sub para (vi), hence no needs to reply again.
- viii. The reply of the contents of the legal notice dated 24-03-2021 has already been given in the reply of sub para (iii), (iv) & (vi) of para no. 2 of appeal which be read as part and parcel to the reply of this para.
- ix. The contents of sub para (ix) are wrong and incorrect, hence it is denied.

III. That the contents of para 3 is a matter of record.

Reply of Grounds:

- a) That the contents of para (a) are wrong and denied. However, it is submitted that the appellant/complainant wasted the precious time of Hon'ble Commission and department (UHBVN) by filing the false and baseless complaints. And further it is submitted that Hon'ble CGRF has fulfilled its duty and responsibility.
- b) That the contents of para (b) is denied.
- c) That the contents of para (c) are wrong and incorrect, hence it is denied.
- d) That the contents of para (d) is replied in this way that the appellant never intimated regarding this fact to the respondent department.
- e) That the reply of the contents of para (e) has already been given in the reply of sub para (iii) of para no. 2 of appeal which be read as part and parcel to the reply of this para.
- f) That the reply of the contents of para (f) has already been given in the reply of sub para (iii), (iv) of para no. 2 of appeal.
- g) That the contents of para (g) are wrong and incorrect, hence it is denied.
- h) That the contents of para (h) are wrong and incorrect, hence it is denied.
- i) That the contents of para (i) are wrong and incorrect.
- j) That the contents of para (j) are wrong and incorrect, hence it is denied.

That the contents of prayer clause are wrong and incorrect, hence not admitted.

It is, therefore, prayed that the appeal of the appellant may kindly be dismissed with costs. Any other relief to which this Hon'ble Commission deems just and proper may also be awarded, in the interest of justice.

9. The appellant vide his email on 30.11.2021 has submitted the rejoinder to the reply filed by the respondent no.2 to the appeal as under: -

REPLY TO THE PRELIMINARY OBJECTIONS: -

- A) That the contents of the para no.1 of the preliminary are wrong and denied. It is denied that the appeal filed by the appellant is nothing but a blatant abuse of the process of law or the same has been filed with ulterior motive to harass and humiliate the respondents. It is denied that the appellant has put bare allegation on the respondent without any basis. It is denied that the appellant has not submitted the completion certificate to the respondent. It is submitted that Town and Country Planning Department has issued the occupancy certificate vide Memo No. ZP-647-Vol.-1/AD(RA)/2018/19934 Dated 09.07.2018 for 442 dwelling units and meter was installed on 09.08.2018 by the respondent and the OC record was with the respondent. It is submitted that extension of load has nothing to do with the slab benefit because as per the tariff provision and as per Single point connection the appellant is required to billed the resident after giving the slab benefit and hence the appellant is also entitled for the same. In number of cases CGRF of DHBVN has passed the order in which the slab benefit was given from the date of connection after verification of the current and past record of billing the consumer and site verification. The respondent has in its reply stated that they are ready to give the slab benefit from the date of filling the complaint before the CGRF after verification but not from the date of connection. But the appellant needs the slab benefit from the date of connection. The respondent is giving the slab benefit to 800 consumers having the sanctioned of 850KW in respect of CA No. 2972260000 (bill is already enclosed at page no. 47 of the appeal), respondent cannot discriminate with the appellant by not giving the slab benefit to some consumer and denying to the appellant on the ground of sanctioned load.

REPLY ON MERITS

1. That the contents of para no.1 of the reply on merits needs no rejoinder.
 2. That the contents of para no.2(i & ii) of the reply on merits needs no reply but the contents of para no.2(iii) of the reply on merits are wrong and denied. It is denied that the plan got sanctioned for 80 houses. It is submitted that electrification plan was for the entire project for 1036 houses, but the appellant has got sanctioned the partial load of 450 KW as at the time of getting the connection sanctioned less load was required.
- (iv) to (vii) needs no reply

(viii) the rejoinder to this reply is same as 2(iii) of the rejoinders.

(ix) of the reply are wrong and denied.

3. That the contents of para no.3 of the reply on merits needs no rejoinder.

REPLY ON GROUNDS

a to j That the contents of para no. a to j of the reply on grounds are wrong and denied and corresponding para of the appeal are reaffirmed.

Last para is a prayer clause which is wrong and denied.

It is therefore, prayed that the appeal of the appellant may kindly be decreed with cost.

10. The hearing was held on 01.12.2021, as scheduled. At the outset, assistant of the counsel for the respondent SDO submitted that Sh. Sanjay Bansal, Advocate could not appear as he was busy in another court and requested to fix next date of hearing for argument. Acceding his request, the matter was adjourned to 06.12.2021.

11. The hearing was held on 06.12.2021, as scheduled. Both the parties were present during hearing through videoconferencing and argued the matter at length reiterating their written submissions.

12. Upon hearing both the parties and going through carefully the documents placed on record, it is observed that the contention of the appellant to allow the slab system benefit to 180 number of dwelling units till January 2019 and 311 flats dwelling units from Dec.2019 and 330 flats dwelling units from April 2020, 432 dwelling units from Dec. 2020 and 491 dwelling units from June 2021 is not admissible since the appellant had applied for 480 KW load for 80 flats only which was sanctioned by UHBVN on 01.09.2018 as per the detail submitted by the appellant which was as under:-

Nos of residential flats = 80 Nos.

Connected load in each flat = 6 KW

Total Load = 80 X 6 = 480 KW

Further, no extension of load was applied by the appellant for additional flats. The consumer applied for extension of load from 280 KW to 1000 KW on 29.07.2021 when MDI had been increased.

13. In light of the above, I am of considered view that there is no merit in the present appeal. The same is accordingly dismissed as devoid of merit.

Both the parties to bear own cost. The file may be consigned to the record.

Given under my hand on this day of **8th December, 2021**.

Dated: 8th December, 2021

(Virendra Singh)
Electricity Ombudsman, Haryana

1. M/s Suncity Projects Private Limited through Sh. Sunil Kumar Srivastava Authorized Signatory, Suncity Height, Sector 36 A, Rohtak. (bpagarwal57@gmail.com)
2. The Managing Director, UHBVN, Vidhut Sadan, C-16, Sector – 6, Panchkula – 134109
3. The Chief Engineer ‘Op’, UHBVN, Old Power House Colony, Circular Road, Rohtak.
4. The Superintending Engineer ‘Op’ Circle, UHBVNL, Old Power House Colony, Circular Road, Rohtak
5. The Executive Engineer ‘Op. City Division, UHBVNL, 33KV Power House, Model Town, Delhi Road, Rohtak. (xenopcityrohtak@uhbvn.org.in)
6. The SDO/Op. City, Sub Division No.3, UHBVNL, Sr. Sec. School, Near Old Bus Stand, Rohtak. (sdoopno3rohtak@uhbvn.org.in)