



(Regd. Post)

**Appeal No. : 34/2023**  
**Registered on: 18.04.2023**  
**Date of order: 01.05.2023**

**In the matter of:**

**Appeal against the order dated 27.02.2023 passed by CGRF, DHBVN, Gurugram in complaint No. 4374/2022.**

Shri Bhola Ram, M/s Bansal Cotton Oil & Gen Mills, Kalanwali, Sirsa **Appellant / Complainant**  
through Advocate Shri Akshay Gupta

Versus

Dakshin Haryana Bijli Vitran Nigam Limited **Respondents**

**Before:**

Sh. Virendra Singh, Electricity Ombudsman

**Present on behalf of Appellant:**

Shri Akshay Gupta, Advocate

**Present on behalf of Respondents:**

Sh. Ravi Kamboj, SDO 'Op' Sub Division, Kalanwali

### **ORDER**

**A.** Shri Bhola Ram, M/s Bansal Cotton Oil & Gen Mills, Kalanwali, Sirsa through Advocate Shri Akshay Gupta has filed an Appeal against the order dated 27.02.2023 passed by CGRF, DHBVN, Gurugram in complaint No. 4374/2022. The appellant request for following relief as under: -

*Appeal under Section 42(6) of the Electricity Act-2003 read with Regulation 2.49 (B) and 3.16 of Haryana Electricity Regulatory Commission Notification No HERC/48/2020 dated 24/ Jan/2020.*

**MOST RESPECTFULLY SHOWETH: -**

*I. That Sh. Bhola Ram (Complainant/ Petitioner), M/s Bansal cotton, Oil & Gen Mills, Kalanwali, a consumer of DHBVN bearing Account No K1HT0004 under the jurisdiction of SDO Op Sub Division Kalanwali filed a complaint for Redressal of Grievances before Ld. Forum for Redressal of Consumer Grievances DHBVN Gurgaon (hereinafter referred to as CGRF), on dated 22.08.2022. The complaint/ case is registered vide case number DH/CGRF/4374/2022 (hereinafter referred to as Case). Which has been dismissed by CGRF vide impugned order dated 27.02.2023. Impugned order dated 27.02.2023 is illegal, perverse and beyond jurisdiction and is liable to be set aside.*

- II. *Representation is within the prescribed period of limitation. Certified copy of the impugned order was received by the complainant on 17-03-2023.*
- III. *That the brief facts of the case are that the complainant filed the complaint stating therein that*
- a. *Unit of Complainant/ Petitioner is situated outside the municipal limit and as per the Regulation MC Tax not chargeable in Electricity bill of the Complainant/ Petitioner but MC tax is levied on the electricity consumption of his unit from the date of connection.*
- b. *TOU/TOD tariff benefit for the year 2017 to 2019 was not given to Complainant/ Petitioner in complete. (Partial benefit was adjusted in his electricity bills).*
- c. *Interest on ACD was not adjusted to Complainant/ Petitioner in the first billing cycle as per the HERC instruction.*
- IV. *That Regulation 2.47 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulation, 2020 requires the Ld. CGRF to pass a reasoned order in complaint. But Ld. CGRF has failed to adhere to the rule of law while passing the impugned order dated 27.02.2023*
- V. *As per the cause list shared to Complainant/ Petitioner by the office of Ld. CGRF for hearing to be scheduled on 13-10-2022, this case is on 8<sup>th</sup> Serial Number of the cause list but Ld. CGRF in its order nowhere mentioned about this hearing and straight away mentioned the date of hearing 14.02.2023 only which is against the law.*
- VI. *As per the cause list shared to Complainant/ Petitioner by the office of Ld. CGRF for hearing to be scheduled on 13-12-2022, this case is on 8<sup>th</sup> Serial Number of the cause list but Ld. CGRF in its order nowhere mentioned about this hearing and straight away mentioned the date of hearing 14.02.2023 only which is against the law*
- VII. *As per the cause list shared to Complainant/ Petitioner by the office of Ld. CGRF for hearing to be scheduled on 12-01-2023, this case is on 8<sup>th</sup> Serial Number of the cause list but Ld. CGRF in its order nowhere mentioned about this hearing and straight away mentioned the date of hearing 14.02.2023 only which is against the law.*
- VIII. *Respondent SDO vide his office memo number 64 dated 10.01.2023 tendered reply to Ld. CGRF through email on 10.01.2023. (Copy of reply attached as Annexure E). In his reply respondent submitted a calculation and total refund as per consumer grievance comes to be Rs. 13,53,025 (Rupees Thirteen Lac Fifty-Three Thousand Twenty-Five Only).*
- IX. *Ld. CGRF ordered as "Proceedings were held on 14.02.2023. SDO as well as complainant were present on telephone. Both the parties argued in length. The Forum observed that as per Regulations of HERC (1st Amendment) Regulation, 2022 dated 06.04.2022 which read as 2.8.1 "The Corporate Forum shall have the jurisdiction to dispose all the monetary disputes of an amount exceeding Rs. 3 lakhs in each case. Provided that the complaint/ representation is made within 2 years from the cause of action". The Forum decided to dispose of the case with the direction to the complainant to file his case before Chairman Zonal CGRF, DHBVN Hisar as the case lies under his jurisdiction. The case closed.*

- X. *Ld. CGRF in order nowhere mentioned about the reply submitted by the respondent. Moreover, during the phone call hearing on 14.02.2023 in it was discussed in depth and conveyed by the respondent that the calculation has been made and sent to higher authorities for approval and audit. The order received is quite shocking and unexpected one from the quasi-judicial body.*
- XI. *Ld. CGRF while passing these directions has not applied its judicious mind and has erred in law.*
- XII. *It is expected that the Ld. CGRF would pass a reasoned order as required by Regulation 2.47 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 but the Ld CGRF passed unreasoned order by ignoring the facts and admission/reply submitted by the respondent. It is pertinent to mention here that Electricity Act, 2003 is a complete code in itself and proceedings before the Ld. CGRF is not governed by Limitation Act, 1963. Sections 56(2) of Electricity Act 2003 prescribe a period of limitation of two years with regard to recovery to be made from consumer. A conjoint reading of 56(2) and 62(6) of the Electricity Act, 2003 does not leave even an iota of doubt that there is no limitation period for recovery of excess amount along with interest as any amount retained/collected by the licensee beyond in excess of what is recoverable under law would fall in the category of misappropriation or criminal breach of trust. Therefore, Parliament in its wisdom has not prescribed any period of limitation with regard to refund of excess amount collected by licensee. Thus, there is no period of limitation with regard to refund of price or charge exceeding the tariff determined under Section 62 of the Electricity Act, 2003 and the excess amount collected by the licensee is recoverable by the person who has paid such price or charge along with interest equivalent to bank rate without prejudice to any other liability incurred by the licensee. Thus, in view of Section 62(6) of the Electricity Act, 2003, liability of the licensee is not merely restricted to the refund of excess amount along with interest but is also liable to other liability under laws. For instance, licensee is liable to be prosecuted under Section 142 and 146 of Electricity Act, 2003 as well as under Section 166 of Indian Penal Code, having acted in violation of law i.e. Section 62(6) of the Electricity Act, 2003.*
- XIII. *As per THE HARYANA ELECTRICITY REGULATORY COMMISSION Notification HERC/48/2020 para 2.27 "The Forum may reject the grievance at any stage, through a speaking order, under the following circumstances:*
- a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;*
  - b) In cases which fall under Sections 126, 127, 135 to 140, 142, 143, 146, 152 and 161 of the Act or the matters relating to open access granted under the Act.*
  - d) In the case of grievances which are Frivolous, vexatious and malafide without any sufficient cause or where there is no prima facie loss or damage*

*or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.*

*Provided that no grievance shall be rejected unless the Complainant has been given an opportunity of being heard.*

XIV. *As per Regulation of THE HARYANA ELECTRICITY REGULATORY COMMISSION No. HERC/48/2020/1ST Amendment/2022- dated 6th April-2022 Para 2.35 "The Forum may evolve procedure conforming to the principles of fair play and justice for efficient discharge of its functions. It shall also follow the guidelines, if any, given by the Commission regarding the procedure to be adopted by it for handling the complaints.*

XV. *Here the respondent SDO admitted the claim complainant/Petitioner but CGRF failed to redress the genuine grievance of the Complaint/Petitioner as per the reply submitted by respondent. The CGRF has rejected the claim of the petitioner by after a period 7 month after admission of complaint that too on flimsy ground.*

XVI. *Ld. CGRF rejected the complaint on the grounds which were never included in the reply of the respondent SDO and CGRF has travelled beyond its jurisdiction and violated the procedure.*

*It is therefore, most respectfully and humbly prayed that the Hon'ble Ombudsman may kindly: -*

- (i) Accept the appeal of the Complainant/Petitioner and the impugned order dated 27/02/2023 passed by Ld Consumer Grievance Redressal Forum, Dakshin Haryana Bijali Vitran Nigam, Gurgaon Haryana in case bearing No. DH/CGRF/4374/2022 may kindly be set aside.*
- (ii) Direct the Respondent to allow the legitimate due/ relief as per the complaint of consumer and their own admission in the reply submitted to Ld. CGRF.*
- (iii) Direct the Respondent to allow 18% P/a interest on the amount due.*
- (iv) Direct the Respondent to pay compensation 1,00,000 on account mental agony and harassment caused.*
- (v) Pass any other or further order which this Hon'ble Ombudsman may deem fit and proper in the facts and circumstances of the case in favour of Appellant Petitioner in the interest of justice.*

**B.** The appeal was registered on 18.04.2023 as an appeal No. 34/2023 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 01.05.2023.

**C.** Hearing was held on 01.05.2023, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the appellant submitted that the CGRF heard the case on dated 13.10.2022, 13.12.2022, 12.01.2023 and 14.02.2023 but only the proceedings of 14.02.2023 is mentioned in the order reason best known to the CGRF. Mr. Gupta exhibited the copies of cause list in support of his averment. Further, he submitted that as per respondent SDO office Memo no. 64 dated 10.01.2023 submitted before the CGRF, the amount of dispute was Rs. 1353025/-.

The respondent SDO also submitted that, since the claim of the appellant was more than 3 lakhs, the appeal lies before the corporate forum.

**D.** After hearing both the parties and facts brought on record, it is observed that the corporate form has erred in deciding the instant appeal as same has been decided without considering the facts of the case and wrongly directed the complainant to file his case before the chairman zonal CGRF, DHBVN, Hisar. Therefore, the matter is remanded back to the corporate forum for relook and deciding the prayer of complainant on merit by applying relevant instructions of HERC Regulations / Nigam. 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 1<sup>st</sup> May, 2023.

Sd/-

**(Virendra Singh)**

**Electricity Ombudsman, Haryana**

**Dated: 01.05.2023**

**CC**

**Memo. No. HERC/EO/Appeal No. 34/2023/**

**Dated:**

1. Shri Bhola Ram, M/s Bansal Cotton Oil & Gen Mills, Kalanwali, Sirsa through Advocate Shri Akshay Gupta (Email [gupta.aks786@gmail.com](mailto:gupta.aks786@gmail.com)).
2. The Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited, Head Office: Vidyut Sadan, Vidyut Nagar, Hisar -125005 (Email [md@dhbvn.org.in](mailto:md@dhbvn.org.in)).
3. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula – 134109 (Email [lr@hvpn.org.in](mailto:lr@hvpn.org.in)).
4. The Chief Engineer 'Op', Rohtak, Old Power House Colony, Circular Road, Rohtak (Email [ceoprohtak@uhbvn.org.in](mailto:ceoprohtak@uhbvn.org.in)).
5. The Superintending Engineer 'Op' Sirsa (Email [seopsirsa@dhbvn.org.in](mailto:seopsirsa@dhbvn.org.in)).
6. The Executive Engineer 'Op.' Division Dabwali (Email [xenopdabwali@dhbvn.org.in](mailto:xenopdabwali@dhbvn.org.in)).
7. The SDO 'Op' Sub Division, Kalanwali, (Email [sdoopkalanwali@dhbvn.org.in](mailto:sdoopkalanwali@dhbvn.org.in)).