



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
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(Regd. Post)

Appeal No : 57/2023
Registered on : 16.06.2023
Date of order : 12.09.2023

In the matter of: -

Appeal against the order dated 31.01.2023 in case no DH/CGRF-3403/2021 passed by forum for redressal of consumer grievances, DHBVN, Hetri, Gurugram.

Shri Satbir Yadav and Shri Giriraj Gupta, 6/9 Jasmine Street, Vatika City, Sector-49, Gurugram **Appellant**

Versus

DHBVNL **Respondents**

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Shri Satbir Yadav

Shri Giriraj Gupta

Present on behalf of Respondents:

Ms. Sonia Madan, Advocate

Shri Rajesh Kaushik, SDO, 'Op.' Sohana Road, Gurugram

ORDER

A. Shri Satbir Yadav and Shri Giriraj Gupta has filed an appeal against the order dated 31.01.2023 passed by CGRF, DHBVN, Gurugram in complaint No. 3403/2021. The appellant request for following relief as under: -

There are three types of grievances, which were put for consideration with CGRF dated 09/01/2021.

- 1) Installation of 33 KVA substation within premises of Vatika City.
- 2) Wrong billing from DHBVN Sub Division office w.e.f. 16/11/2012.
- 3) Wrong billing to Residents of Vatika City from RWA. We had multiple hearing at CGRF but the point number 1 was never taken for further proceeding.

In reference to point number 2, multiple hearing took place as mentioned in our case no. DH/CGRF/3403/2021 filed by Vatika city Residents. After multiple hearing one interim order was passed on 26/8/21, where in SDO was directed to generate the BLDS Bill instead of NDS bill. The SDO Office henceforth started producing BLDS cum NDS bill effective September 21.

However, the bill generation from SDO office is wrongly computed as per sale circular D17/2020. There are two anomalies in the calculation.

1. The total LNDS load taken in the bill is 1017 KWH and LC is 552 KWH., whereas 1017 KWH include the common area load of 552 KWH. This is clearly stated in the 4-member committee constituted by Chairman and MD, DHBVN vide office order no 4/01/2013 (Copy attach), where is further explained in SE/Trans, system circle Gurugram cum appellate authority memo no Ch/020,21/Appeal 4 Dt 02/4/2014.
2. Even after BLDS bill generation, arrears keep on reflecting in our bills. Once the amended BLDS bills are generated, then all arrears must be adjusted to zero (0).

In view of the above a correct BLDS template bill is requested to be ordered in your judgement, which show the LD as 1773 KWH, LC 552 KWH, LNDS 465 KWH, LD+LC = 2238 KWH AND LBS KW as 2790 KWH.

It is further prayed that these amended billing should be effective from 16/11/ 2012 as per DHBVN office memo no 4051/56. which is mentioned in Appellate authority order dated 02/04/ 2014. Any excess Amount paid by Vatika city must be returned to Vatika city residents.

In reference to point number 3, residents are billed at fixed rate of Rs 6.44/Unit plus other charges which has no Justifications from RWA about the basis of Calculation

- B.** The appeal was registered on 16.06.2023 as an appeal No. 57/2023 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 06.07.2023.
- C.** Hearing was held on 06.07.2023, as scheduled. The respondent SDO requested for the short adjournment to file reply. Acceding to the request, the matter was adjourned to 01.08.2023.
- D.** Hearing was held on 01.08.2023, as scheduled. The counsel for respondent SDO requested for a short adjournment to file reply. Acceding to the request, the matter was adjourned to 23.08.2023.

E. The counsel for the respondents vide email dated 21.08.2023 has submitted reply which is as under: -

1. The present reply is being filed through Rajesh Kaushik, presently working as SDO Sohan Road, Gurugram (hereinafter referred to as 'DHBVN') (Respondents), who is competent to file the present reply as well as fully conversant with the facts and circumstances of the case on the basis of knowledge derived from the record. All submissions are made in the alternative and without prejudice to each other. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.
2. The Appellant has raised certain grievances in the present appeal against the Developer- M/s Vatika City; Resident Welfare Association of M/s Vatika City and the Answering Respondent - DHBVN: The Answering respondent sets out hereunder point wise submissions qua the grievances raised against them. The Appellant has raised following grievances qua the Respondent-DHBVN in the present appeal –

- a) Bill computation is being incorrectly made as per Sales Circular No D-17/2020. The total LNDS load taken in the bill is 1017 kWh and LC is 552 KWh whereas total load of 1017 KWH includes common area load of 552 kWh.
- b) Even after BLDS bill generation, arrears are being reflected in the bills.

It has been prayed by the Appellants that the correct bill shall be issued reflecting LD as 1773 kWh, LC as 552 kWh; LNDS as 465 kWh, LD+LC as 2238 KW and LBS as 2790 KW. It has been further prayed that the amendments shall be made effective w.e.f. 16.11.2012 and any excess amount paid shall be returned to the Vatikacity residents.

3. By way of brief background, it is submitted as under-

- a) The load of Vatika City, Sector-49, Gurugram was sanctioned by CE/OP, DHBVN, Delhi vide memo dated 19.06.2008 for release of connected load of 7461 KW with Contract Demand of 4374 KVA on 33 KV level and on bulk domestic tariff, through 33 KV Independent feeder, emanating from 220 KV S/ station, Sector-72, Gurugram.
- b) A partial load of 1500 KW with Contract Demand 1600 KVA was released on 03.01.2009 under BSDS category through 11 KV

Fazilpur feeder vide SCO No 63/63 dated 24.12.2008. Further load of 1500 KW was released on 30.04.2010 under BSDS category through 11 KV Fazilpur feeder thereby making the total load as 2790 kWh.

- c) The premises of Vatika City, Sector-49, Gurugram was checked on 07.08.2012 whereby the common area load was listed at 551.884 KW and the total load other than domestic load was found to be 1181.84 KW. After considering 670 KW load of lifts, firefighting and water pumps, the common area load came out to be 19.78% which was more than 15% limit. In this regard, notices for unauthorized use of electricity were sent to Vatika City.
 - d) Further billing was done as per Sales Circular D-4/2013 on the proportionate formula taking the NDS load as 1017 KW (as declared by the Developer) vide which detailed guidelines for billing to be made for single point supply connections were issued in terms of the HERC Regulations. Sales Circular D-4/2013 was later superseded by Sales Circular D-17/2020 in view of the fresh notification of HERC Single Point Supply Regulations. Accordingly, the billing was made based on instructions contained in Sales Circular D-17/2020.
4. With respect to the grievances raised by the Appellant qua the Answering Respondent, which have been summarised in Para no. 2 above, it is submitted that the Respondent-DHBVN has already adjusted the account of the M/s Vatika City for an amount of Rs. 7,07,82,306/- after considering the common load of 551.884 KW, NDS load as 1017 KW and Residential Load as 1221.2 KW. A detailed sheet of the adjustment made for the period July 2013 to November 2019. The adjustment of Rs. 7,07,82,306/- was never objected to by the Appellants/ Developer. The Respondent has prepared the bills considering the load as provided by the Developer and as verified. As regards, adjustment for the period December 2019 till present, the same is under consideration with the CBO office of the Respondent and the Respondent humbly seeks an additional time of 2 weeks to submit an update for the same.
 5. Further, as regards the reflection of arrears in the current bills, it is submitted that the same is under rectification process. The Respondent

is appending herewith the Revised bill sheet and the bill for the month of August, 2023.

6. In light of the foregoing, the Respondent seeks an additional time of 2 weeks to update on the adjustments to be made in the bills of the M/s Vatika City.
- F.** Hearing was held on 23.08.2023, as scheduled. At the outset, counsel for the respondent SDO requested for two weeks' time to submit the point wise reply as they are taking up the matter with the higher authorities. Acceding to the request, the matter was adjourned to 12.09.2023.
- G.** The counsel for the respondents vide email dated 11.09.2023 has submitted additional reply in pursuance to order dated 23.08.2023, which is reproduced as under: -
1. The present additional reply is being filed through Rajesh Kaushik presently working as SDO Sohna Road, Gurugram (hereinafter referred to as 'DHBVN') (Respondents), who is competent to file the present reply as well as fully conversant with the facts and circumstances of the case on the basis of knowledge derived from the record. All submissions are made in the alternative and without prejudice to each other. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.
 2. The Appellant had raised following grievances in the present appeal -
 - a) The Developer i.e. Vatika city has not installed 33KVA Sub-station. This issue was not taken up by the CGRF in the proceedings or the decision.
 - b) The Resident Welfare Association i.e. M/s Vatika City Apartment Owners Association has been doing wrong billing to the residents of the Vatika City. The Residents are billed at a fixed rate of Rs. 6.44/ unit plus other charges.
 - c) Bill computation is being incorrectly made by DHBVN. The total LNDS load taken in the bill is 1017 KW whereas the same is 465 KW. The correct bill shall be issued reflecting LD as 1773 kWh, LC as 552 kWh; LNDS as 465 kWh; LD+LC as 2238 KW and LBS as 2790 KW.
 - d) Even after BLDS bill generation, arrears are being reflected in the bills. The amendments shall be made effective w.e.f. 16.11.2012

and any excess amount paid shall be returned to the Vatika city residents

3. At the outset, it is submitted that the Appellants are not the consumers of the Respondent-DHBVN. It is the developer, Vatika City who has an account with the DHBVN and to whom a single point electricity connection has been provided. Furthermore, the said Vatika City is now being managed by M/s Vatika City Apartment Owners Association (RWA) who effectually has stepped into the shoes of the Developer with regard to billing made to individual residents/allottee of the Vatika City. Neither the developer nor the RWA has been made party to the present proceedings. The reliefs sought qua the developer and the RWA cannot therefore, be adjudicated. Moreover, the present appeal is not an appropriate forum to seek any relief even from the Respondent as the appellants are not the consumers of the DHBVN. However, the Respondent, as a welfare State Utility, has provided all required information and has assisted before CGRF as well as before this Hon'ble Forum to address the grievances of the Appellant. It is submitted that there exists no defect or deficiency in electricity service provided by the distribution licensee thereby necessitating filing of any complaint against the Respondent-DHBVN.
4. Without prejudice to the foregoing, with an intent to facilitate the Appellants, the Respondent shall set out submissions on all issues raised by the Appellant (mentioned in para 2 above).
5. With regard to issue no. a) above, it is submitted that the CGRF has rightly not taken up the issue raised by the appellants regarding the non-installation of electrical infrastructure as the same is beyond the jurisdiction of the CGRF. Moreover, the developer has not been impleaded as party to the proceedings before CGRF. The grievance with respect to default of the developer is already pending adjudication before the Hon'ble Commission in Petition no. 39 of 2022. The Respondent has filed the said petition against the delinquencies of the Developer. It is pertinent here to mention that in the last hearing dated 20.07.2023, the developer had undertaken to complete the work of sub-station in 6-9 months. The next date of hearing in the matter is 13.09.2023. Thus, this Hon'ble forum has no jurisdiction to entertain the instant grievance of the appellants against the developer, which is a subject matter of petition pending before the Hon'ble State Electricity Regulatory Commission.

6. With regard to issue no. b) above, it is submitted that the said issue is also in excess of the jurisdiction of the CGRF and consequently cannot be entertained in the present appeal as the grievances before the CGRF are to be raised against the services of the distribution licensee to their consumers. Even otherwise, the RWA was not made a party to the CGRF proceedings and therefore, the issue of wrong billing by RWA cannot be adjudicated in present proceeding.
7. With regard to issue no. c) above, it is submitted that it is the case of the Appellants that the DHBVN has been wrongly taking the NDS Load as 1017 kWh against 465 kWh. The said contention of the appellants is incorrect. It is pertinent to mention that the Developer M/s Vatika City themselves vide letter dated 04.04.2016 had declared NDS as 1017 KW. The relevant excerpt of the said letter reads as under –
“Declaration of NDS component of Vatika City Electrical Load – Further, in accordance with provisions of DHBVN Sales Circular D-4 of 2013 we humbly submit that a load of 1017 KW out of total sanctioned load of vatika City be billed as Non-Domestic (NDS) tariff, test report will be submitted as and when required by DHBVN.”
8. In light of the undertaking of the Developer – who is the consumer for the DHBVN, the bills made by the Respondent cannot be said to be incorrect. The Respondent cannot be made to act as per the individual statements of the allottee of the society. The appellants have also relied upon the report of the committee of the DHBVN dated 2013 to contend that the NDS has been wrongly taken by the Respondent. Firstly, the undertaking of the developer dated 04.04.2016 is later in time. Secondly, the said report nowhere talks about the total NDS load. It only talks of common area load and total domestic load which are not in dispute. A perusal of the report of the committee does not ascertain the NDS load and therefore, reliance upon the same is misplaced. Suffice to state that the load is being taken by the Respondent as per the undertaking of the Developer and if the appellants have any grievance against the same, the same shall be taken up by them with the developer/ RWA in a separate proceeding.
9. With regard to issue no. d) above, the Respondent-DHBVN had earlier submitted that they have already adjusted the account of the M/s Vatika City for an amount of Rs. 7,07,82,306/- after considering the common load of 551.884 KW, NDS load as 1017 KW and Residential Load as 1221.2

KW. As regards, adjustment for the period December 2019 till present, the same is still under consideration with the CBO office of the Respondent.

10. As regards the reflection of arrears in the current bills, it is submitted that the same is under rectification process. In any case, there is no prejudice to the appellants with respect to said rectification. The said bills are issued to the developer/RWA for single point supply and has no concern with the individual allottees. Thus, the instant relief is not maintainable qua the appellants.
11. The appellants have also additionally prayed for reimbursement of any excess charges to the residents of the society. In this regard, it is submitted that the DHBVN has provided single point supply to the developer and any adjustments in the bill are subject matter of single point supply. The Respondent -DHBVN cannot be asked to make any reimbursements to the individual allottees of the project who soe not have independent account with the DHBVN. The prayer made is therefore, untenable.
12. In light of the foregoing submissions, it is respectfully prayed that the present appeal be dismissed.

H. Hearing was held on 12.09.2023, as scheduled. Both the parties were present during the hearing through video conferencing. Both the parties argued the matter at length. The Appellants raised following issues:

- a) Non-installation of 33KVA Sub-Station;
- b) Wrong billing being made by Resident Welfare Association i.e. M/s Vatika City Apartment Owners Association at a fixed rate of Rs. 6.44/- per unit plus other charges;
- c) Wrongful bill computation by DHBVN by assuming total LNDS load as 1017 KW against 465 KW;
- d) Wrongful reflection of arrears in the bills issued by DHBVN. It was also prayed by the Appellants that the DHBVN be directed to make amendments in the bills w.e.f. 16.11.2012 and refund excess amount paid to the Vatika city residents.

I. Appellants submitted as under –

As regards non-installation of 33KVA Sub-Station, it was stated that the developer has not completed the electrical infrastructure and has defaulted in meeting their obligations due to which the residents are suffering.

As regards wrong billing by RWA, it was stated that the RWA has not been issuing bills to the residents as per regulations and is instead wrongly billing them at a fixed rate of Rs. 6.44/- per unit plus other charges.

As regards wrong billing by DHBVN, it was stated that DHBVN is wrongly assuming Non-domestic Load as 1017 KW whereas the same is 465 KW. The correct bill shall be issued reflecting LD as 1773 kWh, LC as 552 kWh; LNDS as 465 kWh; LD+LC as 2238 KW, and LBS as 2790 KW. In this context, it was prayed that the DHBVN shall retrospectively correct the load assumption and give benefits to the residents of Vatika City.

As regards reflection of arrears in the bills issued by DHBVN, it was stated that although adjustments were given by DHBVN for the period of July 2013 to November 2019. However, the arrears are being reflected in the bill, which must be rectified.

- J.** Per contra Counsel for the Respondent, Ms. Sonia Madan, urged that it is the developer of Vatika City who has an account with the DHBVN and to whom a single point electricity connection has been provided. The said Vatika City is now being managed by RWA who effectually has stepped into the shoes of the Developer with regard to billing made to individual residents/allottee of the Vatika City. Neither the developer nor the RWA has been made party to the present proceedings. It was further stated that there exists no defect or deficiency in electricity service provided by the distribution licensee thereby necessitating filing of any complaint against the Respondent-DHBVN. With regard to grievances urged qua the Respondent-DHBVN, it was stated that developer vide letter dated 04.04.2016 had declared NDS as 1017 KW. The relevant excerpt of the said letter reads as under –

“Declaration of NDS component of Vatika City Electrical Load –Further, in accordance with provisions of DHBVN Sales Circular D-4 of 2013 we humbly submit that a load of 1017 KW out of total sanctioned load of vatika City be billed as Non-Domestic (NDS) tariff, test report will be submitted as and when required by DHBVN.”

In light of the undertaking of the Developer – who is the consumer for the DHBVN, the bills made by the Respondent cannot be said to be incorrect. The Respondent cannot be made to act as per the individual statements of the allottee of the society. As regards reliance of the appellants on the report of the committee of the DHBVN dated 2013, it was stated that the undertaking of the developer dated 04.04.2016 is later in time and the said report nowhere talks about the

total NDS load. It only talks of common area load and total domestic load which are not in dispute.

With respect to adjustments and reflection of arrears in bills, the Respondent contended that they have already adjusted the account for an amount of Rs. 7,07,82,306/- after considering the common load of 551.884 KW, NDS load as 1017 KW and Residential Load as 1221.2 KW. As regards, adjustment for the period December 2019 till present, the same is still under consideration. As regards the reflection of arrears in the bills, it was submitted that the same is under rectification process. The said bills are issued to the developer/RWA for single point supply and have no concern with the individual allottees. Thus, the relief is not maintainable qua the appellants.

K. After hearing both the parties and having perused the relevant documents, it is observed that with respect to issue of non-installation of electrical infrastructure by the Developer is concerned, as pointed out by DHBVN, the said issue is already pending adjudication before the Haryana Electricity Regulatory Commission in Petition no. 39 of 2022. The Developer is not party to the present proceedings. Since this issue is already sub-judice before a higher forum and outside the scope of present appeal, no observation can be made on this issue.

With respect to issue of wrong billing by RWA is concerned, it is observed that the RWA was not a party to the complainant before CGRF and the issue was not raised in the complaint filed before the CGRF. Since the appellant filed the instant appeal against the order of the CGRF, a fresh issue cannot be considered at this stage. However, for any new issue the appellant is at liberty to approach appropriate Forum.

With respect to issue of wrong billing by DHBVN, as far as assumption of LNDS is concerned, the same is being assumed as per the own undertaking of developer dated 04.04.2016. Though the DHBVN has been preparing bills as per their record yet since now the issue has been raised by the residents to the effect that the LNDS load is much lesser, the consumer may approach to DHBVN with fresh test report so that further action in the matter could be taken by DHBVN in light of the regulations in vogue.

It is not justified and reasonable on the part of DHBVN to contend that the adjustments/rectification to be made in bills is pending with higher authorities for over a month. The DHBVN is duty bound to issue correct bills and to make rectifications within reasonable time. The issue of adjustment to be made for

December 2019 till present and deletion of arrears under bill shall be done by the respondent within one month.

L. The appeal is disposed off accordingly, in above terms.

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

Given under my hand on 12th September, 2023.

Sd/-

(Virendra Singh)

Electricity Ombudsman, Haryana

Dated: - 12.09.2023

CC-

Memo No. EO/HERC/Appeal No. 57/2023/2499-2506

Dated: 15.09.2023

1. Shri Satbir Yadav and Shri Giriraj Gupta, 6/9 Jasmine Street, Vatika City, Sector-49, Gurugram (Email satbirvatika@hotmail.com, satbir.yadav@ehfl.in).
2. The Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited, Head Office: Vidyut Sadan, Vidyut Nagar, Hisar -125005 (Email md@dhbvn.org.in).
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