

CWP-10705-2020 (O&M)
DECIDED ON: AUGUST 26, 2020PUNJAB STATE POWER CORPORATION LIMITED
.....PETITIONER
VERSUS

LOKPAL (OMBUDSMAN) ELECTRICITY PUNJAB & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Ms. Monica Chhibber Sharma, Advocate for the petitioner.

Mr. Arihant Goyal, Advocate for respondents No.1 and 2.

Mr. Tarundeep Singh Khaira, Advocate for respondent No.3.

AVNEESH JHINGAN, J (ORAL)

The matter has been taken up for hearing through video conferencing due to COVID-19 situation.

The petition is filed seeking quashing of order dated 21st November, 2019 passed by Lokpal (Ombudsman) Electricity, Punjab.

The petitioner released a single point connection to respondent No.3 i.e. M/s Bajwa Developers in Sector 125, Kharar, Mohali (for brevity 'developer') bearing account No. CL-01. The meter was installed in the year 2004. The Load Distribution System (LDS) was to be installed and after its installation, it was to be taken over by the petitioner on compliance of the conditions by developer.

Petitioner changed their system from manual to System Application and Product in Data Process (SAP) and due to some error/glitches in the system, the bills for the year 2014 to 2017 were not

issued to developer. It was only after the audit in the year 2018 the said lapse surfaced and an energy bill of Rs. 1,06,09,033/- was issued. Aggrieved of the actions of the petitioner, developer approached the Punjab State Power Corporation Limited Forum for Redressal of Grievances of Consumers, Patiala. The forum vide order dated 15th May, 2019 passed an order. The operational part of the said order is as under :-

“Keeping in view the petition, reply, oral discussions, and after hearing both the parties, perusal of the record produced by them & observations of Forum, Forum decides that:-

- *LD system of the petitioner may be taken over after the clearance of the disputed amount as per the conditions laid down in the report of the high powered committee.*
- *Further the said amount may be recovered in 18 equal monthly installments without charging any interest/surcharge if the petitioner accepts the decision of this Forum and gives an undertaking not to go for an appeal before any other authority/court.*
- *As required under Regulation 2.41 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016, the compliance of this decision shall be made within 21 days from the date of receipt of the order.*
- *If the petitioner is not satisfied with the decision of CGRF, he is at liberty to file a representation before the Ombudsman appointed/designated by the Punjab State Electricity Regulatory Commission within 30 days from the date of receipt of the order of the Forum, as required under Regulation 2.49 read with Regulation 2.45 and 2.48 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016. “*

Still aggrieved, developer preferred an appeal, same was disposed of on 21st November, 2019 and the order of the forum was modified. The conclusions are reproduced below:-

“Thus, from the above analysis, it is concluded that:

- (i) the amount charged to the Petitioner on account of difference of energy consumption of the Singly Point Supply Energy Meter and Consumer Meter alongwith interest and surcharge for the period 17.09.2007 to 11/2014 is not just and fair, hence, not recoverable.*
- (ii) the amount charged for the period from 11/2014 to 10.02.2017, after giving the prescribed rebate to account for*

distribution losses, handling charges etc. is not recoverable.
(iii) *LD system, complete and satisfactory in all respect, be taken over after ensuring the observance of rules and instructions of the distribution licensee applicable at the time of release of connection and clearance of the outstanding dues, if any, against the Colony feeding through the Single Point Metering. In case of any deviation/deficiency, Bank Guarantee for the suitable amount, if any, is required to be taken from the Petitioner."*

Amongst other things, the grievance raised by the petitioner is that appellate authority exceeded its jurisdiction in deciding the controversy with regard to the period 17.09.2007 to November 2014, as the same was not emerging from the impugned notice.

Learned counsel for developer submitted that he has grievance against inaction of the petitioner to take over the LDS in spite of circular issued.

After hearing the arguments and considering the factual position, the grievance of the petitioner *prima-facie* appears to be correct. However, at this stage, the counsel for the parties agreed that there would be certain factual aspects to be gone into for deciding the said issue and the matter be remitted back to decide the appeal of developer afresh.

The impugned order passed in appeal is set aside and the matter is remitted back to respondent No.1 for deciding afresh. It is clarified that nothing stated in this order shall be construed as observation on merits of case. Parties would be at liberty to raise pleas available to them before the Appellate Authority.

Considering the nature of the dispute, it is expected that the appeal would be decided expeditiously with the cooperation of the parties.

Parties shall appear before respondent No.1 on 7th September,

The present petition is disposed of accordingly.

26th AUGUST, 2020
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>