

113

2025.PHHC.010259



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-34815-2024

Date of Decision : 13.01.2025.

M/S BRAHMA MAINTENANCE PVT.LTD.

-PETITIONER

V/S

**THE CONSUMER GRIEVANCES REDRESSAL FORUM (UHBVN)
AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Supriya Garg, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, who is a service provide to M/s Max Height Metro View Apartment, at Sonipat (performa respondent no.5), approached this Court, to throw challenge the order dated 19.11.2024 (Annexure P-5), passed by respondent no.1-The Consumer Grievances Redressal Forum (UHBVN) formulated under the regulations of Haryana Electricity Regulatory Commission (HERC), wherethrough, apart from other directions, a specific direction was given that petitioner-firm and its principal, i.e. M/s Max Height Metro View Apartment, to strictly abide by Regulation No.5.5 of HERC, Single Point Supply Regulation (Regulation

No.HERC/27/2023), and the electricity bill be served to the residents/users showing clearly energy consumed and tariff applicable including all the relevant details, i.e. Electricity Duty, Municipal Tax and FSA, if any.

2. Learned counsel for the petitioner-firm in an endeavour to throw challenge to the order (*supra*), has raised only one issue, i.e. non-compliance to the principle of *audi alteram partem*.

3. While elaborating his arguments, he submits that though the notice was served to its principal, i.e. M/s Max Height Metro View Apartment, however, no notice was served to the petitioner-firm as it being the service provider, where through, the present petition, is directly affected by the order (*supra*), as passed by respondent no.1. Therefore, the order which has been passed, is in violation of the principle of natural justice, and is *per se* illegal and requires interference.

4. This Court has examined the submissions made by the learned counsel for the petitioner as well as the order (*supra*), as passed by respondent no.1.

5. The following facts, which are relevant to decide the illegality in the impugned order, is extracted hereinafter:-

- i. One Baljinder Singh (respondent no.4), made a complaint against respondent no.5-Max Height Metro View Apartment and the present petitioner-firm, regarding overcharging on account of electricity consumption charges. It was alleged that the petitioner-firm is charging about Rs.5-7 Lakhs per month extra from the flat owners on

account of electricity consumption charges, and further they are not submitting the bill to the UHBVNL (electricity distribution company), regularly, which leads to burden of extra surcharge on each flat owner. In addition to the above, they are collecting fixed charges from 155 flats of EWS and 12 shops. The complainant/respondent no.4 also by way of rejoinders brought additional allegations to the effect that the petitioner-firm had added Common Area Electricity Bill to all the flat owners which is against the law, and secondly, they have charged Rs.26 per/unit for power back, from first unit, and in the bill they have charged Rs.200+GST, as a fixed charges, which is not in accordance with the regulations.

ii. It further reflects that the office of the SDO (OP) concerned, has directed performa respondent no.5-M/s Max Height Metro View Apartment, to submit the electricity bills and bills of maintenance, raised to the petitioner and other inhabitants of respondent no.5, enabling them to file a response before respondent no.1, but despite two communications, developer-M/s Max Height Metro View Apartment (performa respondent no.5), opted not to file any response.

iii. During the pendency of the proceedings before respondent no.1-Forum, on dated 05.08.2024, a specific direction was issued to the SDO concerned, to take action against the developer-M/s Max Height Metro View

Apartment, as per the specific instructions issued by the HREC, Panchkula.

iv. It was also brought on record that the in pursuance of the directions issued by the SDO concerned, though the petitioner-firm in the bill of July, 2024, has charged electricity bill as per Rs.6.13 per/unit and fixed charges have been removed from the bill, but they have added Common Area Electricity Bill to all the flat owners against the norms of the Nigam, whereas, the Common Area Electricity Bill should have added towards the maintenance charges.

6. After considering all the facts and submissions, respondent no.1-Forum, passed the following directions:

- “1. That the electricity bill being served to the residents/users should clearly show the energy consumed and tariff applicable including all the relevant details i.e. electricity duty, Municipal Tax and FSA, if any.
2. The Forum further directs the Respondents No. 1 and 2 to separately specify the charges for Grid Supply used for common area in the Common Area Maintenance Charges and no service charges on this Grid Supply component be charged.
3. Further the disconnection of electricity should not normally be done on account of non- payment of charges other than DISCOM Supply charges i.e. on account of Maintenance Charges, Back-up Supply Charges and other Miscellaneous Charges etc. The Forum directs Respondent No. 1 and 2 to take remedial measures to ensure disconnection of supply of DISCOM shall not take place, if the petitioners or residents or users pay the electricity bill raised by the Respondent for DISCOM supply.
4. The Respondent No. 2 shall put up the statement of account of amount paid to UHBVNL for supply of electricity on Single Point to the Society/complex and the units billed to Individual consumer of all categories in the complex, unit consumed for common facilities, the energy received and energy consumed in the complex as per meter reading. The statement should also include the amount billed to the individual consumer and the units/amount booked to common facilities for the information of the member and transparency be maintained in this regard. They are also directed to supply the above information (month-wise) for the last one year to SDO/Respondent (OP) Sub-Division, UHBVN, Rai.

5. Regarding checking of accuracy of meters installed in the Society/Complex, the Forum observes that the Single Point Supply Regulations provides that the distribution licensee will extend the facility of testing of individual meters of the residents for accuracy/calibration and sealing in case so requested by the RWA on payment of requisite charges. In case, the resident/user is not satisfied with the accuracy of the energy meter, he may represent to the Respondent No. 1 and 2. They will get the meter's accuracy checked from the UHBVNL and testing charges in this regard shall be borne by the consumer.

6. The company will have to charge the amount of electricity bill from the residents of the Apartment as per Nigam's Sales Circular No. U-01/2021 (Annexure V & VI).

7. The Forum directs M/s. Max Heights Metro View Apartment Authorities and M/s. Brahma Maintenance Pvt. Ltd., who is issuing bills to the residents of the Apartment, to strictly abide by the Regulation No. 5.5 of HERC Single Point Supply Regulations (Regulation No. HERC/27/2013) and the electricity bill be served to the residents/users showing clearly the energy consumed and tariff applicable including all the relevant details i.e. Electricity Duty, Municipal Tax and FSA, if any.

8. Non-responding to the references of the SDO/Respondent is clear cut gross violation of the existing regulation.

9. By issuing bills on higher side, extra money has been collected by M/s. Max Heights Authorities through M/s. Brahma Maintenance Company Pvt. Ltd. and the amount charged on higher side instead of compliance of Sales Circular No. U-01/2021 should be refunded to the residents as per standing norms of the Nigam. In future SDO/Respondent will also ensure that bills are issued as per Nigam's tariff applicable from time to time and be charged from Residents of the Apartments as per standing norms of the Nigam within one month from the issue of the order.

10. If M/s. Brahma Maintenance Pvt. Ltd. and M/s. Max Heights Metroview Apartments Authorities still do not ensure meticulous compliance of the standing instructions of the Nigam/Hon'ble HERC Regulations, then the Forum directs SDO/Respondent to initiate appropriate action against them.”

7. During the course of the arguments, learned counsel for the petitioner-firm is unable to point out any infirmity in the order (*supra*), or to point out any regulation authorising the petitioner-firm to add any charges into the electricity bill in violation to the HREC regulations. However, the thrust of the argument revolves only around, since the order was passed without serving any notice to the present petitioner-firm, therefore, order is suffers from voice of illegality.

8. It is not under dispute that as per the Haryana Electricity

Regulatory Commission (HERC), directions which was, subsequently circulated by the UHBNL on 12.01.2021, the bill is required to be issued to the consumers as per sales circular no.U-01/2021. It is not under dispute that the electricity consumption charges cannot be clubbed with any other charges. The relevant extract from the impugned order (*supra*) reads as under:-

“As per directions of Hon'ble HERC the electricity charges cannot be clubbed with any other charges detail as below:-

1. As per Nigam sales circular no. U-01/2021 dated 12.01.2021, Nigam directed to issue the bill to residents as per Annexure-V & VI.. In which format electricity bill issued by you to consumer/residents (Copy of bill) required to submit. If in prescribe format bill not issued by you then in future/from this month you are directed to issue the bill to consumer as per sales circular no. U-01/2021. Annexure V & VI and same copy submitted in this office.

2. As per Nigam sales circular no. U-01/2021 Clause 3 (ii) if prepaid meter installed then you take consent from consumer or not. Submit your reply with supporting documents.

9. The submissions made by learned counsel for the petitioner-firm is totally bereft of any merit, as recorded above. During the pendency of the instant proceedings, the SDO concerned, has sought a reply from petitioner's principal, i.e. M/s Max Heights Metro View Apartment, and not only that, that firm had responded to the notice to the SDO concerned, and also the bill for the month of July, 2024, charged by the petitioner-firm, is in accordance with the direction issued by the Forum on 05.08.2024, though it has mischievously added other charges, which is clearly recorded in the impugned order (*supra*).

10. The doctrine of *audi alteram partem*, cannot be used to cure the self-suffered wound, specifically, by those persons who are sitting on the fence. From the facts above, it is vividly postulated, that the

petitioner-firm was very much aware about the proceedings pending before respondent no.1-Forum, as the principal of the petitioner-firm had already responded to the pendency proceedings. Therefore, this Court can safely conclude that the petitioner-firm was very well aware about the pendency of the instant proceedings. However, with an oblique motive to create a defence at the appellate stage, immediately after culmination of proceedings before the authority concerned, he approached this Court and raised hue and cry about violation of the principle of natural justice.

11. Furthermore, the petitioner-firm is unable to point out any illegality in the directions issued by respondent no.1-Forum, or any rules or regulation entitling the petitioner-firm to add any other charges including electricity bill.

12. Therefore, the instant petition is, hereby, **dismissed**.

January 13, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No