

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

Case No. HERC/P. No. 70 of 2024

Date of Hearing : 28/05/2025

Date of Order : 02/06/2025

IN THE MATTER OF:

Complaint under Section 142, read with Section 146 & Section 149 of the Electricity Act, 2003 & Regulation 2.32 of HERC (Forum & Ombudsman) Regulations, 2020 for imposing penalty u/s 142 and institution of complaint u/s 146 of the Electricity Act, 2003 on account of non-compliance of the order/ direction passed by Ld. Corporate Forum for redressal of Consumer Grievances (CGRF) Gurugram as well as continuing failure to comply with the direction of order number 4688/2024 dated 08-08-2024 by respondent(s) and for issuing direction(s) to ensure strict compliance of the direction issued by the Corporate CGRF DHBVN Gurgaon vide order dated 08-08-2024 and to impose the penalty on respondent(s) as per Schedule – ii Sub Clause 20 of HERC Regulation no 50-2020 (Standard of Performance of Distribution Licensee and Determination of Compensation).

Petitioner

Silver Stone Crusher Kheri Battar, Atela Kalan Through Its Prop. Manoj Kumar

VERSUS

Respondents:

1. SDO 'Op' Sub Division DHBVN Atela Kalan
2. XEN 'Op' Division DHBVN Charkhi Dadri

Present

On behalf of the Petitioner

1. Sh. Akshay Gupta, Advocate

On behalf of the Respondent

1. Ms. Sonia Madan, Advocate for R-1
2. Sh. Sanjay Ranga, XEN, DHBVN
3. Sh. Ashish Sodhi, SDO, DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman

Shri Mukesh Garg, Member

ORDER

1. Petition:

- 1.1 That Sh. Manoj Kumar S/o Sh. Madan Lal Aggarwal aged about 55 years, is a resident of 72, Mandi Township Bhiwani, Haryana. (hereinafter may be referred as complainant petitioner).
- 1.2 That the complainant petitioner owns a Stone Crusher in the name of M/s Silver Stone Crusher, Kheri Battar, Atela Kalan.
- 1.3 That the complainant petitioner through his counsel sent a legal notice to respondent on 11-01-2024 for updating of ACD/ Security amount. But the respondent never replied to the legal notice served upon him. Aggrieved with the act of respondent, the complainant petitioner filed a complaint before Corporate CGRF, DHBVN GURGAON on dated 23-02-2024 which was instituted on 13-05-2024 and prayed :
 - i. Declare the action of the respondent for not adjusting the ACD amounting to Rs. 378200 (Rupees Three Lac Seventy-Eight Thousand Two Hundred Only) in the bill and not adjusting the interest on this ACD in the first billing cycle as illegal, arbitrary and unjustified and be quashed and;
 - ii. Direct respondent to refund/adjust the ACD amounting to Rs. 378200 (Rupees Three Lac Seventy-Eight Thousand Two Hundred Only) in the bill.
 - iii. Direct the respondent to refund/adjust the interest on ACD Rs. 378200 (Rupees Three Lac Seventy-Eight Thousand Two Hundred Only) with penal interest as instruction of Nigam.
 - iv. Direct the respondent to pay the compensation of Rs 1,00,000 to complainant on account of harassment, mental agony, pain suffered by its functionaries and legal expenses incurred and;
 - v. Pass any other or further order which this Hon'ble Forum deems fit and proper in the facts and circumstances of the case in favor of complainant in the interest of Justice.
- 1.4 That case is registered against the case number 4688-2024, Notice of motion served.
- 1.5 That corporate CGRF DHBVN Gurgaon vide order dated 08-08-2024 disposed of the case with direction to respondent SDO "to adjust extra ACD from the ACD amount Rs. 378000/- as tabulated above (which was deposited by complainant in the month of Nov-2022) along with interest on ACD with penal interest @18% for the period interest accrued delayed as per HERC regulation, if not given till date (Rs. 43849/- up to August 2024).
- 1.6 That the respondent should comply with the order passed by Corporate CGRF and should adjust/ refund the ACD 378000 (Rupees Three Lac Seventy-Eight Thousand) along with interest/ penal interest Rs. 43849 (Rupees Forty-Three Thousand Eight Hundred Forty-Nine), calculated up to Aug-2024.

- 1.7 That order dated 08-08-2024 was to be complied within 21 days i.e. by 29-8-2024 but it's been more than 3 months since passing of order dated 08-08-2024 by Ld. Corporate CGRF DHBVN Gurgaon and the same has not been complied with by the respondent SDO as the amount of ACD along with interest and penal interest has not been refunded/adjusted in the bill of complainant as directed by the Ld. Corporate CGRF DHBVN Gurgaon and there has been deliberate and willful disobedience of order dated 08-08-2024 passed by Ld. Corporate CGRF DHBVN, Gurgaon. Respondent is required to refund/adjust the ACD 378000 with interest 43849 (calculated up to Aug-2024) but nothing has been paid/ refunded to complainant petitioner so far.
- 1.8 That the respondent has failed to comply with the order passed by Ld. Corporate CGRF UHBVN Panchkula and forced complainant petitioner to file the complaint Before Hon'ble HERC under Section 142 Read with Section 146 & Section 149 of Electricity Act-2003 for non-compliance of order passed by Ld. Corporate CGRF UHBVN Panchkula dated 30.08.2024.
- 1.9 Electricity Act, 2003- Section 142 "Punishment for Non-Compliance of directions by Appropriate Commission): in case any complaint is filed before the Appropriate Commission by any person or if that Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made, thereunder; or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed One Lakh Rupees for each contravention and in case if a continuing failure with an additional penalty which may extend to Six Thousand rupees for every day during which the failure continues after contravention of the first direction.
- 1.10 Section 146: "Punishment for Non-Compliance of orders or directions- Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, with both in respect of each offence and in the case of continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:
- (Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.)*
- 1.11 Section 149
- (1) Where an offence under this act has been committed by a company, every person who at the time the offence was committed was in

charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly

(2) Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

1.12 Regulation 2.32 of HERC (Corporate CGRF UBHVN and Ombudsman) Regulations, 2020 (Regulation 2.32):

“The decisions of the Corporate CGRF UBHVN will be recorded and duly supported by reasons. The Order of the Corporate CGRF UBHVN will be communicated to the complainant and the licensee in writing within 7 days of the passing of the Order. The licensee shall comply with the order of the Corporate CGRF UBHVN within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Corporate CGRF UBHVN, upon the request of the licensee, may extend the period for compliance of its order up to a maximum of three months. The aggrieved consumer may approach the Ombudsman who will provide the consumer as well as the licensee an opportunity of being heard and decide the appeal.

In case of non-compliance of the order of the appropriate Corporate CGRF UBHVN, the aggrieved consumer may approach the Commission who will provide the consumer as well as the Licensee an opportunity of being heard. The Commission may initiate proceedings under section 142 of the Act for violation of the Regulations framed by the Commission.”

1.13 That as per HERC (Standard of Performance of Distribution Licensee and determination of compensation) Regulation, 2020 Schedule – II Sub Clause 20 provides that in case of compliance of CGRF is not made within the time framed defined in such order or the regulations specified by the commission in this regard, the compensation of Rs.100/- per day or part thereof is payable.

Prayer:

It is, therefore, most humbly prayed that considering the submissions brought out above, this Hon’ble Commission may kindly be pleased to:

- i. Institution of complaint under Section 142 RW Section 146 of Electricity Act, 2003 for failure to comply with the order / direction

- passed by the Ld. CGRF on dated 08-08-2024 as well as continuing failure to comply with the directions against the respondent(s).
- ii. Direct the respondent(s) to comply with the direction(s) given Corporate CGRF DHBVN vide order dated 08.08.2024 and adjust the due refund with interest from the date this was payable till realization.
 - iii. To impose penalty of Rs. 1 Lakh on respondent(s) under Section 142 of Electricity Act 2003 for failure to comply with the order / direction passed by Ld. CGRF on 08.08.2024 as well as continuing failure to comply with the directions and adjust/ refund the dues to the complainant petitioner.
 - iv. To direct the respondent(s) to pay compensation @ Rs.100/ Day for non-compliance of order passed by CGRF within 21 days.
 - v. To award the penalty imposed on respondent(s) in favor of the complainant- petitioner.
 - vi. Direct respondent(s) to pay Rs. 1,00,000/- (Rs. One Lac only) as court fee and litigation expenses.
 - vii. To allow any other relief as deemed fit by the hon'ble Commission.
2. The case was heard on 18/02/2025. Ms. Sonia Madan Counsel for the respondent submitted that the orders of the CGRF have been complied. However, reply could not be submitted as she has been engaged recently. Sh. Akshay Gupta counsel for the petitioner submitted that although compliance of the order has been made by the respondent and the calculation of the respondent are not disputed. However, the order has not been complied with in the stipulated time frame. The Commission observed that concerned XEN and SDO were not present in the court to explain as to who is responsible for the financial loss as well as harassment of the consumer. Ms. Sonia Madan submitted that the presence of the Concerned XEN and SDO shall be ensured on the next date of hearing. Further, Ms. Madan requested to allow time to file reply along with reasons for delay in compliance of the order. Acceding to the request of the respondent, the Commission adjourned the matter and concerned XEN and SDO are directed to be present in the court on next date of hearing.
3. The case was heard on 26/03/2025. Ms. Sonia Madan Counsel for the respondent submitted that the orders of the CGRF have already been implemented and in compliance of the Commission Interim order dated 19.02.2025, detailed reply indicating reasons of delay in implementation of the order is being submitted. The Commission enquired about the presence of concerned XEN and SDO in the court, it was apprised by the counsel of the respondent that the Concerned SDO is present in the court but the XEN could not come due to some urgent meeting. The counsel of the petitioner submitted that he is agreed the order of the CGRF has been implemented by the respondent now but the order was implemented after intervention the Commission. The officers of DHBVN are habitual of not complying the orders of the CGRF and he requested that strict action be

taken against the delinquent officers/ officials as the order of CGRF was not implemented in stipulated time. The counsel further requested to allow him time to file rejoinder to the reply submitted by the respondent. Regarding delay in implementation of the order, Ms. Madan submitted that there was no wilful delay in implementation of the order but it was procedural delay. The commission was not convinced by the reply of the counsel and directed to submit the name of the offices/officials responsible for not implementing the order within stipulated time. The Commission took serious note of the absence of the concerned XEN and imposed a cost of Rs. 25,000/-, which is to be deposited by him in the Commission before next date of hearing. The Commission directed concerned XEN and SDO to be present in the court on next date of hearing and the petitioner to file its rejoinder within two weeks with a copy of the same to the respondent.

4. Reply filed on 26/03/2025:

- 4.1 The present reply is being filed through Ashish Sodhi, SDO, DHBVN, Charkhi Dadri, (hereinafter referred to as 'DHBVN'), 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, on behalf of Respondents.
- 4.2 The Petitioner has filed the present petition seeking compliance of the direction(s) issued by the Corporate CGRF, DHBVN, Gurgaon vide Order dated 08.08.2024, wherein it was directed as under –
“the respondent SDO is directed to adjust extra ACD from the ACD amount Rs. 3,78,000/- as tabulated above (Which was deposited by complainant in the month of Nov-2022) along with interest on ACD with penal interest @ 18% for the period interest accrued delayed as per HERC regulation, if not given till date (Rs. 43849/- upto August 2024.)”
(Emphasis Supplied)
- 4.3 The Hon'ble Commission heard the instant Petition on 18.02.2025, wherein Counsel for the Petitioner submitted that although compliance with the order had been made by the Respondent and the calculations of the Respondent are not disputed, the only issue remaining was that the order had not been complied with within the stipulated time frame.
- 4.4 The Respondent, at the outset, humbly submits that the refund for an amount of Rs. 3,78,200/-, along with interest amounting to Rs. 52,303/- and penal interest of Rs. 7,764/- (total interest amounting to Rs. 60,067/-), stands reflected in the Petitioner's account.
- 4.5 The Respondent, however, sincerely regrets any inconvenience caused to the Petitioner due to the time taken for compliance. However, it is essential to highlight that the delay was a result of necessary procedural approvals and financial reconciliations, which were critical steps in processing refund. The delay in compliance was neither intentional nor deliberate. The procedural delays were unavoidable and stemmed from the following reasons:

- a) The Order dated 08.08.2024 passed by Corporate CGRF, DHBVN, Gurgaon was forwarded for approval of the higher authorities. Since the issue involved certain legal issues as regards the limitation, the Respondent no. 2 forwarded the Order along with the concern to office of Legal Remembrancer (LR), Haryana Power Utilities for the legal opinion vide Memo No. 6309 dated 10.09.2024. A copy of the said letter is annexed.
- b) Pursuant thereto, it was first decided to file a writ petition against the order dated 08.08.2024 passed by the Ld. CGRF. Accordingly, an advocate was engaged on 24.10.2024 for the same. A copy of letter dated 24.10.2024 is annexed.
- c) The order was thereafter examined by the Advocate and certain deliberations were made on the same, pursuant to which, the advocate sought various additional documents and information. To get the desired information, the answering respondent contacted the office of CBO, Hisar. The office of the CBO, Hisar thoroughly reviewed the case and advised that the Order shall be complied with and elucidated the steps involved in the refund of ACD through CCNB software.
- d) Another significant reason for the delay was that the CCB was not functioning in the month of November 2024. In this regard, a WhatsApp group screenshot is annexed, where it is evident that officials encountered difficulties in addressing exceptions due to the CCB issue. Cases related to MCO (Meter Change Orders) and PDCO (Permanent Disconnection Orders), which were issued in the CCB, were not updating on the tool, further hindering the process. In light of this, CE IT has also been requested to examine the issue.
- e) The CCB portal takes time to process the refund. The binders in the software are opened on limited days in a month. As such, the dummy BR case ID was initiated by visiting the CBO office, Hisar on 19.12.2024. All the related documents were uploaded for approval, which was accorded by the office of Executive Engineer vide letter Memo No. 7180A dated 27.12.2024. The case was further sanctioned by CBO team and the amount was adjusted in the bill of January 2025. A copy of letter dated 27.12.2024 is appended.
- f) A perusal of the foregoing reveals that there is no deliberate and wilful delay on the part of the answering respondent in processing the case of the Petitioner.

PRAYER

In view of the foregoing submissions, it is most respectfully prayed that this Hon'ble Commission may kindly:

- a) Take note of the compliance efforts undertaken by the Respondents and accept the explanation provided regarding the delay in compliance of CGRF Order,

- b) Not impose any penalty/cost as the delay was beyond the control of the answering respondent and not intentional, and/or
 - c) Pass any other order(s) deemed fit and proper in the facts and circumstances of the case in the interest of justice.
5. The case was heard on 23/04/2025. The Commission was apprised that Sh. Akshay Gupta Counsel for the petitioner vide email dated 22/04/2025 has requested for adjournment due to his ill health. Ms. Sonia Madan Counsel for the respondent submitted that the orders of the CGRF have already been implemented. She further submitted that XEN, Operation Charkhi Dadri is not in a position to attend the hearing today due to his ill health and submitted a medical certificate. However, concerned SDO is present in the court and the cost of Rs. 25000/- has been deposited by the respondent XEN on 22/04/2025. The case is adjourned and concerned XEN and SDO are directed to be present in the court on next date of hearing.
6. **Commission's Order:**
- 6.1 The case was heard on 28/05/2025, as scheduled, in the court room of the Commission. Concerned XEN and SDO were present in the court room.
 - 6.2 Sh. Akshay Gupta Counsel for the petitioner submitted that the order of CGRF has been implemented by the respondent and there is no dispute with regard to the amount. But the order was not implemented within prescribed time of 21 days, causing unnecessary harassment to the petitioner. The concerned officers deliberately delayed the compliance. He further requested for taking action against the officers and to direct the respondents to pay compensation and litigation charges.
 - 6.3 Ms. Sonia Madan submitted that the delay was a result of necessary procedural approvals and financial reconciliations. The delay in compliance was neither intentional nor deliberate. The procedural delay was unavoidable.
 - 6.4 To the query of the Commission regarding reasons of delay in compliance of order, the concerned XEN and SDO submitted that there is no deliberate and wilful delay on their part in processing the case of the petitioner and reiterated reasons of delay as mentioned at sr. No. 4.5 (a) to (e) above, which are not reproduced here for the sake of brevity.
 - 6.5 The Commission observes that since the order of CGRF has been complied with now, nothing remains to be adjudicated in the present petition. However, the dispute was primarily pertaining to non-compliance of the CGRF orders in timely manner. The negligence on the part of officials/officers of Respondent Nigam cannot be ignored, due to which the consumer had to suffer and had to knock the doors of CGRF for relief in the first instance and then had to approach the Commission for implementation of CGRF orders. Nigam has been

burdened with interest and litigation charges in addition to wastage of valuable time of the officers/officials.

6.6 The Commission, therefore, directs the respondent DHBVN to make payment of ₹50,000/- Court Fee deposited by the petitioner along with ₹15,000/- towards litigation expenses to the petitioner within 30 days from the date of this order.

6.7 The petition is disposed of, in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 02/06/2025.

Date: 02/06/2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman