



**BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA**

**Haryana Electricity Regulatory Commission**

**Bays No. 33 - 36, Sector – 4, Panchkula-134109**

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**Appeal No. : 19/2012**  
**Received on: 22.08.2012**  
**Registered on: 23.08.2012**  
**Date of Order: 01.08.2013**

**In the matter of:-**

**Appeal against the order of Forum for Redressal of Consumer Grievances, DHBVNL, Hisar in Case No. 574/2012 dated 10.07.2012.**

**Sh. Parveen Kumar S/o Sh. Baldev Singh, Sr. General Manager/ GPA of Urban Improvement Corporation Private Limited R/o Flat No. 32, Connaught Place, New Delhi**

**Appellant /Complainant**

**Versus**

**DHBVNL**

**Respondents/Opposite Party**

**Before:**

**Er. A.K. Jain, Electricity Ombudsman**

**Present on behalf of appellant:**

1. Sh. O.P. Ahuja, A.R.
2. Sh. Ramesh Bali Sr. P.E.
3. Sh. D.P. Aggarwal, A.E. (E)
4. Sh. Sanjeev Sharma, Sr. Manager
5. Sh. Vineet Soni, Advocate

**Present on behalf of respondents:**

1. Sh. Anil Goyal, XEN 'Op', DHBVNL, Old Faridabad
2. Sh. J.S. Dhull, SDO 'Op', DHBVNL, Old Faridabad
3. Sh. Dharamender Ruhil, SDO 'Op', S/D. DHBVNL, Mathura Road, Faridabad
4. Sh. Tek Chand, C. A. O/o SDO 'Op', S/D. DHBVNL, Mathura Road, Faridabad
5. Sh. Raghujeet Singh Madan, Advocate

## **Order**

M/s Urban Improvement Corporation Pvt. Ltd, New Delhi through its Sh. Parveen Kumar, Sr. General Manager, GPA Holder has filed an appeal before Electricity Ombudsman, Haryana against the order of CGRF, DHBVNL, Hisar dated 10.07.2012 in Case No. 574/2012. The appeal has been registered as Appeal No. 19/2012 on 23.08.2012. The brief facts of the case are as under:

1. That the appellant is developing a colony in Faridabad namely Greenfields Colony, for which electrification plan was approved by respondent department (C.E 'Op', HSEB, Delhi) on 21.06.1993 for an amount of ₹ 1.71 Crores.

2. The work of electrification was executed by the developers i.e. the appellant.
3. That the 1.5% inspection charges were deposited by the appellant with the respondent department.
4. Further the appellant deposited operation and maintenance charges @ 5% for five years.
5. That the appellant in total deposited about ₹ 45 lacs in March 1997 towards inspection charges and O& M Charges.
6. That the appellant is claiming that electricity system has been taken over by the respondent department and even O&M services provided from July, 2008 to February, 2009 but stopped thereafter.
7. That the respondent department again asked for ₹ 90 lakh from the appellant towards share cost of first improvement scheme out of which 75 lakhs were deposited by the appellant on 22.07.2001, stated to have deposited under duress as they wanted that connections to the allottees are not stopped by the respondent department.
8. The respondent department further demanded ₹ 7.94 Crores towards augmentation of the electrical system to cater to load growth. They further asked for transfer of One Acre Plot in the colony for erection of 66 KV Substation required to meet the huge load of the colony.

Against repeated demands raised by the respondent department (erstwhile HSEB and now DHBVNL), the appellant filed a complaint with the CGRF, DHBVNL, Hisar with the following submissions:

1. That the approved layout plan of the colony was submitted to erstwhile HSEB. The electrification scheme as per the proposal was executed and duly taken over by the competent authority.
2. That in 2001 the respondent pointed out certain deficiencies in the system and prepared revised estimate for augmentation. Under this scheme, petitioner was directed to make the payment of share cost of augmentation amounting to ₹ 90 lacs against which the petitioner paid ₹ 75 lacs under duress, so as to ensure redressal of grievances of inhabitants of the colony.
3. That new connections to applicant were since being rejected irrespective of the facts that the occupancy of the area was hardly 25% and there were numerous complaints of low voltage and frequent break downs because of deficiencies in the system. Instead of doing the maintenance of system, the respondent yet again changed the stand and came up with the new proposal. The petitioner agreed and scheme was executed.
4. That the petitioner failed to understand as to why the scheme time and again is being changed. In this non-ending process, the petitioner has sent another demand of ₹ 7.94 crores. Under this the respondent wants to utilize the land of 1 acre allotted by the petitioner to the respondent.
5. That the respondent had planned for erecting 66KV Substation at the cost of the petitioner. The demand is un-called for and illegal. The detailed history of the case and documentary evidences are as under:-
  - i. The electricity plan was got approved from CE/Op., Delhi vide memo No.Ch-44/WO/E-33/FBD/91-92 dated 21.06.1993 for total amount of ₹1,71,22,899/-. The work was carried out and inspected by the SDO/Op Mathura Road. Demand of ₹ 45,37,568/- was raised by SDO against O& M charges for 5 years @ 5% of the total cost and inspection charges @ 1.5% on 20.01.1995 and the same was deposited on 26.03.1997.
  - ii. After lapse of two years time, the respondent SDO directed the company to relay the entire system as per the changed approved design, despite the fact the electrification plan was approved as per field conditions. The work was carried out as per approved design and the material used was got inspected by SDO Mathura Road vide Memo dated 25.01.2000.

- iii. SE/Op Faridabad was approached to do the needful. He visited the site and directed to lay double feeder of 11 KV line from 66 KV substation, Sector-46 since they were not able to provide power from proposed substation in Green Fields Colony.
- iv. That an amount of ₹ 75 lacs was deposited with XEN/Const., HVPNL, towards the share cost of 66 KV Substation at Sector-46 vide pay order dated 27.07.2001 as per direction of SE/Const., O& M Circle, HVPNL.
- v. The work of laying 11 KV double feeders from 66 KV substation, Sector-46 to Green Field Colony was carried out by the Company as per approved design and was inspected by DHBVN authorities & CEI, Haryana. The LD system was energized and SDO/Op DHBVN, Mathura Road started releasing power connections to the residence of the colony.
- vi. Though almost seven years had passed, the maintenance of LD System was not being carried out by DHBVN. Petitioner approached GM/Op. Vide letter dated 22.03.2007 to start maintaining the system as he already paid O&M charges long back.
- vii. The GM/Op vide letter dated 16.03.2007 asked the petitioner to supply list of electrical equipments/ accessories with copies to DGM and AGM/MR Sub Division, so that further action could be taken regarding taking over the maintenance of LD System.
- viii. A reply to above query was sent to GM/Op vide letter dated 30.04.2007 with all relevant documents.
- ix. The XEN/Old Divn. Faridabad vide letter dated 02.06.2008 wrote a letter to SDO/MR Sub Division regarding clarification in the subject matter of taking over of LD System to Greenfield Colony with a copy to petitioner.
- x. SE/Op, Faridabad vide DO dated 20.08.2008 to XEN/Op intimated that proper maintenance of LD System and complaints of the area had to be properly attended to as Green Fields Colony already stood taken over, with a copy to petitioner.
- xi. Vide Memo No. 31 dated 12.01.2011 the XEN/Op Old Faridabad asked the petitioner to deposit ₹ 7.94 crores towards the cost of creating infrastructure in respect of inadequacy of 43451 KW.
- xii. After perusal of above points, it is clear that the matter of maintenance of LD System by DHBVN had been taken up ever since the payment of O&M Charges by petitioner in 1997 but the same was not operated upon and respondent has now come up for yet another scheme for augmentation.
- xiii. The petitioner prays that the respondent may be ordered to remove the deficiencies of system is still existing at their cost and also to allow connections to the residents forthwith failing which the penalties as provided by HERC Supply Code may be ordered.
- xiv. The revision of scheme after every 2-3 years gap has lead the problems viz existing consumers are being provided deficient services, numerous complaints of low voltage and breakdowns thereby harassing the consumers new connection applications are not being entertained though the system is laid down in the area and responsibility of maintaining the system lies with respondent and not with petitioner.
- xv. It is prayed that respondent may be ordered immediately to:
  1. To remove the difficulties if still, existing in the system at their cost as the petitioner under duress has already cooperated with the augmentation proposals twice.
  2. To allow new connections to new incumbents as per their requirement.
  3. Set aside the demand of ₹ 7.94 crores towards modification of the scheme.

Before the CGRF, the respondent department made the following reply submissions.

1. The lay out plan approved by CE/Op Delhi vide his memo No. Ch-44/WO/E-33/FBD-1991-92 dated 21.06.1993.

2. The estimate was prepared by his office and O&M charges for 5 years and inspection charges got deposited vide receipt No. 290/00286 dated 27.03.1997 & 72/990280 dated 13.03.1997 respectively.
3. The maintenance of system has not been taken by DHBVN since so far.
4. The supply of electricity was connected from 66 KV Substation Sector-46, Faridabad and the supply is running smoothly. The petitioner had paid ₹ 75,00,000/- as share cost of augmentation of feeder on 30.07.2001.
5. The release of new connections in the area has been stopped due to non-compliance of the instructions contained in the XEN/Op. Division, Old Faridabad memo No. 31 dated 12.03.2011. Inadequacy in electric infrastructure of financial implications i.e. ₹ 7.94 Crores is outstanding against the Society. The low voltage and frequent breakdown are due to deficiency in system. The existing LD System provided by the Green Field Society is not able to take up the present load. As per norms of the Nigam, a fresh demand was raised to the society for upkeep the system. The system was got checked and lot of fluctuation in the voltage, low voltage at tail found. The earthing of T/Fs & poles are not as per the norms.
6. The demand of electricity is increasing day by day in the area, so the demand of ₹ 7.94 crores was raised to the Urban Improvement Co. (P) Ltd which they did not deposit.
7. The title of land is not given in the name of HVPN where the 66 KV Substations in the area is proposed. The electrical system of Green Field Colony cannot said to be taken over by the DHBVN. At present the load requirement are to be calculated as per the P&D instruction No. 08/2006. The distribution system and transmission is required to be augmented to the extent of 40 MVA capacities.

The appellant submitted the following rejoinder.

After going through the reply of the SDO, the petitioner protested against the demand for depositing ₹ 7.94 crores. The petitioner stated that right from the beginning, the Nigam had raised the demand in the name of infrastructure and up gradation of the system and they have deposited the same. Now the demand of Nigam again and again is wrong and unjustified, which may kindly be set-aside and the SDO be directed to release the connections and also the maintenance of the system/complaints may also be got carried out. They have further stated that about 3000 connections have already been released by the Nigam. But about 800 Nos. new houses which are under construction/completed are being denied connections with the reason that the petitioner had not completed infrastructure as per the agreement and an amount of ₹ 7.94 crores are required to be deposited by the petitioner. In such a hot summer season, nobody can live without the electricity. The demand of SDO as raised in his reply is not justified as the residents cannot cope with the demand of such a huge amount from time to time. The petitioner further stated that he may be given 4 days time to file a rejoinder on the reply furnished by the Nigam. His demand was accepted and he was advised to file a rejoinder within 4 days. The rejoinder filed on 13.07.2012 is re-iteration of the points raised by the petitioner in the original petition and taken on records.

The other stakeholders in the case i.e. plot holders in the colony also made submissions before the Forum on 10.07.2012 and insisted for release of electricity connections to the residents immediately pending decision on other issues which they say may take time as some title suits relating to the colony are in the civil courts.

The Nigam's main contentions in the case as per paper book are that the existing electrical system in the Green field Colony laid down by the developer have deficiencies hence not formally taken

Forum is of the considered opinion that the petitioner is yet to fully comply with the terms of the proper electrification of the colony and related guidelines of the licensee applicable to the said case for adequately, efficiently and safely cater to the power demands of the residents of the colony. The Forum, therefore, cannot provide relief sought by the petitioner with regards to the points raised in the petition. The petition is hereby dismissed without any cost on either side and case is closed from the Forum.

Hence, aggrieved with the above orders the instant appeal has been filed by the appellant with the prayer that respondent may be directed to discharge their duty of maintenance of electric system of the area and to ensure that the grievances of the consumer with respect to new connection are attended, to avoid the possibility of Law & Order problem.

**1. First hearing on 12.09.2012:**

2. Hearing on 24.09.2012	Postponed at the request of the respondent.
3. Hearing on 18.10.2012	

4. Hearing on 09.11.2012	Postponed.
5. Hearing on 12.12.2012	Postponed.

It was observed that negotiation were already going on between both the parties to have an amicable solution. Respondent placed on record SE/Op Circle Faridabad letter No. 0611/Green Filed dated 12.05.2011 addressed to his superiors, appellant letter 29.10.2012 addressed to SE Faridabad and Green Fields Dealer and Associates of Faridabad letter dated nil addressed to the appellant. In view of the Regulation 21 "Settlement of Complaint by agreement" of HERC regulation 02/2004 dated 12.04.2004 which provides for settlement of complaint by mutual agreement, both the parties were advised to take steps to settle the dispute mutually. Both the parties

agreed to the proposal of mutual agreement. Accordingly in line with proceedings held on 08.01.2013 a meeting was held between the parties on 17.01.2013 wherein the appellant agreed to deposit ₹ 2 Crore immediately and balance amount of ₹ 6 Crore to be paid subsequently in equal installment to be decided mutually. The appellant further assured to transfer the land for substations within one month with share cost of the substation also in one go. Both the parties agreed for taking over of the electric infrastructure by the respondent department as and when the same is completed.

7. Hearing on 27.02.2013 Postponed.

On 25.02.2013 respondent XEN had informed that the mutual agreement is in advance stage of approval by their competent authority.

**8. Hearing on 17.04.2013**

The Learned counsel for appellant informed that few plot holders have filed writ petition in the Hon'ble Punjab and Haryana High Court for releasing the electric connections. The draft mutual agreement between the parties is also under the consideration of the high court and shall be regulated thereof accordingly. It was further submitted by the learned counsel of the appellant that some other relating issues of share/plot holders are pending before the Hon'ble Delhi High Court.

Regulation 18 (3) (d) of HERC regulation No. 02/2004 dated 12.04.2004 reads as under:

*"No complaint to the Electricity Ombudsman shall lie unless:*

*(d) "The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a degree or award or a final order has already been passed by any competent Court."*

Regulations 19 (2) Rejection of the complaint, reads as under:

*"The electricity Ombudsman may reject a complaint at any stage, if after consideration of the complaint and evidence produced before him, the Electricity Ombudsman is of the opinion that the complicated nature of the complaint required consideration of elaborate documentary and oral evidence and the proceedings before the Electricity Ombudsman are not appropriate for adjudication of such complaint."*

From the forgoing it is observed that the dispute between the developer of the colony (appellant) and the DHBVNL (respondent department) for release of electric connection, taking over of electric system for operation and maintenance by the respondent department and demands raised by respondents is already inching towards mutual agreement, the modalities of which have already been worked out and draft prepared. Rather the appellant have already deposited substantial amount as part payment towards the demand raised by respondents. The mutual agreement, the main issue of development of electrical infrastructure, release of new electric connection and taking over of the system for operation and maintenance by the respondents is On Hearing in the two High Courts. As such there is no point to consider the case by the Electricity Ombudsman as the decision taken by superior courts shall be binding on both the parties.

In view of the above discussions and in terms of Regulation No 18 (3) (d) and Regulation No. 19 (2) of HERC Regulation No. 02/2004 dated 12.04.2004, the appeal is disposed off as being not maintainable before the Electricity Ombudsman.

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

Given under my hand on this day of 1<sup>st</sup> August, 2013.

Dated: 1<sup>st</sup> August, 2013

(A.K. Jain)  
Electricity Ombudsman