

**GUJARAT ELECTRICITY REGULATORY COMMISSION  
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE  
Polytechnic Compound, Barrack No.3, Ambawadi,  
Ahmedabad-380015**

**CASE NO.26/2019**

**Appellant:** M/s. Sajid Salt Works  
Plot No.11 & 12. Post: Devla-392040  
Ta. Jambusar. Dist.Bharuch.

**Represented by:** Shri S.R.Parmar, Authorized representative  
Shri Nikhil S. Pandya, Authorized representative

**V/s.**

**Respondent:** Executive Engineer,  
Dakshin Gujarat Vij Company Ltd.,  
Rural Division Office, Bharuch-392001.

**Represented by:** Shri U.I.Yadav, I/c.EE, DGVCL, Bharuch D.O.  
Shri M.D.Chaudhari, DE(Tech), DGVCL, Bharuch D.O.

**:::PROCEEDINGS:::**

- 1.0.** The Appellant had submitted representation aggrieving with the order No.4387 dated 20.03.2019 passed by the Consumer Grievances Redressal Forum, DGVCL, Surat, in case No.141/2018-19. The representation was registered at this office as Case No.26/2019. The hearing of this case was kept on 02.05.2019 and 28.05.2019.
- 2.0.** Appellant has represented the case as under.
  - 2.1.** Appellant has submitted facts as under.
    - (1) Appellant has registered his application for load enhancement from 75KW to 150 KVA for his salt works at Devla, vide SR No.5070154 and paid registration charges on 22.11.2018, but it was rejected by Respondent – Executive Engineer, Rural Division, Bharuch vide letter No.9749 dated 28.11.2018, stating illegal reason of pending arrears and informing to cancel the application and forfeiting registration charges.
    - (2) Appellant had again filed complaint to Respondent Executive Engineer, Bharuch as well as CEO&SE, Bharuch on 03.12.2018

for unlawfully cancelling his application for additional load by Executive Engineer, Rural Division, Bharuch, which is still not replied.

- (3) The grievance was filed before CGRF, Surat on 21.12.2018. It is submitted that the reason of arrears in ledger of Jambusar Rural Sub-division is created by Deputy Engineer, Jambusar Rural Sub-division deliberately by not implementing the order of Ombudsman in case No.12/2018 issued vide letter No.619 dated 26.03.2018.

As the order dated 26.03.2018 was not implemented for 30 days, Dy. Engineer, Jambusar was reminded by Ombudsman vide letter No.65 dated 14.05.2018 to implement the order, even though it was not implemented by Deputy Engineer, Jambusar.

Deputy Engineer, Jambusar replied on 07.06.2018 that guidance from higher authority is sought and on receipt of the same, Appellant will be informed.

This is clear proof that Respondent is not following provisions of Section 42(5) of Electricity Act,2003 and Notification No.11 of 2005 as per regulation of grievances redressal.

Respondent has thus violated Clause No. 3.42, 3.43 and 3.44.

- (4) As per Supply Code Regulation,2015, Clause No. 4.83, the application form for enhancement of load shall not be accepted if the consumer is in arrears. However, application form may be accepted if such payment of arrears has been stayed by a Court of law or Commission or an authority appointed by the Commission.

Application of Appellant for load enhancement was registered at Division Office and same was processed by Executive Engineer, Rural Division, Bharuch, but it was rejected by CEO&SE, Bharuch stating that there is arrears. Actually, on the date of cancellation of Appellant's application the order of Appeal No. 12/2018 was not stayed, but aggrieved by the decision in favour of Appellant, higher authority of Respondent illegally considered

it as arrears. This act of Respondent is to deliberately deprive Appellant from getting new connection indirectly taking revenge for complaining to Forum and Ombudsman. This is clear proven incidence of violation of regulation No.11 of 2005 and also Supply Code as well as Electricity Act.

- (5) During personal visit at Circle Office of Respondent, it was given to understand by Appellant that Respondent has approached Hon'ble High Court of Gujarat with application No. 29771/2018 which was presented on 29.09.2018 and as per status of 17.01.2019 it is still pending for admission. Thus, till 18.01.2019 (date of hearing by CGRF) the order of Ombudsman was not stayed and not litigated. Hence it cannot be termed as arrears or litigation amount till today. Therefore, Appellant should be granted extension of load immediately.
- (6) It is submitted that as per Clause 6.17 of Supply Code Regulation, Respondent has to issue disconnection notice as per Section 56 of Electricity Act,2003 to any consumer who defaults on payment of dues, after giving a notice period of 15 clear days to pay the dues. The notice can be embedded in the energy bill of next billing cycle. But Appellant has not received any such notice. This clearly shows that there are no arrears in case of appellant, then how application of Appellant is rejected stating arrears by higher authority and how the registration charges are forfeited?
- (7) Electricity Act, 2003, Clause 43, states as under.

**Section 43. (Duty to supply on request):** - (1) <sup>1</sup>[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission: Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

<sup>1</sup>[Explanation.- For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the

distribution licensee, along with documents showing payment of necessary charges and other compliances.]

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

(8) Also Clause No.4.95 and 4.96 of Supply Code 2015 states as under:

**Cl.4.95:** In case of HT, EHT and Demand Based LT connections, if the maximum demand was recorded to be in excess of contract demand by 5% or more for at least four times during last financial year, the licensee shall issue a 30-day notice to the consumer for submitting an application form for enhancement of load. If there is no response from the consumer by the end of the notice period, the licensee shall start the procedure for enhancing the consumer's contract demand to the average of four recordings of maximum demand shown by the consumer's MDI meter in the last financial year.

In such case, the consumer shall be liable to pay all applicable charges as per provisions of this Code for regularization of the enhanced demand. The enhanced demand will be considered as revised contract demand on receipt of such charges and all provisions of agreement shall be applicable to such consumers for revised contract demand.

In case of non-Demand Based LT connections, review of Contracted Load/ Sanctioned Load shall be carried out once in a financial year and if it is found that connected load on such type of connection is 25% or more than the Contracted Load/ Sanctioned Load in case of Residential Consumers and 10% or more than the Contracted Load/ Sanctioned Load in case of other categories of consumers, the licensee shall issue a 60-day notice to the consumer for submitting an application form for enhancement of load. If there is no response from the consumer by the end of the notice period, the licensee shall start the procedure for enhancing the consumer's Contracted Load/ Sanctioned Load to the load found at the time of inspection. In such case, the consumer shall be liable to pay all applicable charges as per provisions of this Code for regularization of the enhanced load. The enhanced load will be considered as revised Contracted Load/ Sanctioned Load on receipt of such charges and all provisions of agreement shall be applicable to such consumers for revised Contracted Load/ Sanctioned Load.

**Cl.4.96:**The licensee and applicant shall follow the procedure and timelines with respect to acceptance of application form, and site inspection in accordance with clauses 4.21- 4.32 and time line with respect to issuance of demand note for the estimated cost of works in accordance with the clause 4.82 of this Code. Further licensee shall follow the procedure laid down in clause 4.33 - 4.37 of this code in respect to details to be covered in demand note, payment of demand note etc. and enhanced supply shall be released in accordance with clause 4.85 of this Code.

2.2. Appellant has submitted arguments for availing additional load as under.

- (1) At the time of registering application on 22.11.2018 for load enhancement the order of Ombudsman about disputed bill was not stayed by Hon'ble High Court. It was stayed on 21.02.2019 as per SCA 2483/2019. Thus, according to the order dated 26.03.2018 of Ombudsman for Appellant's case No.12/2018, and also reminder letter dated 14.05.2018, Respondent was directed to revise the bill, but by non-implementing the order, Respondent has violated Regulation No.2/2011, because revised bill was not issued to Appellant up to 21.02.2019 and higher authorities of DGVCL had considered it as arrears. Thus, there was deliberate delay of 388 days in implementing the order dated 26.03.2018 of Ombudsman before it was stayed, hence application registered on 22.11.2018 of Appellant for additional load should be approved and additional load should be granted.
- (2) Respondent, DGVCL is habituated of not following orders of CGRF and Ombudsman. Order dated 06.01.2018 issued by Forum was to be followed within 30 days, but Respondent, DE, Jambusar Rural /sub-division has revised bill after 45 days i.e. on 15.02.2018 with intention that Appellant will be disqualified to apply to Ombudsman by not making 30% payment of the revised bill as per order of Forum. Thus, with no lacuna on Appellant's side all possible attempts were made for depriving Appellant from legal right. The latest example is of cancellation of application of Appellant of additional load without ascertaining authenticity and legality.
- (3) Application of Appellant for additional load was registered by Executive Engineer, Bharuch Rural Division and was processed for approval as Executive Engineer, Bharuch was very well aware of the case and the order for revising the bill was not stayed. Moreover, the order was submitted to higher authorities of DGVCL for guidance, but nothing was replied for more than eight

months by higher authorities of DGVCL. Hence, there was no reason to believe that the order was not to be implemented. If the order was to be implemented, then Appellant was to get refund from 30% amount paid by him. Hence, considering this fact and as per Supply Code, Application of Appellant was processed. Unfortunately, CEO&SE, Bharuch had mentioned the reason of arrears in e-urja process and application of Appellant was cancelled. This is against natural justice and with intention to harass/threaten Appellant to pay huge amount of illegal supplementary bill.

- (4) As per Clause No.4.83 of Supply Code Regulation, application form for enhancement of load shall not be accepted if the consumer is in arrears of payment of Licensee's dues. However, the application form may be accepted if such payment of arrears has been stayed by a court of law, or the Commission or an authority appointed by the Commission. In case of Appellant, the order was stayed on 21.02.2019, then the reason of having arrears as mentioned by higher authority in e-urja is baseless.
- (5) Written as well as oral statement of Appellant to CGRF that as per status of 17.01.2019 the application is in admission stage before Hon'ble High Court and not stayed as on 17.01.2019. But while issuing the order, CGRF has not considered this fact and stated the same reason that due to arrears, application of Appellant for additional load could not be granted. This is another injustice to Appellant by CGRF. Even CGRF has delayed in deciding the present subject matter.
- (6) Appellant is an industrial consumer and Respondent is not dealing as per Supply Code being monopoly of distribution licenses in area of Appellant. It is clear that officers of DGVCL are working at their own will, violating regulations and Supply Code. If justice given by competent authority (CGRF/ Ombudsman) is against decision of officers of DGVCL, then simply to delay the implementation they take the matter to High Court.

Looking to the above, Appellant has requested to grant additional load from 22.11.2018.

2.3. Vide letter dated 28.05.2019, Appellant has reiterated certain contentions as above and further submitted as under.

- (1) Application of Appellant was registered but registration number was not conveyed to him by Respondent. Hearing of grievances of application of Appellant was done on 18.01.2019 and this information was also conveyed to Appellant telephonically later on, after hearing, Appellant had received letter from CGRF, Surat.
- (2) Hearing of complaint of Appellant was fixed on 18.01.2019 and judgement was delivered to Appellant on 20.03.2019, after 62 days from the date of hearing, and 90 days from the date of receipt of application by CGRF, Surat.
- (3) Before filing the grievances to CGRF, Surat, Appellant had given request letter to EE, Bharuch Rural Division, narrating the matter wrongly judged by higher authority but same is not replied till date.
- (4) Thus on the date of registration, application of Appellant for load enhancement on 22.11.2018 the order of Ombudsman was not challenged, admitted or stayed and the so called arrears mentioned by higher authority for rejection of application of Appellant is bogus and afterthought. Bharuch Rural Division, who has not implemented Ombudsman order No.619 dated 26.03.2018 i.e. for eight long months even after repeated reminders of Appellant and also reminder from Ombudsman. If the order would have been implemented, then as per calculation of Appellant he was entitled to get refund from 30% amount paid by him. Hence there was no arrears at the time of registering Application of Appellant and hence application of Appellant was registered and processed by DGVCL from 22.11.2018 to 28.11.2018.
- (5) Also as per Clause No.4.95 of Supply Code Regulation Appellant is a demand base consumer and his maximum demand is more

than contract demand for three to four months in a year from last two years and accordingly Appellant is eligible for avail load enhancement and accordingly Appellant had applied but same was rejected illegally and Forum has not issued order according to Supply Code Regulation, 2015.

2.4. Appellant has prayed as under.

- (1) Additional load should be granted by reconsidering registered application dated 22.11.2018 of Appellant.
- (2) Notice dated 28.11.2018 for cancellation of application of Appellant should be withdrawn/set aside.
- (3) Appropriate action should be initiated against concerned for deliberately delaying to issue revised bill as per Ombudsman order.
- (4) Appellant should be compensated for not granting load enhancement as per terms and conditions of Supply Code and SOP.
- (5) Appellant should be compensated for production loss of Rs.10 lakhs and Rs. 50,000/- for legal clerical stationary and other expenses.

3.0. સુનવણી દરમ્યાન સામાવાળાએ નીચે મુજબ રજૂઆત કરી.

3.1. અરજદારે તેમના હાલના હળવા દબાણના વીજ જોડાણને ભારે દબાણના વીજ જોડાણમાં તબદીલ કરવા અરજ કરેલ, પરંતુ અરજદારના નાણાં બાકી પડતાં હોવાથી, અરજદારની અરજી સક્ષમ અધિકારી દ્વારા નકારતાં અરજદારે તે બાબતે ગ્રાહક ફરિયાદ નિવારણ ફોરમ સમક્ષ ફરિયાદ નં.૧૪૧/૨૦૧૮-૧૯ કરેલ, જે સંદર્ભે ફોરમ વીજ પુરવઠા અધિનિયમન ૨૦૧૫ ના નોટિફિકેશન નં.૪ ના ક્લોઝ નં.૪.૩૦ મુજબ ગ્રાહકનાં કોઈ પણ નાણાં બાકી પડતાં હોય તો ભરપાઈ ન થાય ત્યાં સુધી તેના વીજ પ્રસ્થાપનના ફેરફાર બાબતે કોઈ કાર્યવાહી હાથ ધરી શકાતી નથી તે રીતનો ચુકાદો આપેલ હોઈ, તેનાથી નારાજ થઈ અરજદારે વિદ્યુત લોકપાલ સમક્ષ અપીલ દાખલ કરેલ, જેનો કેસ નં.૨૬/૨૦૧૯ છે.

3.2. સદર અપીલ વિદ્યુત લોકપાલ સમક્ષ અરજદાર દ્વારા કરાઈ તે પહેલાં અરજદારને સામાવાળા દ્વારા રૂ.૨૦,૭૨,૯૬૭/- નું મીટર ધીમુ ફરતું હોવા અંગેનું વીજબિલ આપવામાં આવેલ, જે સંદર્ભે અરજદારે કેસ નં.૧૬૭/૨૦૧૭-૧૮ થી ગ્રાહક ફરિયાદ નિવારણ ફોરમ સમક્ષ કેસ નોંધાવેલ, જેના ચુકાદા રૂપે અરજદારને રૂ.૧૦,૭૯,૦૭૭.૧૮ નું સુધારેલ વીજબિલ આપવામાં આવેલ. સદર ચુકાદાની સામે અરજદારે વિદ્યુત લોકપાલ સમક્ષ રજૂઆત કરેલ, જેનો કેસ નં.૧૨/૨૦૧૮ હતો.

સદર કેસમાં વિદ્યુત લોકપાલ તરફથી હુકમ નં.૬૧૯ તા.૨૩.૦૩.૨૦૧૮ જે ચુકાદો આપવામાં આવેલ છે તે ચુકાદાની સામે સામાવાળા દ્વારા નામદાર ઉચ્ચ ન્યાયાલય, અમદાવાદ ખાતે SCA No.2483/2019 દાખલ કરેલ છે, જે અંગે નામદાર ઉચ્ચ ન્યાયાલય, અમદાવાદ દ્વારા વિદ્યુત લોકપાલના હુકમ નં.૬૧૯ તા.૨૩.૦૩.૨૦૧૮ સામે મનાઈ હુકમ ફરમાવેલ છે, જેથી વિદ્યુત લોકપાલના સદર હુકમ અંગે સામાવાળા દ્વારા કોઈ કાર્યવાહી હાથ ધરેલ નથી. સામાવાળાએ ઉચ્ચ ન્યાયાલયના સદર હુકમની નકલ રજૂ કરી.

- 3.3. તા.૨૮.૦૫.૨૦૧૯ ના રોજની સુનવણી દરમિયાન સામાવાળાને આપેલ સૂચના મુજબ સામાવાળાએ ledger copy of monthly billing demand registered in respect of existing LTMD connection of Appellant, having contracted demand of 75 KW for the billing month January,2018 to May,2019, તા.૩૦.૦૫.૨૦૧૯ ના પત્ર નં.૩૮૮૧ થી રજૂ કરેલ છે.

**:: ORDER ::**

- 4.0.** I have considered the contentions of the Appellant and the contentions of Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.
- 4.1. As per Para 2.1(1), Appellant has registered an application for extension of load from 75 KW to 150 KVA under HT supply category on 22.11.2018, which was rejected by Respondent on 28.11.2018 on the ground of pending dues. Appellant was informed for cancellation of application. Letter dated 03.12.2018 of Appellant regarding cancellation of additional load application was also not replied by Respondent.
- 4.2. In the subject matter of meter slowness in LT connection of Appellant, order issued by Ombudsman vide letter dated 26.03.2018 in case No.12/2018 was not implemented by Respondent within a period of one month as stipulated in Regulation No.2 of 2011, Clause No. 3.42.

**Clause 3.42:**

The Licensee shall duly comply with and implement the decision of the Ombudsman within 30 days of issue of the Order.

Appellant had also referred Clause 3.43, which states as under:

**Clause 3.43:**

Non-compliance of Ombudsman's Orders shall be in violation of these Regulations and shall be liable for appropriate action by the Commission under sections 142 and 146 read with section 149 of the Act.

- 4.3. It is required to refer the directives dated 26.03.2018 passed by Ombudsman in case No.12/2018. Relevant portion of order read as under:

“૪.૨. અરજદારની રજૂઆત અન્વયે સામાવાળા દ્વારા મીટરના MRI report ની નકલ અરજદારને તેઓની માગણી બાદ આપવામાં આવેલ છે. તા.૦૧.૧૨.૨૦૧૭ ના રોજ આપવામાં આવેલ પુરવણી વીજબિલની સાથે પુરવણી વીજબિલની ગણતરીની શીટ સામેલ કરેલ નથી. ફોરમના તા.૦૬.૦૧.૨૦૧૮ ના ફુકમ અન્વયે સામાવાળા દ્વારા તા.૧૫.૦૨.૨૦૧૮ ના રોજ પુરવણી વીજબિલ સુધારી અને તેનું ગણતરી પત્રક અરજદારને મોકલેલ છે, જેની સામે અરજદારે ૩૩% રકમ તા.૨૦.૦૨.૨૦૧૮ ના રોજ ભરપાઈ કરેલ તે અંગેના પુરાવા રજૂ કરેલ છે. ફોરમ દ્વારા અરજદારની ગેરહાજરીમાં એક તરફી ચુકાદો આપેલ છે. તે અંગે અરજદારને સુનવણી દરમ્યાન પૂછતાં અરજદારે વિદ્યુત લોકપાલ દ્વારા નિર્ણય કરવા વિનંતી કરી, જેથી સદર ફરિયાદની રજૂઆતને માન્ય રાખવામાં આવેલ.

૪.૩. અરજદારના સદર વીજજોડાણનું ચેકિંગ તા.૧૪.૧૧.૨૦૧૭ના રોજ ચેકિંગ શીટ No.2713 મુજબ કરવામાં આવેલ છે. ચેકિંગ શીટમાં કરવામાં આવેલ નોંધ મુજબ મીટરની error -46.41% (meter slowness) દર્શાવેલ છે.

મીટરના ડિસપ્લે પેરામીટર્સ મુજબ R-phase voltage 36.01 V દર્શાવેલ છે. (પેરા નં.૨.૩ માં દર્શાવ્યા મુજબ અરજદારે મીટરના MRI પેરામીટર્સ તથા મીટરના ડિસપ્લેના પેરામીટર્સના આધારે મીટરની slowness ૩૮% ગણેલ છે.

મીટરની ચકાસણી દરમ્યાન મીટરના પેરામીટર્સ નીચે મુજબના નોંધવામાં આવેલ છે.

$$P1 = \sqrt{3} = V_{avg} \cdot I_{avg} \cdot \cos\theta$$

$$P1 = 20.73$$

Accucheck meter માં નોંધાયેલ પેરમીટર્સ મુજબ :

$$P2 = \sqrt{3} = V_{avg} \cdot I_{avg} \cdot \cos\theta$$

$$P2 = 32:39$$

$$\% \text{ error} = 32.39 - 2073 \times 100 / 32.39 = 36\% \text{ slow.}$$

ઉપર્યુક્ત સ્થળ તપાસણી દરમ્યાન નોંધવામાં આવેલ પેરામીટર્સ તેમજ પેરા નં.૨.૩ માં MRI report ને ધ્યાને લઈ ગણવામાં આવેલ મીટર ની error મુજબ મીટર ૩૬% થી ૩૮% ની વચ્ચે ધીમું ફરતું હોવાનું માની શકાય. સ્થળ ચકાસણી દરમ્યાન એક્યુચેક મીટર દ્વારા નોંધવામાં આવેલ મીટરના પેરામીટર્સ મુજબ મીટરની error ૩૬% ફલિત થાય છે, જે માન્ય રાખી શકાય.

૪.૬. મીટરની એક્યુરેસીને ધ્યાને લેતાં ગુજરાત વિદ્યુત નિયંત્રક આયોગના સપ્લાય કોડ જાહેરનામા નં.૪/૨૦૧૫ ની કલમ ૬.૩૩ વંચાણે લઈ શકાય, જે નીચે મુજબ છે.

**કલમ ૬.૩૩:** “પરવાનેદાર, પરીક્ષણની તારીખથી બે કામકાજના દિવસમાં પહોંચ – પત્ર હેઠળ ગ્રાહકને પરીક્ષણ અહેવાલ રવાના કરવાનો રહેશે. ખામીપૂર્ણ મીટરના કેસમાં, અધિકતમ છ મહિનાની મુદત અથવા છેલ્લા પરીક્ષણની તારીખથી મુદત, બેમાંથી જે ઓછું હોય તે પ્રમાણેનો સુધારો પરીક્ષણ અહેવાલોના આધારે પછીના બિલમાં સરભર કરાશે.” અરજદારના સદર મીટરની ચકાસણી તા.૧૪.૧૧.૨૦૧૭ ના રોજ કરવામાં આવેલ છે તથા તા.૧૮.૧૧.૨૦૧૭ ના રોજ મીટર બદલવામાં આવેલ છે, તથા તા.૨૯.૧૧.૨૦૧૭ ના રોજ

મીટરનો MRI report મેળવવામાં આવેલ છે. તા. ૧૮.૧૧.૨૦૧૭ ના રોજ મીટરનું વાંચન ૧૭૨૦૯૧૬ KWh નોંધવામાં આવેલ છે. મીટરનું તા.૨૪.૦૫.૨૦૧૭ નું વાંચન ૧૬૫૪૦૮૬ નોંધાયેલ છે. આમ તા.૨૪.૦૫.૨૦૧૭ થી તા. ૧૮.૧૧.૨૦૧૭ ના સમયગાળાનો વીજ વપરાશ  $૧૭૨૦૯૧૬ - ૧૬૫૪૦૮૬ = ૬૬૬૩૦$  KWh unit, તેમજ મીટર ધીમુ ફરવાની ટકાવારી ૩૬% લેખે  $૬૬૬૩૦ \times ૩૬/૬૪ = ૩૭૫૯૨$  KWh unit નું વીજ વપરાશ મુજબ પુરવણી બિલ બનાવી શકાય.

ફોરમ દ્વારા અરજદાર seasonal consumer હોવાના કારણે વીજ જોડાણની ચકાસણી તા.૧૪.૧૧.૨૦૧૭ મુજબ મીટરને ધીમુ ફરવાની ૪૬.૮૧% પ્રમાણે ઓગષ્ટ,૨૦૧૭ થી ઓક્ટોબર,૨૦૧૭ seasonal period ના સમયગાળાને ગણતરીમાં લીધા વગર તેની અગાઉના ૬ માસનો સમયગાળો, એટલે કે ડિસેમ્બર,૨૦૧૬ થી મે,૨૦૧૭ ના સમયગાળા મુજબ વીજ વપરાશને ધ્યાને લઈ પુરવણી વીજબિલ બનાવવામાં આવેલ છે. એટલે કે seasonal period ના વીજ વપરાશને અધિકતમ ૬ માસની અવધિના સમયગાળામાં ગણતરીમાં લેવામાં આવેલ નથી, જે ઉપર્યુક્ત કલમ ૬.૩૩ સાથે સુસંગત ન હોઈ, સામાવાળા દ્વારા તા.૧૫.૦૨.૨૦૧૮ ના રોજ આપવામાં આવેલ વીજબિલ માન્ય રાખી ન શકાય. અરજદારે રજૂઆત અન્વયે કલમ ૬.૫૮ મુજબ વીજબિલ બનાવવાની અરજ કરેલ છે, પરંતુ અરજદારના સદર મીટરની ચકાસણી દરમિયાન તેની ગતિ મર્યાદામાં ઉદ્ભવેલ ક્ષતિના કારણોસર મીટરની એક્યુરેસી ટેસ્ટ મુજબ પ્રાપ્ત થયેલ મીટરની ક્ષતિને ધ્યાને લઈ Supply Code Regulation કલમ ૬.૩૩ મુજબ જ પુરવણી વીજબિલ બનાવી શકાય.

૪.૭. ઉપર્યુક્ત અવલોકનોને ધ્યાને લેતાં, તેમજ પેરા નં ૪.૬ ની વિગતને ધ્યાને લેતાં, અરજદારના મીટરની તા.૧૪.૧૧.૨૦૧૭ ની ચકાસણી અન્વયે પુરવણી વીજબિલ સુધારી અરજદારને દિન ૩૦ માં મોકલી આપવા આદેશ કરવામાં આવે છે. સદર હુકમની અમલવારી અંગેનો અહેવાલ દિન ૬૦ માં અત્રેની કચેરીને મોકલી આપવો.

૪.૮. આ રીતે ઉપર્યુક્ત પેરા નં. ૪.૭ મુજબ હુકમ કરવામાં આવે છે.”

In the above order, Ombudsman had asked status report for implementation of order in case No.12/2018 vide letter dated 14.05.2018, 11.06.2018, 20.10.2018 and 26.12.2018. In reply to that Respondent, vide letter dated 07.06.2018 intimated that necessary guideline is asked from higher authorities of Respondent against order of Ombudsman. Again Respondent had replied vide letter dated 10.01.2019 that SCA No.29770/2018 is filed before Hon'ble High Court against Ombudsman order.

From the above, it could be seen that the verdict of Ombudsman has not been complied by Respondent as per above provisions of Notification No.2 of 2011.

- 4.4. It is submitted that due to non-implementation of Ombudsman order in case No.12/2018 within a period of one month and not issuing revised supplementary bill for slowness of meter as per the directives given in the order of Ombudsman, Respondent had carry forwarded original supplementary bill till 22.11.2018 i.e. the date of application for enhancement of load. Initially application for enhancement of load has been registered and later on said application was rejected on the ground of arrears. It is said that on part of non-revision of supplementary bill as per directives of order issued by Ombudsman, it turns as arrears on account of Appellant. It is said that neither order of Ombudsman had been challenged before Hon'ble High Court nor supplementary bill was revised by Respondent within a period of 30 days after issue of order of Ombudsman.

From the above, it could be seen that Respondent had ignored the relevant provisions of Notification No.2 of 2011.

- 4.5. As per Para 2.3(2), Appellant has submitted that CGRF had made abnormal delay in redressal of grievance. Appellant had filed grievance before CGRF on 21.12.2018 and it was registered vide case No.14/2018-19 and subject matter was decided vide order dated 20.03.2019 conducting hearing on 18.01.2019.

Before CGRF, Respondent had submitted that appeal against Ombudsman order in case No.12/2018 has been filed vide SCA No.29770/2018 before Hon'ble High Court, Ahmedabad and on that ground CGRF has rejected the grievance of Appellant which is also a violation.

Further, it is stated that Hon'ble High Court, Ahmedabad had issued an order on 21.02.2019 and thereby stayed the order passed by Ombudsman. Hence in that view Appellant had been deprived by Respondent as well as by CGRF from getting additional load as per application dated 22.11.2018.

From the above fact, it is viewed that CGRF is independent body to decide the grievance as per provisions of Notification No.2 of 2011. In whole subject issue, as per Clause No.2.44 of Notification No.2 of 2011,

CGRF can decide the grievance generally within a period of 45 days, but in this case CGRF has taken more than stipulated time in deciding the present grievance of Appellant and rejected the grievance for providing additional load to Appellant on the ground of recovery of pending dues and for which Hon'ble High Court had not stayed on operation of order passed by Ombudsman till the date of CGRF order. Hon'ble High Court had stayed the order of Ombudsman on 21.02.2019, till then in present subject issue and Respondent had not acted as per directives of order of Ombudsman for more than six months and CGRF had also ignored on that part for implementing the directives of Ombudsman order as per provisions of Notification No.2 of 2011.

Thus, it is proved that by filing petition before Hon'ble High Court, Ahmedabad in the month of September,2018, Respondent had violated the provisions of Clause No.3.43 and 3.44 of Notification No.2 of 2011. It is also fact that due to non-implementation of Ombudsman order and non-revision of supplementary bill within a period of one month of issuance of Ombudsman order, arrears remained in account of Appellant and thereby Respondent had shown reason for non-granting of additional load application and rejected the application of Appellant dated 22.11.2018.

- 4.6. It is also noted that Respondent has challenged the Ombudsman order dated 26.03.2018 in case No.12/2018 before Hon'ble High Court in SCA No.29770/2018. Hon'ble High Court, in its order dated 21.02.2019 stayed the order of Ombudsman. Thus by that way direction of order of Ombudsman is stayed and thereby revision of supplementary bill is sub judice on which claim of Appellant for extension of load in his LT connection.
- 4.7. Looking to the present scenario, Hon'ble High Court has already taken cognizance of the matter. It would be not fair to have proceedings on the subject issue.
- 4.8. In above circumstances, prayers as sought by Appellant as per Para No.2.4(1) and (2) are not decided on the ground of recovery of dues amount which is sub judice before Hon'ble High Court.

In reference to prayer of Para No.2.4(3) to (6), liberty needs to be given to Appellant to approach before GERC/appropriate authorities, including CGRF and Ombudsman if required after the decision of SCA filed before Hon'ble High Court.

- 4.9. On above observations, representation is dismissed.
- 4.10. I order accordingly.
- 4.11. No order as to costs.
- 4.12. With this order, representation/Application stands disposed of.

(Dilip Raval)  
Electricity Ombudsman  
Gujarat State

Ahmedabad.  
Date:10.06.2019.