

ગુજરાત વિદ્યુત નિયંત્રક આયોગ
વિદ્યુત લોકપાલ, ગુજરાત રાજ્ય,
પોલીટેકનીક કમ્પાઉન્ડ, બેરેક નં.૩, આંબાવાડી,
અમદાવાદ-૩૮૦૦૧૫

સમક્ષ

કેસ નં.૦૫/૨૦૧૯

અરજદાર : શ્રી જનકસિંહ બળવંતસિંહ વાઘેલા
મુ.ચિત્રોડ-૩૬૨૧૩૫. તા. તલાલા. જી. ગીર સોમનાથ.

રજૂઆત કરનાર: શ્રી જનકસિંહ બળવંતસિંહ વાઘેલા

વિરૂધ્ધ

સામાવાળા : કાર્યપાલક ઈજનેર
પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ
વિભાગીય કચેરી, વેરાવળ-૩૬૨૨૬૫.

રજૂઆત કરનાર: શ્રી ડી.વી.લાખાણી, કાર્યપાલક ઈજનેર, પીજીવીસીએલ, વેરાવળ
:: રજૂઆત:::

- ૧.૦. અરજદારે, પશ્ચિમ ગુજરાત વીજ કંપની લિમિટેડ, રાજકોટના ગ્રાહક ફરિયાદ નિવારણ ફોરમની ફરિયાદ નં.૮૬/કવા.૦૩/૨૦૧૮-૧૯ અન્વયે અપાયેલ હુકમ ક્રમાંક ૨૨૫-૧ તા.૦૫.૦૧.૨૦૧૯ થી નારાજ થઈ અત્રે રજૂઆત કરેલ છે. જે રજૂઆતને આ કચેરીના કેસ રજીસ્ટરે દાખલ કરી કેસ નં.૦૫/૨૦૧૯ થી નોંધેલ છે. આ કેસની સુનવણી તા. ૧૪.૦૨.૨૦૧૯ ના રોજ રાખવામાં આવેલ.
- ૨.૦. સુનવણી દરમ્યાન અરજદારે નીચે મુજબ રજૂઆત કરી.
- ૨.૧. અરજદાર ગામ ચિત્રોડ ખાતે સ્વાગત ફાર્મમાં રહેણાંક હેતુનું વીજ જોડાણ, ગ્રાહક નં.૮૧૪૫૧/૧૦૧૧૩/૯ થી ધરાવે છે.
- ૨.૨. અરજદારના સદર સ્થળ પર તા.૨૬.૧૦.૨૦૧૮ ના રોજ સામાવાળા દ્વારા વીજ ચેકીંગ કરવામાં આવેલ, જેના અનુસંધાને અરજદારને કોઈપણ જાતના અધિનિયમ અન્વયેની કલમ લગાવ્યા વિનાનું રૂ.૧,૩૪,૨૩૫/- નું વીજબિલ તા.૦૧.૧૧.૨૦૧૮ ના રોજ આપવામાં આવે.
- ૨.૩. અરજદારે તા.૩૦.૧૧.૨૦૧૮ ના રોજ સામાવાળાને બિલ સંબંધિત અપીલ સાંભળવા અરજી કરેલ, પરંતુ અરજદારને તે સંદર્ભે કોઈપણ લેખિત પ્રત્યુત્તર આપવામાં આવેલ નહીં, તથા રજૂઆત સાંભળવા બોલાવેલ નહીં.

- અરજદાર દ્વારા તા.૦૬.૧૨.૨૦૧૮ ના રોજ ગ્રાહક ફરિયાદ નિવારણ ફોરમ, રાજકોટ ખાતે રજૂઆત કરવામાં આવેલ, જેનો હુકમ ફોરમ દ્વારા તા.૦૫.૦૧.૨૦૧૯ના રોજ કરવામાં આવેલ, જેમાં સદર કેસ કલમ ૧૨૬ હેઠળનો હોવાથી ફોરમના કાર્યક્ષેત્રમાં આવતો નથી તેમ જણાવેલ.
- ૨.૪. અરજદારના વીજ સ્થાપનનું ચેકીંગ તા.૨૬.૧૦.૨૦૧૮ના રોજ સામાવાળા દ્વારા હાથ ધરવામાં આવેલ, જેના સંદર્ભે એક વર્ષનું tariff change નું પુરવણી વીજબિલ આપવામાં આવેલ. સદર સ્થળ પર તા.૦૭.૦૬.૨૦૧૮ ના રોજ સામાવાળા વીજ કંપની, મામલતદારશ્રી, તલાલા, પ્રાંત અધિકારીશ્રી, વેરાવળ તથા ફોરેસ્ટ અધિકારીશ્રી, તલાલા દ્વારા સ્થળ તપાસ હાથ ધરવામાં આવેલ, જેમાં કોઈ ગેરરીતી જોવા મળેલ નહીં, આમ છતાં અરજદારને એક વર્ષનું પુરવણી વીજબિલ આપવામાં આવેલ, જે કાયદા અને નિયમ વિરુદ્ધનું છે.
- ૨.૫. અરજદાર દ્વારા પુરવણી વીજબિલની રકમના ૩૩% રકમ રૂ.૪૪,૩૦૦/- તા.૨૧.૦૧.૨૦૧૯ના રોજ પહોંચ નં.૧૭૬૯૦૯ થી ભરપાઈ કરવામાં આવેલ છે.
- ૨.૬. અરજદારના વીજસ્થાપન પર વીજ વપરાશ commercial હેતુસર થતો હોય તો સદર વીજ જોડાણને commercial કરી આપવા તથા પુરવણી વીજબિલ જે એક વર્ષ માટે આપવામાં આવેલ છે તેમાં ન્યાયિક ચુકાદો આપવા અરજ કરી.

3.0. Respondent has represented the case as under.

- 3.1. Appellant is having 10 KW three phase commercial connection, bearing consumer No.81451/10113/9 at village Chitrod under RGPR category, since 21.03.2014. The connection of Appellant was checked on 26.10.2018 and supplementary bill of Rs. 1,34,234.88 was issued for tariff change, under Section 126 of Electricity Act,2003.
- 3.2. As per checking dated 26.10.2018, it was found that commercial load of 34.87 KW was used from RGPR meter, hence supplementary bill as mentioned in Para No. 3.1 was issued. Site Rojkam was prepared by the team of Dy. Collector, Mamlatdar, RFO, Police staff and PGVCL staff in presence of Appellant.
- 3.3. As per tariff order issued by GERC stating that, if the part of the residential premises is used for non-residential (commercial) purposes by the consumers located within 'Gram Panchayat' as defined in Gujarat Panchayat Act, entire consumption will be charged under this tariff. The said premises is not within the Gram Panchayat area. It is outside gamtal and land is NA for residential purpose, as said by Appellant.

It is submitted that as per the tariff schedule No.5 "Except in cases where the supply is used for purposes for which a lower tariff is provided in the

tariff schedule, the power supplied to any consumer shall be utilized only for the purpose for which supply is taken and as provided for in the tariff". The above connection is released for residential purpose but was utilizing for commercial activities instead of residential purpose.

- 3.4. It is submitted that Appellant had challenged the said bill before CGRF. After hearing, CGRF has issued order vide letter No. PGVCL/CGRF/86/Q.03/18-19/225-1 on dt.05.01.2019 stated that supplementary bill issued under section 126 of Electricity Act 2003. As per GERC notification no.2/2011, Clause No. 2.30, Forum cannot entertain such type of cases.
- 3.5. On 26.10.2018, as per directives of Collector, Gir Somnath, the said premises was checked and Rojkam was prepared by the team of Dy. Collector, Mamlatdar, RFO, Police staff and PGVCL staff in presence of Appellant. As per the Rojkam said premises was utilizing for commercial purpose for the period of more than three years. Moreover, illegal additional construction was also found.
- 3.6. As there is no provision in the tariff and as said, Appellant was utilizing the premises outside the Gram Panchayat area purely for commercial activity, the supplementary bill so issued is in order. Earlier Appellant was intimated at the time of issue of supplementary bill and thereafter informed regarding to whom to be approached for such type of subject issue for redressal.
- 3.7. Respondent has submitted the details as under:
As per the directives issued by District Magistrate on the basis of PIL lodged in Hon'ble High Court, Ahmedabad, team was formed headed by SDM having Mamlatdar, RFO, Police Department and PGVCL as a member. Accordingly, various farm houses/hotels were checked during 06.06.18 to 08.06.18 and 26.10.18 to 28.10.18. During the course of checking, certain irregularities were observed and necessary checking sheet prepared. Moreover, some of the farm houses also checked by Vigilance Team on different date and supplementary bills are issued to concern defaulters as under:

Sr. No.	Type of irregularity	No. of connections checked during 26 th to 28 th Oct.2018	No. of connections checked during 29 th May to 15 th June,2018.
1	Tariff change-under Section 126	31	26
2	Load extension- under Sec.126	03	02
3	Theft bill under Sec.126	01	04
4	Theft bill issued under Sec.135	00	02
5	No. of irregularity found	11	02
6	Total amount of Suppl. Bill issued	Rs .9,13,618/-	Rs. 3486059.86

3.8. Appellant has further stated that supplementary bill is issued under Section 126 of Electricity Act, 2003 and Clause 7.41 of Supply Code Notification No.4 of 2015. Therefore, said issue is not in purview of Forum as well as Electricity Ombudsman.

::: 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. In the present representation, main two issues raised by Appellant are (1) to cancel the supplementary bill and/or (2) to give approval to file the case before relevant authority.
- 4.2. On going through the submission made by parties, Appellant is a consumer of residential category of Respondent, having connection No.81451/10113/9 with 10 KW load. The connection was released on 21.03.2014 at village Chitrod under NA land for residential purpose.
- 4.3. The above three phase connection was checked by Respondent on 26.10.2018 vide sheet No.9978 and it was found that electricity was utilized for commercial purpose from the said residential category connection. Respondent has noted that unauthorized use of energy by Appellant from said residential category connection.
- 4.4. On 01.11.2018 Respondent had issued supplementary bill under Section 126 of Electricity Act, 2003 for the amount of Rs.1,34,234.88 along with calculation sheet, with note that the amount of supplementary bill to be paid within seven days or to submit objection within seven days against the bill so issued.

- 4.5. To deal with main issue as narrated by Appellant herein above, it is required to read the provisions of CGRF & Ombudsman Regulations No.2 of 2011, Clause 3.17, which says as under:

Clause 3.17:

A Representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:

- i. It has been filed by the Complainant (aggrieved Consumer). For avoidance of doubt, a Licensee is not allowed to file a Representation before the Ombudsman against the order of the Forum.
- ii. The Complainant had, before making a Representation to the Ombudsman, approached the Forum constituted under sub-section (5) of section 42 of the Act for redressal of his/her Complaint/Grievance.
- iii. The Representation by the Complainant, in respect of the same Complaint/Grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has not been passed by Ombudsman, such court, tribunal, arbitrator or authority.
- iv. The Complainant is not satisfied with the redressal of his/her Complaint/ Grievance by the Forum or the Forum has rejected the Complaint/ Grievance or has not passed the order within the time limit specified or Distribution Licensee has not implemented Forum's order within specified time limit.
- v. The Complainant has filed the Representation before the Ombudsman within 30 days from the date of receipt of the order of the Forum or date of expiry of the period within which the Forum was required to issue the order, or date of expiry of the period within which Distribution Licensee has to implement Forum's order, whichever is applicable: Provided that the Ombudsman may entertain an appeal after the expiry of the said period of 30 days if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period.
- vi. The Representation does not fall under sections 126, 127, 135 to 139, 152 and 161 of the Act.
- vii. The Complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.
- viii. The Complainant has deposited one third amount in terms of Forum's order, if required, with the Licensee and submit proof of payment made.

From the above provisions, Clause 3.17(vi) does not permit CGRF as well as Ombudsman to deal with above issue as present grievance is related with Section 126 of Electricity Act,2003.

- 4.6. I further note the tariff rate and category under which the consumer is governed by the tariff schedules decided by Hon'ble GERC in its tariff order framed by the Commission. I note that the tariff schedules specified in the tariff order (1) dated 31.03.2018 in Petition No.1702/2018 (ii) dated 31.03.2017 in Petition No.1631/2017 (iii) dated 31.03.2016 in Petition No.1550/2017 provides that any consumer utilize the premises for commercial purpose, like the Appellant, is governed by commercial

category and accordingly he is liable to pay the commercial tariff. The aforesaid tariff orders which are statutorily in nature are not recognized or specified that the consumers who are utilizing premises for commercial purpose are liable to pay the commercial tariff.

- 4.7. On above observations, the representation filed by Appellant pertaining to Section 126 of Electricity Act,2003 not falls under the jurisdiction of Ombudsman to decide, hence it is dismissed without any direction.
- 4.8. Respondent is directed to guide the consumers in such type of grievances, which are related with Section 126 of Electricity Act, 2003 and competent authority, i.e. Electrical Inspector is empowered to deal with such type of issues as per provisions of Supply Code Regulations, 2015/ Electricity Act, 2003.
- 4.9. As per Para No. 2.3, Appellant had approached before Respondent on 30.11.2018 requesting to hear the Appellant in the subject issue of supplementary bill issued on 01.11.2018, but it was not replied by Respondent. Respondent had not filed their reply in the said aspect. From said note it is fact on record that Appellant has not been heard by Respondent in present issue at relevant point of time. Therefore, in this issue Respondent is directed to adhere to the contents of relevant provision as mentioned in Electricity Act,2003.
- 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: 18.02.2019.