BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
(*Under the Electricity Act, 2003*)
PUDUCHERRY
***

PRESENT:

THIRU T. GOPALAKRISHNAN, B.E.,
CHAIRMAN

THIRU A.S. JITENDRA RAO, B. Tech., M.B.A.,
LICENSEE MEMBER

THIRU R. KRISHNAMURTHY, B.Com., LLB., PGDFL.,
JERC NOMINATED MEMBER

FRIDAY, THE 7TH DAY OF MAY 2021

CONSUMER CASE No.17/2021

M. Jayakumar,
No.28,Massimaga Street,
VOC Nagar,
Muthialpet,
Puducherry-605003. .... Complainant

Vs.

1) The Executive Engineer-Urban(O&M),
Electricity Department,
Puducherry.

2) The Assistant Executive Engineer – Town-I,
Electricity Department,
Puducherry.

3) The Junior Accounts Officer (Revenue-I),
Electricity Department,
Puducherry.

4) The Junior Engineer, Town Central O&M,
Electricity Department,
Puducherry. .... Respondents

This case in C.C. No.17/2021 came up before this Forum for final hearing on 28/04/2021. After hearing both sides and having stood over till this date for consideration this Forum has delivered the following:

The case of the Complainant is as follows:

1. A Complaint has been received from M. Jayakumar on 08/03/2021. In the complaint, the Complainant had stated that, he had purchased a property at Muthumariamman Koil Street, Ward-C, Block No.9, Town Survey No.153 from P. Karunakaran & P. Muralidharan sons of V.S. Pandurangan by virtue of sale deed No.12360/2019 dated 08/07/2019. At that time P. Karunakaran & P. Muralidharan assured that there is no outstanding current consumption charges and to that effect they had furnished bill for the month of August 2019 dated 27/09/2019 for Rs784/-. Thereafter, bill for the month of September 2019 was received as DL and revealed an outstanding of Rs. 1260/- upto November 2019 and he has paid Rs.1,260/-. Then for the month of January 2020 an amount of Rs.1,650/- was also paid by him. Thereafter, no bill was received by him since the premises was in locked for long time. Subsequently, all of a sudden during the lock down period for the month of June 2020 current consumption charges bill was received for the locked premises for an amount of rs.1,17,715/- with a note as 'MS' in meter 2 installed in the premises. Immediately he had approached and stated that there is nothing as Meter 2 installed in the premises and there is a wrong in the bill. The Officials stated that there is some error and the same will be rectified in the next month and till then payment is not necessary. Further the Complainant had stated that in the month of July 2020 bill was received in negative (-) 1,20,206/- with some irregular calculations. Immediately he had approached the Department and they had stated that there is some computer error and it is not necessary to pay. Again in the month of September 2020, the amount was positive and revealed as 1,29,866/- as outstanding and again he had approached the office and the official promised to rectify in the next bill. Thereafter, the bill amount was printed in Negative for the month of January 2021 as Rs. (-) 1,29,048/- The month-wise details of current consumption charges bill from August 2019 to January 2021 are given below:

Month-wise details of current consumption charges bill

Sl. No.	Month	Meter 1	Meter 2	Previous Rs.	Current Rs.	Total Rs.
1.	Aug 19	30	-	547	237	784
2.	Sep19	30DL	-	934	-	1260
3.	Oct 19	30DL	-	1328	-	1328
4.	Dec 19	20	-	159	110	269
5.	Jun 20	100	MS 5588	117715	-	117715
6.	July 20	152	MS 5588	120206	-120206	-
7.	Aug 20	186	MS 5588	120340	-120340	-
8.	Sep 20	210	MS 5588	120488	622	129866
9.	Oct 20	221	MS 5588	122620	-122620	-
10.	Nov 20	222	MS 5588	124823	-124823	-
11.	Dec 20	245	MS 5588	126732	-126732	-
12.	Jan 21	284	MS 5588	129048	-129048	-

The details of amount paid and receipt are given below:

S.No.	Date	Amount	Receipt No.
1.	27/01/2020	Rs.1,260/-	RL19080033651
2.	05/03/2020	Rs.1,650/-	RL19090039387

The Complainant had stated that there seems to be a grave mistake and malpractice in the Department. He had also given application for name transfer from the previous owner of the property V.S. Pandurangan and the department officials did not process the application on account of not clearing the discrepancy in the bill, name transfer could not be adopted. The Complainant further stated that the reply from the Officials reveals that there had been malpractice by the previous owner along with the hand in glove of the Electricity Department officials. Further the Complainant stated that due to negligence on the part of the Department he had lost revenue from the property from the month of June 2020 to till date. The Department had also disconnected the service connection without any valid reason and illegally advising to avail temporary connection. The Complainant states that in spite of suffering from old age disorders, he had approached the Department Officials several times for the rectification of the bill, name transfer and meter change. But the officials have not taken minimum care to reply. Finally, the Complainant prays to order for change of default meter, rectify the readings, effect name transfer and to initiate legal action against the officials involved in malpractice and further order if any amount have to be paid before 08/07/2019, the same have to be ordered to be recovered from the previous vendors P. Karunakaran and P. Muralidaran sons of V.S. Pandurangan and further order compensation for the negligence in service and loss of rental income. Hence, the Complaint.

2. The complaint has been registered as C.C. No.17/2021 on 10/03/2021 and notices were sent to the Respondents on 10/03/2021 for giving reply by 19/03/2021. The Respondent No.3 prayed for additional time as staff have been drafted for election duty. The reply from the Respondents received on 20/04/2021 and 21/04/2021 and the same was communicated to the Complainant. The case was initially posted for hearing on 26/04/2021 and based on the request of the Complainant the hearing was postponed to 28/04/2021.

3. The Respondent No.3 Junior Accounts Officer (Revenue –I) in the Affidavit dated 17/03/2021 has stated that, the Complainant had paid current consumption charges bill for Rs.1,650/- for the month of January 2020 in respect of the policy No. 03-15-06-0762/A1 and no bill was received thereafter as the premises was under Door lock condition for long period. Subsequently due to lock down on account of COVID-19, a bill was issued to the Complainant for the month of June 2020. As the bill amount was abnormal, the Complainant has sought for revision of bills. In order to sort out the discrepancy of the above policy, additional particulars have to be collected and some of the staff have been deputed for election duty and the said case is kept pending and therefore, requested for additional time to furnish the particulars.

4. The Respondent No.2 Assistant Executive Engineer (Town-I)in his affidavit dated 19/04/2021 has stated that one commercial service connection bearing policy No.03-15-06-0762/A1 belongs to V.S. Pandurangam, No.98, Muthumariamman Koil Street, Puducherry. The above service was disconnected from February 2018 due to

non-payment of current consumption charges. As the Consumer has not got reconnection for long time, the Electricity Department has taken action against long disconnected (ODC) cases for cancellation, the above service was also cancelled under Revenue Recovery Act, with the Order of the Executive Engineer/Urban O&M vide Order No.120/ODC-21 dated 24/12/2018. The above ODC service connection could not be dismantled within the stipulated time due to door lock of the house for long time. Further, the policy holder of the ODC service has approached the Office on 19/06/2019 for reconnection of the ODC service. The consumer letter was forwarded to the Respondent No.3 along with field report to take further action on the ODC service. In the meantime, the existing ODC commercial service meter was replaced under 100% metering scheme with smart meter with zero initial reading by the private agency on 29/06/2019 and reconnected under smart meter scheme without intimation to the concerned field officer. The Meter Reader of the concerned area raised current consumption demand bill based on new meter fixed in the service and put minimum charges for DL from the month of July 2019 upto December 2019 as the house was made D.L. condition. On verification of the Computer statement furnished by the Assistant Engineer, Computer, it was noticed an arrears for the ODC service has been modified to Rs. 14,551/- by the Revenue Office on 28/06/2019 for the month of May 2019 and revised bill served to the Consumer. Whereas the Respondent No.3 has stated that the approval of the Executive Engineer(General), Assistant Engineer(Computer) through the Respondent No.1 has been obtained on 04/02/2020 to retrieve the date of ODC service from achieve. Further, no intimation was given by Respondent No.3 to the field officer on the retrieval of the ODC service so far.

5. The Respondent No.3 in the additional Affidavit dated 20/04/2021 has stated that the Complainant have purchased the property from P. Karunakaran and P. Muralidharan Sons of S. Pandurangan. The service stands in the name of

S. Pandurangan with Policy code No.03-15-06-0762/A1. He has further stated that at the time of purchase i.e., during the month of July 2019, there was no current consumption charges arrears due to the Electricity Department and to that effect the claim for the month of August 2019 was Rs.784. Subsequent months bills were served with DL average.

6. The Respondent No.3 further stated that the above policy was cancelled in December 2018 which pertain to the bill for the month of September 2018. As per the system data seen from the ledgers, the policy has been under cancelation as ODC since then upto the month of May 2019. During the month of June 2019, when all the meters in the area were changed into smart meters under Smart Grid Project, this meter under the above policy was also changed. The details of MFR in this regard is enclosed. Due to the above change, when the bill was served in July 2019, the arrears upto April 2019 was added as reported by Revenue wing.

Arrears upto 04/2019	Rs.14,551
BPSC	Rs. 150
CCC for 05/2019	Rs. 120
Total	Rs.14,881

7. Since this policy existed as a new consumer in the data base, the retrieval of policy from ODC resulted in the two billing data records in the data base and thus two arrears values for the same consumer. When the Computer centre removed the duplicate records from the data base, the original arrears under the above policy was retrieved and claimed in the bill for the month of February 2020 as arrears of Rs.1,16,647/- and carried over till date.

8. The above discrepancy is due to the rare phenomenon of having overwritten as new policy under the same policy code and retrieval of data on 03/02/2020 resulted in the pulling of data that was added at the tail end of the data base on the program

logic as informed by the Assistant Engineer, Computer and the actual arrears reflected in the bill for February 2020 served in April 2020.

9. The Respondent No.3 further stated that the arrears at the time of deleting the Policy under ODC i.e., during December 2018 (bill for the month of September 2018) was 1,11,727/- which is very well known to the policy holder at the time of transaction. It is very well known fact that the policy holder was having arrears at the time of selling the property and the service was disconnected due to non payment of arrears which the policy holder was aware of. It is the duty of the consumer to clear the arrears pertaining to the Department before effecting any name transfer.

10. Hearing was held on 28/04/2021 which was attended by both the parties. The Respondent was directed to produce the original letter given by the erstwhile owner of the premises, for retrieval on the status of long disconnected service.

11. The Complainant had filed an additional affidavit during the hearing stating that: he had made complaint before this Forum on 08/03/2021 to change the default meter, rectify the readings, transfer the name and initiate legal action against the officers involved in malpractice and further order if any amount have to be paid before 08/07/2019, the same have to be ordered and recovered from the previous vendors P. Karunakaran and P. Muralidharan Sons of S. Pandurangan and further order for compensation for the insufficiency and negligence in service and loss of rental income.

12. The Complainant further states that the Respondent No.1 & 4 and Respondent No.3 in their reply version have admitted the version of the Complainant whereas in order to overcome the illegal view they taken hyper technical terms according to his whims and fancies which cannot be accepted as a consumer as well as in laws.

13. The Complainant cannot be a scape goat for the mistakes rendered by the Respondents along with hand in glove with the previous vendor. It is universal law that while purchase of a property a well educated citizen, even an Electricity employee will check the latest Demand bill issued by the Electricity Department and confirm the outstanding and if there prevails no arrears the bonafide purchaser will pay the market rate of the property and register the conveyance deed. By the same general principle of law this Complainant also purchased the property on relying the demand bill issued by the Electricity Department, Puducherry pertaining to August 2019 month electricity consumption bill dated 27/09/2019 to a tune of Rs.784/- only. The Respondent No.1 & 4 in their para 4 of their reply stated that "*smart meter with '0' initial reading the private agency on 29/06/2019 reconnected under smart meter scheme without intimation to the concerned field officer*" if this version is true then it seems the Electricity Department have no control over the private agency and this Respondent No.1&4 without knowing their duties and responsibilities is throwing the ball on a private party who may be only an agency which is strongly condemnable. It was admitted by the Respondent No.1&4 that the charges were revised as 14,551/- on 28/06/2019 for the month of May 2019 that too without any proof or relevance. It was admitted by the Respondent No.1 & 4 that "*no intimation has been given by the Junior Accounts Officer-Revenue-I to the Field Officer regarding the retrieval of the above ODC service so far*" thus it clearly reveals that it purely fault of the Respondents and the Complainant is no way liable to pay for the mistake done by the Respondents. The Respondent No.3 also admitted that there is only arrears upto 04/2019 for Rs.14,551/- only and further they also admit that they are facing data base issue and it is a rare phenomenon of having overwritten as new policy which in no way connected to the Complainant since the Complainant is not entering data's to the Respondents system. The Respondent No.3 admitted that they are having relationship with the Policy holder that the outstanding was 1,11,727/- was

known to the policy holder and what stopped them to take action against for recovery from the policy holder before purchase of property by the Complainant. Still the Respondents have not revealed how they showed outstanding pertaining to the month of August 2019 bill dated 27/09/2019 to a tune of Rs. 784/- if there is actual outstanding which shows gross negligence and there is insufficiency in service by the Respondents.

14. The Complainant finally states that arrears if any have to be collected, it has to be collected from the previous vendors only and not from him since the Respondents had made several mistakes to safeguard the previous vendor monetarily and quashed the reliability of the demand bill of the Electricity Department. Therefore, he prays the Forum to order to change the default meter, rectify the readings, transfer the name, and initiate legal action against the officers involved in the malpractice and further order if any amount have to be paid before 08/07/2019, the same have to be ordered to be recovered from the previous vendors P. Karunakaran and P. Muralidharan Sons of S. Pandurangan and further order for compensation for insufficiency and negligence and loss of rental income and render justice.

15. Next hearing was posted on 30/04/2021. During the hearing held on 30/04/2021 both Respondent and Complainant were present. The Respondent produced a copy of the letter of the erstwhile owner of the premises and based on which retrieval of old disconnected service was done. In the letter given by the erstwhile owner, an undertaking was given to the effect that the entire amount pertaining to the current consumption bill was assured to be settled. During the hearing the Complainant was asked whether he has gone to the Department and applied for any no-dues certificate in writing for the old disconnected service. The Complainant stated that he has sent another person to know the above status of

arrears and had not applied in writing for name transfer. All information in this regard was collected by the Complainant only through third person.

<u>16. Observation:</u> i. The Occupier of the property has not applied for No-Dues Certificate from the Department and mainly relied on the oral assurance given by the erstwhile owner of the premises P. Karunakaran & P. Muralidharan sons of V.S. Pandurangan who has told that no arrears to be paid. Further he has sent a third person, an electrician to the Department to find out the reason for showing huge amount of outstanding arrears. As per Regulation 5.20 of the Supply Code Regulations 2018 states that:

"Where the applicant has purchased an existing property whose electricity connection has been disconnected, it shall be the applicant's duty to verify that the previous owner has paid all dues to the Licensee and obtained a "no-dues certificate" from him. In case where "no-dues certificate" has not been obtained by the previous owner before change in ownership of property, the new owner may approach the Licensee for such a certificate. The Licensee shall acknowledge receipt of such request and shall either intimate in writing the dues outstanding on the premises, if any, or issue a no-dues certificate within one month from the date of receipt of such application".

In line with the above, if the buyer had applied for no-dues certificate, the Department would have given the actual position which would have made him aware of the status of the current consumption outstanding amount, other claims such as Additional Security Deposit, and any pending compensation charges levied if any for any act of violation of Supply Code Regulations.

ii. The Complainant has also not applied for Name Transfer but only collected the information that without clearing the outstanding arrears amount the name transfer could not be processed.

iii. In respect of the Respondents, the Affidavit filed by them does not hold much water on the status of the long disconnected services. Action has been taken for sending proposal for Cancellation of services in 2018 under Revenue Recovery Act. But the Department had not followed up logically till the end even after two years and the intimation to Collectorate was kept idling. Had the Department initiated action under Revenue Recovery Act promptly, it could have been either collected the arrears or distraint proceedings initiated against the erstwhile owner by the Revenue Department. Further the service connection power supply was stated to be disconnected in February 2018. Even the old meter was not removed from the premises showing the negligent attitude of the Field Officer even after initiating cancellation under Revenue Recovery Act.

iv. The Department had arranged to fix the smart meter in the above said service by third party agency. Even at that time the Department officials or representative were not there to prevent energisation of new smart meter. The Field Officer failed to flag 'Red' tag on such ODC service. As such the cancelled service was energized with smart meter as a routine matter and the Field Officer was not aware of such irregularities.

(v) On fixing the meter a report was sent to the Revenue section and based on this duplicate policy code with same data base was created and new bill was being issued based on the MFR statement. Had the billing clerk noted the above discrepancies then he should have got instructions from billing superintendent or from the Junior Accounts Officer (Revenue-I). This has led to the non extracting of the old arrears for few months creating strong suspicious on the mind of the Complainant and after 4 months the same has been retrieved and based on the report the Assistant Engineer, Computer, both the data have been merged. The strong accusation of the Complainant on this issue that the premises owner was hand in glove with the billing official to conceal the original arrears for few months and retrieve in the subsequent months casting asperations on the Billing Clerk, which has to be probed.

ORDER

i. The Respondent No.1 is directed to initiate department enquiry on

a) the Field Staff who has failed in removing meter after sending proposal for cancellation under Revenue Recovery Act and on the staff who has energized smart meter in disconnected service without the knowledge of the Field Officer.

b) the Billing Clerk in respect of the billing inconsistency showing the uncollected arrears as (+)1,17,715 in June 2020 and as (-)1,20,206 in July 2020 the action of the Billing clerk should also be enquired so as to fix responsibility for such lacuna. Further creating of new bill with duplicate data base on a routine manner mainly on MFR statement for the month of May 2019 to December 2019 should be investigated in a time bound manner. Any other issues under ODC condition in smart metering project area which have been brought to service, as in this case, should be thoroughly checked as old arrears would have been moved to archive file.

ii. Since the Complainant has not taken action to cross check with the Department to obtain No Due Certificate and he being present occupier of the premises, he is directed to clear the arrears amount as per the provisions of the Supply Code. If the Complainant fails to clear the arrears within 30 days, the Department should initiate appropriate action to collect the arrears. The status report on the collection of arrears shall be filed before this Forum within 15 days of after that.

ii. Hence the Complaint is not allowed.

iii. The Complainant is at liberty to prefer an appeal against this Order before the Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd Floor, Plot No. 55-56, Pathkind Lab Building, Service Lane, Udyog Vihar, Phase IV, Sector -18 Gurugram, Haryana-122015 within 30 days from the date of this Order under intimation to this Forum and the Respondents.

iv. Non-compliance with the directions of Forum by the Licensee shall attract remedial action under Sections 142 and 146, of the Electricity Act 2003.

Dated at Puducherry on this the 7th day of May 2021.

Sd/-	**Sd/-**	**Sd/-**
(R. KRISHNAMURTHY) **JERC NOMINATED MEMBER**	**(A.S. JITENDRA RAO)** **LICENSEE MEMBER**	**(T. GOPALAKRISHNAN)** **CHAIRMAN**