



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal/067/POI/2021/ 827

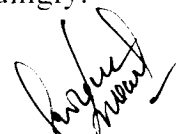
August 15, 2022

- | | |
|---|---|
| 1. Muhammad Akram,
S/o. Ghulam Muhammad,
R/o. Begum Kot, Sheikhpura Road,
Shahdara, Lahore | 2. Chief Executive Officer,
LESCO Ltd, 22-A,
Queens Road, Lahore |
| 3. Saeed Ahmed Bhatti,
Advocate High Court,
66-Khyber Block, Allama Iqbal Town,
Lahore | 4. Muhammad Younas Chaudhary,
Advocate High Court,
4-Begum Road, Lahore |
| 5. Sub Divisional Officer (Operation),
LESCO Ltd.
Jia Musa Sub Division,
Lahore | 6. POI/Electric Inspector,
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal Titled LESCO Vs. Muhammad Akram Against the Decision Dated 22.12.2020 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 10.08.2022, regarding the subject matter, for information and necessary action accordingly.

Encl: **As Above**


(Ikram Shakeel)
Deputy Director (M&E)/
Appellate Board

Forwarded for information please.

1. Additional Director (IT) for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No. 067/POI-2021

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Akram S/o Ghulam Muhammad
R/o Begum Kot, Sheikhpura Road, Shahdara, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 22.12.2020 PASSED BY THE PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION LAHORE**

For the Appellant:

Mr. Saeed Ahmed Bhatti Advocate

For the Respondent:

Mr. Muhammad Akram

DECISION

1. Briefly speaking, Mr. Muhammad Akram (hereinafter referred to as the “Respondent”) is an industrial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as the “Appellant”) bearing Ref No.24-11132-1536600-U with sanctioned load of 38 kW and the applicable tariff category is B-2(b). The Respondent filed a complaint before the Provincial Office of Inspection Lahore Region, Lahore (the “POI”) on 19.02.2020 and assailed the arrears of Rs.517,026/- pertaining to the bills for the period October 2017 to August 2019 charged by the Appellant. According to the decision of the POI, several opportunities for hearings i.e. 03.03.2020, 25.03.2020, 14.04.2020, 09.06.2020, 14.07.2020, 11.08.2020, 01.09.2020, 22.09.2020, 13.10.2020, 03.11.2020, 17.11.2020, 01.12.2020 and 22.12.2020 were provided to both parties but



National Electric Power Regulatory Authority

the Appellant failed to appear before the POI and to submit the reply/para-wise comments despite repeated notices. The matter was disposed of by the POI vide decision dated 22.12.2020 on ex-parte basis and the arrears of Rs.593,586/- pertaining to the excessive billing debited by the Appellant to the Respondent were declared null and void.

2. Subject appeal has been filed by the Appellant against the POI decision dated 22.12.2020 (hereinafter referred to as the “impugned decision”) before the NEPRA. In its appeal, the Appellant *inter alia* prayed for setting aside the impugned decision on the grounds that the Respondent challenged the arrears of Rs.517,026/- before the POI till 04.10.2019; that the court clerk of the Appellant appeared before the POI on 03.11.2020 and sought adjournment of the case in order to engage a counsel to defend the case; that the nonappearance of the Appellant on 17.11.2020 and subsequent dates of hearings was neither intentional nor deliberate; that the impugned decision is sketchy, patchy, and non-speaking; that the POI failed to give the reasons, justifications and pronounced an ex-parte decision; that the Respondent while approaching the POI concealed the facts and obtained the ex-parte decision, which has no value in the eye of the law; that the Appellant will suffer an irreparable loss in case the impugned decision was maintained.

3. Proceedings by the Appellate Board

- 3.1 Upon the filing of the instant appeal, a Notice dated 03.06.2021 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days. In response, the Respondent submitted his reply/para-wise comments to the

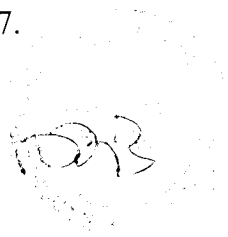


National Electric Power Regulatory Authority

appeal before the NEPRA on 10.08.2021, wherein the Respondent opposed the maintainability of the appeal on the following grounds that the appeal is hopeless time-barred being filed after the prescribed time; that the Appellant could not prove its case through solid evidence and the POI had passed a well-reasoned and speaking order; that the bill was excessively charged by the Appellant without any moral justification; that the Appellant did not appear before the POI intentionally despite their officials were well aware of the proceedings before the POI and that the appeal is liable to be dismissed with special cost. The Respondent relied upon the various judgments of the honorable courts reported in 2020 SCMR 2101, 2020 SCMR 2046, 2014 SCMR 1594, etc.

4. Hearing

4.1. Hearing in the matter was initially scheduled for 30.12.2021 at NEPRA Regional Office Lahore, which was attended by counsels for both parties. At the outset of the hearing, the learned counsel for the Respondent raised preliminary objection for limitation and argued that the appeal was filed by the Appellant before the NEPRA after a lapse of ninety-seven (97) days from the date of knowledge of the impugned decision. Learned counsel for the Respondent prayed for dismissal of the appeal being filed after the prescribed time limit of 30 days. In response to the objection of limitation, learned counsel for the Appellant replied that copy of the impugned decision dated 22.12.2020 was received by the Appellant on 01.04.2021, and the appeal was filed on 17.04.2021 within thirty (30) days of receipt of the impugned decision as per Section 38(3) of the NEPRA Act 1997.





National Electric Power Regulatory Authority

- 4.2. NEPRA vide interim order dated 15.01.2022 rejected the preliminary objection of learned counsel for the Respondent regarding limitation, the operative portion of which is reproduced below:

"In view of the above, the objection to the learned counsel for the Respondent regarding limitation is not valid, therefore dismissed. The appeal to come up for the hearing on merits on the next date to be intimated through notice."

- 4.3. The hearing of the appeal was again fixed for 10.03.2022 at NEPRA Regional Office Lahore, which was attended by both parties. The Respondent appearing in person informed that his counsel could not appear being busy before the Lahore High Court Lahore. He sought adjournment of the case, which was not opposed by the learned counsel for the Appellant.
- 4.4. The hearing was rescheduled for 16.06.2022 and notices dated 07.06.2022 were sent to both parties to attend the hearing. As per schedule, the hearing of the appeal was conducted at the NEPRA Regional Office, Lahore on 16.06.2022, in which learned counsel of the Appellant was present while the Respondent appeared in person. Learned counsel for the Appellant repeated the same contentions as given in memo of the appeal and *inter alia*, contended that neither any notice was served by the POI nor any intimation was given by the Respondent regarding the proceedings before the POI, hence the impugned decision could not be decided on ex-parte basis. Learned counsel for the Appellant prayed for setting aside the impugned decision and for remanding back the matter to POI for decision afresh after hearing both the parties. On the contrary, the Respondent argued that the Appellant was well aware of the



National Electric Power Regulatory Authority

proceedings before the POI but the Appellant did not bother to join the proceedings despite the repeated notices served by the said forum.

5. We have heard the arguments and examined the record placed before us. Our observations are as under:

5.1 During the hearing, the Appellant informed that no notices were served by the POI regarding the proceedings of the Respondent's complaint, and the impugned decision was rendered on ex-parte. The Appellant prayed for setting aside the impugned decision and the matter be remanded back to the POI for the decision on merits.

5.2 In order to ascertain the version of the Appellant, the record was perused, which revealed that several letters i.e. 20.02.2020, 04.03.2020, 30.04.2020, 13.08.2020, 15.10.2020 were sent by the POI to the Appellants to attend the hearing and to submit the reply against the complaint of the Respondent but neither authorized representative for the Appellant appeared nor the reply was filed by the Appellant. As per para 3 of the appeal, the court clerk attended the hearing on 03.11.2020 on behalf of the Appellant and sought an adjournment to engage counsel. This indicates that the Appellants were well aware of the proceedings before the POI. This is gross negligence on the part of the Appellant, which led to the determination of the POI on ex-parte basis. Hence the contention of the Appellant concerning the ex-parte decision is not valid after their admission with regard to the information of the proceedings before the POI. The Appellant even failed to produce the documentary evidence before us, which could show that





National Electric Power Regulatory Authority

any legal action was taken against the delinquent officials as per the departmental procedure. It is further noticed that the instant matter is under litigation before the different forums i.e. POI and the NEPRA since last more than three years, however, the Appellants did not submit any document i.e. billing statement, site inspection report, notices to the Respondent etc. before the POI and the NEPRA Appellate Board to justify the disputed arrears of Rs.517,026/- for the period October 2017 to August 2019. Under these circumstances, we are of the considered view that the arrears of Rs.517,026/- accumulated till October 2019 charged by the Appellant to the Respondent are illegal, unjustified and the same are liable to be withdrawn. The impugned decision is liable to be upheld.

6. Foregoing in view, the appeal is dismissed and consequently, the impugned decision is maintained.

Syed Zavar Haider
Member

Muhammad Irfan-ul-Haq
Member

Abid Hussain
Convener

Dated: 10/9/2022