



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

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No. NEPRA/Appeal/030/2024/ *186*

February 25, 2025

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|--|---|
| 1. Muhammad Ihsan-ul-Haq,
M/s. J&P Coasts (Pvt.) Ltd,
R/o. Mouza Bobtian, 10.5 KM,
Raiwind Road, Lahore | 2. Chief Executive Officer,
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Mian Muhammad Mudassar Bodla,
Advocate Supreme Court,
Syed Law Chambers,
4-Mozang Road, Lahore
Cell No. 0321-4386312,
0333-4362312 | 4. Rana Rehan,
Advocate High Court,
Muhammad Umer Riaz Law Associates,
6-Begum Road, Near Mazang Adda,
Opposite Punjab Bar Lawyers Hostel,
Lahore
Cell No. 0300-8425655 |
| 5. Assistant Manager (Operation),
LESCO Ltd,
Ali Raza Abad Sub Division,
Lahore
Cell No. 0320-0581226 | 6. POI/Electric Inspector,
Lahore Region-II,
Energy Department, Govt. of Punjab,
342-B, Near Allah Hoo Chowk,
Johar Town, Lahore
Phone No. 042-99333968 |

Subject: **Appeal No.030/2024 (LESCO Vs. Muhammad Ihsan-ul-Haq) Against the Decision Dated 21.02.2023 of the Provincial Office of Inspection to Government of the Punjab Lahore Region-II, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 25.02.2025 (04 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.030/POI-2024

Lahore Electric Supply Company Limited

.....Appellant

Versus

Muhammad Ihsan-ul-Haq, M/s. J&P Coasts (Pvt), Ltd,
R/o. Mouza Bobtian, 10.5 KM, Raiwind Road, Lahore

.....Respondent

APPEAL UNDER SECTION 38(3) OF THE REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Muhammad Mudassar Bodla Advocate

For the Respondent:

Mr. Sabir Hussain Chishti Advocate

DECISION

1. As per the facts of the case, Muhammad Ihsan-ul-Haq (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.24-11221-1011200 having sanctioned load of 405 kW and the applicable tariff category is B-2(b). The Respondent filed a complaint before the Provincial Office of Inspection, Lahore, Region-II, Lahore (hereinafter referred to as the "POI") on 25.11.2022 and challenged the bills for the period from February 2020 to September 2022 with the plea that excessive billing was done by the Appellant. Despite repeated notices, the Appellant did not join the proceedings before the POI, therefore the complaint of the Respondent was disposed of by the POI vide ex-parte decision dated 21.02.2023 with the direction to the Appellant to refund 707,040 excessive units in the future bills.
2. The Respondent approached the Appellant vide application dated 17.04.2023 to implement the decision dated 21.02.2023 of the POI (the "impugned decision"), however the same was not implemented. Being aggrieved, the Respondent filed W.P.No.77244/2023 before the Honorable Lahore High Court Lahore against the non-implementation of the impugned decision by the Appellant. During the proceedings before the honorable High Court, the Appellant filed subject appeal before NEPRA against the impugned decision. Subsequently,



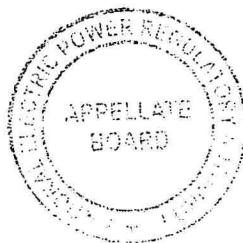


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the honorable Lahore High Court Lahore vide order dated 08.04.2024 disposed of the aforesaid writ petition for the time being, the operative portion of which is reproduced below:

"It has been informed by learned counsel for the respondents that an appeal has been filed to the Appellate Board NEPRA which is fixed for hearing. In the meantime, this petition is not required to be proceeded against the respondents and is disposed of for the time being."

3. Being dissatisfied, the Appellant has filed the instant appeal before NEPRA and assailed the decision dated 21.02.2023 of the POI (hereinafter referred to as the "impugned decision"). In its appeal, the Appellant opposed the maintainability of the impugned decision, *inter-alia*, on the following grounds that the impugned decision is against the law and facts of the case; that the POI has afforded relief beyond the prayer of the Respondent by crediting 707,040 units; that the POI without going into detail and resolving the factual controversies after checking the meter in question as well as the documents including the results of downloaded data of the meter; that the POI has failed to note that no excessive billing was done by the POI; that the POI has miserably failed and wrongly followed the directions contained in section 6 of the Electricity Act; that the POI has failed to call the relevant record while passing the impugned decision; and that the impugned decision is liable to be set aside.
4. Notice dated 25.03.2024 of the appeal was issued to the Respondent for filing reply/para-wise comment, which was filed on 08.04.2024. In the reply, the Respondent prayed for dismissal of the appeal *inter alia*, on the following grounds; that the appeal was filed after the lapse of thirteen months of the pronouncement of the impugned decision, which is time barred; that the Appellants were well aware of the proceedings before the POI; that the said forum delivered the impugned decision on 27.02.2023; that the Appellant was approached vide letter dated 17.04.2023 for the implementation of the impugned decision, however, the Appellant failed to implement the same; that an application was filed before the NEPRA on 24.07.2023 for implementation of the impugned decision, however no action was taken by the Appellant; that a writ petition No.77244/2023 was filed before the honorable Lahore High Court Lahore against the Appellant; that the Appellant sought time to seek instructions; that the whole scenario confirms that the Appellant were aware of the order and still opted not to file the appeal within time; that the Appellant failed to appear before the lower forum despite repeated notices, which resulted in ex-parte proceedings; that 707,040 units were clearly mentioned in the petition alongwith documentary evidences; that the bills were paid under protest in order to avoid disconnection of electricity of the premises.





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5. Hearing of the appeal was conducted at NEPRA Regional Office Lahore on 01.11.2024, wherein both parties were present. At the outset of the hearing, learned counsel for the Respondent raised the preliminary objection regarding limitation and averred that the appeal filed before the NEPRA is time-barred being filed after a lapse of thirteen months. Learned counsel for the Respondent prayed for dismissal of the appeal being filed after a lapse of 30 days as envisaged in Section 38(3) of the NEPRA Act. He stated that the Appellants were approached for the implementation of the impugned decision, however, the Appellant intentionally delayed in filing the appeal before the NEPRA to linger on the dispute. On the contrary, learned counsel for the Appellant rebutted the version of the Respondent and contended that the POI neither served notice to the Appellant nor intimated through registered post and proceeded ex-parte. Learned counsel for the Appellant further contended that the impugned decision for refund of 707,040 units is beyond the prayer of the Respondent and the same is liable to be set aside and the matter be remanded back to the said forum for redetermination afresh. As per learned counsel for the Appellant, the limitation does not run against the void order, as such the appeal be accepted and the matter be decided on merits instead of technical grounds.

6. Having heard the arguments and record perused. Following are our observations:

6.1 While addressing the point of limitation raised by the Respondent, it is observed that the Respondent raised the dispute of excessive billing for the period from February 2020 to September 2022 before the POI. The Appellant neither submitted reply to the complaint nor joined the proceedings before the POI despite several opportunities for hearings. The POI vide ex-parte decision dated 21.02.2023 directed the Appellant to refund 707,040 units in future bills. The impugned decision was sent by the lower forum to Deputy Manager Raiwind Division, Lahore of the Appellant vide letter dated 27.02.2023. The Respondent even approached the Appellant vide letter dated 17.04.2023 for the implementation of the impugned decision, which however was not implemented. Subsequently, the Respondent approached the honorable High Court vide writ petition No.77244/2023 for implementation of the impugned decision. In response, Mr. Yasin Badar counsel appeared on behalf of the Appellant on 18.12.2023 and sought time to obtain instructions in the matter, whereas the appeal was filed before NEPRA on 05.03.2024. As to why the Appellant obtained a copy of the impugned decision on 05.03.2024 after a lapse of 2.5 months from the date of hearing before the honorable High Court i.e. 18.12.2023. This whole scenario indicates that the Appellants were





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well aware of the pronouncement of the impugned decision and malafidely delayed in filing the appeal before the NEPRA.


6.2 As per sub-section (3) of Section 38 of the NEPRA Act 1997, any person aggrieved by the decision of the POI may prefer an appeal to NEPRA within thirty days of receipt of the order. Further, it is supplemented with Regulation 4 of the NEPRA (Procedure for Filing Appeals) Regulations, 2012 (the "Appeal Procedure Regulations") which also states that the Appeal is required to be filed within 30 days of the receipt of the impugned decision of POI by the Appellant, however, a margin of 7 days' is provided in case of submission through registered post, and 3 days in case of submission of appeal through courier is given in the Appeal Procedure Regulations. Reliance in this regard is placed on judgment dated 25.04.2016 of the honorable Lahore High Court Lahore rendered in the Writ Petition Nos.16172/15, 1637/15, 14895/15, 13470/15, 29335/15, 19916/15, 11039/15, 16677/15, 19763/15, 29623/15, 13908/15 18195/15, 19762/15, 19882/15, 812/15 & 5119/15, wherein it was held that the POI is bound to transmit copy of the decision to the parties and the period of limitation is to be counted from the date of receipt of the copy of such decision, the relevant excerpt of the said judgment is reproduced below for the sake of convenience:

"12. The above discussion leads me to the irresistible conclusion that the Provincial Office of Inspections/Electric Inspector is bound to transmit the copy of the order to the aggrieved person through the modes provided under Regulation 4 of Regulation 2012 and in this way, the period of limitation for filing an appeal in terms of subsection (3) of section 38 will be calculated from the date of receipt of order."

7. In view of the foregoing discussion, we opined that an inordinate delay in filing the appeal before the NEPRA despite acknowledgment of the impugned decision is not condonable as no sufficient reasons have been given by the Appellant to justify the delay in filing the appeal. As such the appeal filed before NEPRA is time-barred and dismissed.

On leave
Abid Hussain
Member/Advisor (CAD)


Naweed Illahi Sheikh
Convener/DG (CAD)


Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

Dated: 25-02-2025

