

**CONSUMER GRIEVANCE REDRESSAL FORUM- COMPANY LEVEL
NOIDA POWER COMPANY LIMITED, GREATER NOIDA
COMPLAINT NO. CF/04/2023**

IN THE MATTER OF:

Arihant Ambar Apartment Owners Association

... Complainant

Versus

M/s Citycon Buildwel Private Ltd. & Anr.

... Opposite Parties

Quorum:

1. SHRI SANJIV KUMAR GOEL , CHAIRMAN, CGRF
2. SHRI D.S. PANDEY, INDEPENDENT MEMBER, CGRF
3. SHRI DEVI RAM , FIRST NOMINATED MEMBER, CGRF
4. SHRI A.D PANDEY, SECOND NOMINATED MEMBER, CGRF
5. MR. OMVEER SINGH, PROSUMER, CGRF

Appearance:

1. Shri S.K. Pal, Advocate for Complainant
2. Shri Kaushal Jain for Opposite Party No.1
3. Shri Kapil Dev Sharma, Senior Manager (Legal) on behalf of Noida Power Company Limited

Order:

Date of Hearing: 13.01.2025

Date of Order: 26.03.2025

Order Pronounced By: Shri D.S. Pandey

1. The instant complaint was filed by the Arihant Ambar Apartment Owners Association (hereinafter referred to as "**the Complainant**") of Arihant Ambar Residential Society- Plot No.-GH-16C, SECTOR - 01, Greater Noida, Uttar Pradesh - 201308 (hereinafter referred to as "**the Society**"), under the UPERC (Consumer Grievance Redressal Forum) Regulations, 2022 (hereinafter referred to as "**Regulations, 2022**").



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2. The Complainant has filed the present Complaint against M/s Citycon Buildwel Private Limited (hereinafter referred to as the “**Opposite Party No.1**”) and Noida Power Company Limited (hereinafter referred to as the “**Opposite Party No.2**”) regarding misappropriation of funds by the Opposite Party No. 1 by way of overcharging since the year 2019, the starting date of recharging the prepaid meter after offering the possession of the flats to the members of the Complainant’s Association.
3. The Complainant has submitted that the Opposite Party No. 1 has been recovering self-determined fixed charges and not the actual fixed charges on the basis of the category of the flats from flat owners/members of the Complainant’s Association without any contribution of the common area, commercial facilities and facilities being run commercially viz. club, banquet hall, marketing office, etc.
4. The Complainant has contended that there is non-compliance of the guidelines for electricity charges & billing to end consumers issued by the Hon’ble Uttar Pradesh Electricity Regulatory Commission (hereinafter referred to as the “**Hon’ble State Commission**”) regarding billing to end consumers, which is communicated by the Opposite Party No. 2. The Complainant has further contended that the Opposite Party No. 1 has collected fixed charges for the load of 2253 kW, however has only procured 720 kW from the Opposite Party No. 2.
5. **The Complainant prayed for the following reliefs:**

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- A. *To direct the Licensee O.P. No. 2 to collect a monthly affidavit from O.P. No. 1 the Deemed Franchisee (DF) to state and submit that no amount over and above the NPCL bill and Tariff Order in force at that time has been collected from the allottees along with a monthly statement and hold them liable if the statement is found to be false or in deviation of the Tariff Order or any law time being in force besides filing the 6 monthly audit report and paste a copy of the same in the Notice Board; and*
- B. *To direct the Deemed Franchisee (DF) the OP No. 1 to refund Rs. 1,80,24,000 (-) the actual amount paid to NPCL as admitted by NPCL before this Ld. Forum (i.e the excess collection) along with 18% interest to the respective consumers*



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through the complainant association on all the above excess charges billed and collected by the franchisee O.P. No. 1 and its agent O.P. No. 2 from the consumers as mentioned in chart below to each complainant; and

- C. *To direct the O.P. No. 1 and 2 to ensure that full sanctioned load of 2253 kW sold to the allottees be immediately enhanced along with all allied infrastructure and to ensure that each apartment in Arihant Ambar is able to enjoy tripping free load as per prescribed "Load: Flat Size" ratio and/or the load allotted to each apartment as per Annexure-3 and also return the additional load cost with 18% interest if the sanctioned load is less than the load sold to allottees; and*
- D. *To direct the O.P. No. 1 to transfer the connection to the Complainant Association after enhancing the sanctioned load as per the "load: flat size" ratio at its own cost.*
- E. *Any other order(s) that this Hon'ble CGRF may deem fit.*

....."

6. The Opposite Party No. 1 filed its reply on 26.07.2024. The Opposite Party No. 1 has submitted that it obtained Single Point Electricity Connection for the whole complex and started paying electricity charges for the whole complex to the Opposite Party No. 2 from the month of April, 2019 by collecting electricity charges from the members of the Complainant's Association by way of coupon recharge.
7. The Opposite Party No. 1 has asserted that the allegation of misappropriation of funds is baseless as the Opposite Party No.1 had last paid the electricity expense in March, 2023 (and handed over the management of the Society to the Complainant on 01.04.2023) wherein it collected a sum of Rs.3,73,01,720/- towards electricity charges till 25.03.2023 and paid Rs. 3,87,40,913/- to the Opposite Party No. 2, which is more than the amount collected from the flat owners.
8. The Opposite Party No. 1 has contended that it has not only paid the entire amount collected from the flat owners/members of the Complainant's Association towards electricity consumption but also paid for the electricity charges for the electricity consumption incurred in the common area and facilities provided within the society which was also to be paid by the flat owners proportionately over and above the



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electricity charges payable by them. The Opposite Party No. 1 further highlighted that it has collected the amount in accordance with the demand made by the Opposite Party No. 2 and no additional amount has been collected beyond the stated demand. It also claimed entitlement to payment for the common area facilities and services provided up until the date of handover.

9. The Opposite Party No. 1 has asserted that the Complainant is trying to shift the blame of its mis-management onto the Opposite Party No.1 and should be directed to put strict proof for the payments made towards the consumption of electricity incurred from the common area facilities and services including electricity provided through DG. The Opposite Party No. 1 has further asserted that it is entitled to claim the electricity charges paid by it for the electricity consumption incurred in the common area and facilities provided within the society up to the date of handover to the Complainant. The Opposite Party No. 1 has also highlighted that collection was made as per the bills raised by the Opposite Party No. 2 and not a single penny was collected over and above the amount payable to NPCL.
10. The Opposite Party No. 2 has filed its Reply on 03.09.2024. The Opposite Party No. 2 submitted that the Opposite Party No. 1 is a registered consumer having a single point connection in the name of M/s Citycon Buildwel Private Limited, having present Contractual Load of 720 kW catering supply at the society under LMV-1 (Domestic) category. The Opposite Party No. 2 pointed out that the Opposite Party No. 1 has been declared deemed franchisee vide Tariff Orders issued from time to time by the Hon'ble State Commission. Thus, the Opposite Party No.1 is responsible to maintain the entire electrical infrastructure in its society in accordance with the provisions of the Uttar Pradesh Electricity Supply Code, 2005, (hereinafter referred as **"the Supply Code, 2005"**).
11. The Opposite Party No. 2 submitted that the Hon'ble State Commission issues various guidelines for "Electrical Supply and Billing to End Consumers" vide its Tariff Orders which are intimated by the Opposite Party No. 2 to its Single Point Bulk Load Consumers from time to time. The Opposite Party No. 2 also sent several letters dated 13.09.2019, 30.07.2022 and 31.10.2023 along with the relevant part of LMV-1 Tariff Category from time to time to the Opposite Party No. 1 regarding Guidelines for Electrical Supply and Billing to End Consumers. The Opposite Party



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No. 2 contended that the Complainant's prayer for directing it to collect monthly affidavits from the Opposite Party No. 1 is legally untenable and reflects an unwarranted attempt to involve the Opposite Party No. 2 in the present complaint. The Opposite Party No. 2 further emphasized upon the relevant provisions of the Tariff Orders issued by the Hon'ble State Commission, asserting that it was incumbent upon the Complainant to approach this Forum at the first instance upon becoming aware of the non-compliance by the Opposite Party No. 1.

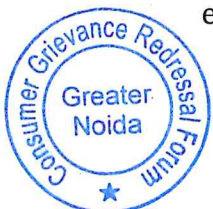
12. The Opposite Party No. 2 has contended that the afore-mentioned letters clearly stated that apart from the electricity charges, no other charges including but not limited to Common Area Maintenance (**CAM**) Charges, Water Charges, and Club Charges etc. shall be deducted from the pre-paid meters primarily installed for measuring supply of electricity. The Opposite Party No. 2 has further submitted that it has made every effort to communicate with the Opposite Party No. 1, the guidelines issued by the Hon'ble Commission. The Opposite Party No. 2 has sent several notices to the Opposite Party No. 1 concerning the non-implementation of these guidelines and the violation of Clause 4.46 (b) of the Supply Code, 2005.
13. The Opposite Party No. 2 has submitted that it has only been granted with limited powers i.e., disconnection of electricity supply on account of non-payment of electricity dues under Section 56 of The Electricity Act, 2003. Thus, the Act has in no way granted any other powers to the Opposite Party No. 2 to ensure such compliance and in fact, no powers of adjudication and subsequent punitive action against the contravening person/society/RWA. Pertinently, in the event the Opposite Party No. 2 exercises these powers under Section 56 of the Act, it will cause unnecessary hardship and inconvenience to other bona fide residents/end-consumers of the Society.
14. The Opposite Party No. 2 submitted that for these reasons and considering such frequent complaints of the end consumers across the state of U.P. the Hon'ble Commission has amended the clause 4.9 of the U.P. Electricity Supply Code, 2005 which mandates that all existing single point connections shall be converted to Multi-Point Connections. The Opposite Party No. 2 has sent letters and apprised the Opposite Party No. 1 regarding conversion from single point to multi-point



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connections and sought certain documents regarding the same, however, no information was provided.

15. The Opposite Party No. 2 has refuted the statement made by the Complainant regarding the refund of ₹1,80,24,000/-, the amount allegedly paid to the Opposite Party No. 2 as admitted before this Hon'ble Forum, along with 18% interest, which was collected by the Opposite Party No. 1 which is the agent of the Opposite Party No. 2 from the consumers, as the Opposite Party No. 2 averred that it has never made any such admission.
16. The Opposite Party No. 2 has contended that there has been no collection of monies made out by the Opposite Party No. 1 beyond the amount billed by it and the Opposite Party No. 2 bills every Single Point Bulk Consumer strictly in accordance with the provisions of the Supply Code, 2005 and the applicable Tariff Orders. The Opposite Party No. 2 has pointed out that if the Opposite Party No. 1 has been overcharging and violating the Tariff Orders of the Hon'ble State Commission since 2019-2020 till the date of handing over to the Complainant on 01.04.2023, the Complainant should have raised this query at the very beginning.
17. The Opposite Party No. 2 clarified that the Fixed Charge is billed according to the Contractual Load/ Recorded Demand (at present 720 kW) and the Opposite Party No. 2 has billed the Opposite Party No. 1 on the contractual load only which was released in phase wise manner. The Opposite Party No. 1 presented monthly bills issued by the Opposite Party No. 2 wherein the recorded demand is clearly depicted in every bill issued by it.
18. The Opposite Party No. 2, with respect to the '*Load: Flat Size*' issue, has stated that the Opposite Party No. 1 applied for a permanent new connection for 1880 kW, however, the Opposite Party No. 1 vide its letter dated 01.05.2018 had requested the Opposite Party No. 2 the initial load of 250 kW in first stage and the balance load would be taken in phases. Thereafter, the Opposite Party No. 1 vide its application dated 06.05.2022 requested the Opposite Party No. 2 for enhancement of load of 250 kW and then again, an additional 220 kW was sought vide load augmentation application dated 09.08.2022. Therefore, based upon the applications of the Opposite Party No. 1 which is the registered consumer, the Opposite Party No. 2 enhanced the Contractual Load of Opposite Party No. 1 to 720 kW.



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19. The Opposite Party No. 2 submitted that it releases load only upon the request of the consumer and as per the requirement of the consumer in accordance with the load calculation provided by them from time to time and in this case, also, the same was done. The Opposite Party No. 2 further submitted that in case recorded demand exceeds (it is regarding tripping issue) the contractual load, the Opposite Party No. 2 will enhance the load as per the provisions of the Supply Code, 2005, on the request of the registered consumer.
20. The Opposite Party No. 2 presented a chart comparing the Contractual Load and the Recorded Demand and submitted that the Contractual Load of the Society is meeting the demand of the end consumer. The Opposite Party No. 2 submitted that if the Complainant is willing to enhance its Contractual Load, the same can be done pursuant to an application from the Complainant and after fulfilling the provisions of Supply Code, 2005.
21. The Opposite Party No. 2, with respect to the transfer of the connection to the Complainant Association, has pointed out that since the Complainant has taken over the maintenance of the Society from 01.04.2023, therefore, it was imperative upon the Complainant to apply for transfer of connection/ name mutation at that point only and till date no such application has been made. The Opposite Party No. 2 further submitted that in order to transfer the connection in the name of the Complainant, it will have to apply for transfer of connection and mutation of names as per Clause 4.44 of the Supply Code, 2005.
22. The Complainant filed its rejoinder on 07.11.2024 separately for the Opposite Party No. 1 and the Opposite Party No. 2 separately. The Complainant has contended that the Opposite Party No. 1 in its reply never denied that the money has been collected against the load of 2253 kW and has also not explained why only 720 kW of load was taken when the Society was sanctioned 1880 kW of load. Furthermore, the Complainant also questioned the validity of the table of collection and expenditure submitted by the Opposite Party No. 1 as the same was not backed up by any audit report from Chartered Accountant (CA).
23. The Complainant has also contended that the Opposite Party No. 1 was collecting fixed charges at the rate of Rs.104.50 per kW of load assigned to each flat, amounting to more than Rs.3 lakhs per month from total 628 flats and shops



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charged for a load of 2253 kW whereas the actual sanctioned load presently is only 720 kW and an average demand charge of only Rs.60,000/- was being paid by the Opposite Party No. 1 to the Opposite Party No. 2. The Complainant has further contended that such collection of fixed charges is not tenable as per the law and the Opposite Party No. 1 can only recover the electricity charges including the Fixed Charges on actuals with addition up to maximum of 5%.

24. The Complainant has contended that despite the Opposite Party No. 2 sending letters and notices regarding electricity billing and supply guidelines, consequences of its violations, and making these available on the notice board of the society (notice board of the Society marked as CC at the bottom of the letters), such notifications were not put up by the Opposite Party No. 1 on the notice board of the society and the residents were in the dark.
25. The Complainant, during the course of hearing has further argued that the Opposite Party No. 1 had such electronic devices in place that whenever the load increased the power tripped and therefore, increase in the recorded demand was not registered. The Complainant also stated even if it is to be believed, for once; it can be seen from the Recorded Demand Sheet provided by the Opposite Party No. 2, that the load still remained within the limits of the released load even after the handover to the Complainant. Thus, there is no force in this argument and it is purely based on assumption.
26. This Forum has thoroughly heard all the parties involved in this matter and has made the following observations. In this case, the Forum finds it appropriate to carefully examine and discuss the relevant issues raised, addressing the reliefs sought by the Complainant in its complaint. Since prayers A and B are interconnected, they should be considered together to ensure a comprehensive resolution.

With regard to Prayer A & B:

27. After considering the complaint, replies, rejoinder, arguments advanced and the relevant provisions of the Supply Code, 2005, read with the applicable Tariff Orders, it is essential to address the reliefs sought in Prayers A and B by the Complainant jointly. The Complainant alleges that since the commencement of prepaid meter



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recharging in 2019, following the possession of flats offered to the owners, M/s Citycon Buildwel Private Limited (The Opposite Party No. 1) has been overcharging the residents until the handover of the Society to the Complainant Association on 01.04.2023. The Complainant contends that this overcharging amounted to over Rs. 3 Lakhs per month, covering a total of 628 flats and shops. The sanctioned load stands at 2253 kW, whereas the approved load is only 720 kW. Furthermore, the Complainant asserts that Opposite Party No. 1 has paid an average sum of Rs. 60,000/- to the Opposite Party No. 2 and a calculation sheet has been submitted to support these allegations. As per the attached sheet the Opposite Party No. 1 has collected a sum of Rs 3,73,01,720/- towards electricity charges and has made a payment of sum of Rs. 3,87,40,913/- to the Opposite No. 2.

28. The Opposite Party No. 2 has conveyed to the Opposite Party No. 1 the necessary guidelines issued by the Hon'ble State Commission from time to time, ensuring compliance with the directives of the Tariff Orders for the benefit of the consumers.
29. The Complainant contends that the Opposite Party No. 1 has been recovering self-determined fixed charges rather than the actual fixed charges applicable based on the category of the flat. These charges were collected solely from the flat owners/members of the Complainant Association without consideration for common areas, commercial facilities, or facilities being run commercially, such as the club, banquet hall, and marketing office. In response, Opposite Party No. 1 has submitted a chart of electrical expenses from April 2019 to March 2023, comprising of three sheets.
30. This Forum is of the considered view that such disputes ought to have been resolved at the time of handing over the maintenance functions from the Opposite Party No. 1 to the Complainant Association. Both the Complainant and the Opposite Party No. 1 are in possession of the actual data concerning flat-wise occupancy and payment status in the society, which is a crucial factor in determining the issue of fixed charges levied upon flat owners and payments made to Opposite Party No. 2.
31. This Forum further observes that disputes of this nature cannot be adjudicated solely on the basis of un-substantiated averments presented in a tabular format without corroborative evidence. It is incumbent upon the Complainant to furnish supporting documents, including electricity bills, records of payments made to the



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Opposite Party No. 1 and periodic details of occupancy within the society, to substantiate the claims made. Mere submission of a single electricity bill, in the absence of comprehensive documentary evidence, is insufficient to establish the case.

32. This Forum further opines that in cases where a deemed franchisee fails to comply with the guidelines regarding the provision of audited accounts as prescribed in the Tariff Orders, it is incumbent upon the consumers/residents to immediately (at the first instance) approach and seek redressal from the Consumer Grievance Redressal Forum (CGRF) of the local area. The relevant provision from the Tariff Orders is stipulated as follows:

*"The deemed franchisee shall arrange to get its account(s) audited by a Chartered Accountant mandatorily. The audited accounts will be made available to all the consumers of the deemed franchisee within 3 months of the closure of that financial year. **If he fails to do so, then the consumers may approach the Consumer Grievance Redressal Forum (CGRF) having jurisdiction over their local area for the redressal of their grievances.**"*

33. In the present case the AOA approached the CGRF after taking over the functions of the society. Furthermore, the Hon'ble State Commission, after seeing an increase in non-compliance of the above direction by the deemed franchisees, has stipulated the following in the Tariff Order for FY 2024-25:

"For the Licensee to be able to monitor such compliance, the Licensee under whose area the deemed franchisee falls shall develop an online system where the deemed franchisee shall be required to upload the reports provided in a) and b) above and same shall be available to all concerned. The system should become fully operational within six months from the date of issuance of this Order.

In case, the deemed franchisee fails to upload any of the reports on online portal as above within the prescribed period, it will be treated as a default and a penalty shall be applicable as shown below:

Occurrence of Default	Penalty
1 st Default	5,000/-



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2 nd Default	10,000/-
3 rd Default	15,000/-

The penalty shall be payable to the Licensee and the same shall be treated as Non-Tariff income of the Licensee.

In case of three defaults within a two-year period from the occurrence of first default, including the first default, after the passage of this Order, it will be presumed that the developer/RWA is not willing to comply with the directions of the Commission. The facility of the single point connection in this eventuality will be withdrawn and the Licensee shall mandatorily convert it to multiple point connection. All the conditions as per the 13th Amendment of UP Electricity Supply Code and Orders of the Commission applicable in this regard, shall be applicable."

34. Based upon the above discussion, this Forum holds that Opposite Party No. 1 should have operated the Single Point Connection on a no-profit, no-loss basis, in accordance with the true intent of the Supply Code and the applicable Tariff Orders issued from time to time. **Therefore, the Opposite Party No. 1 is directed to submit audited CA reports in compliance with the relevant Tariff Orders, along with a separate statement detailing the fixed charges collected from residents for the financial years 2022-2023, 2021-2022, and 2020-2021. Additionally, the Opposite Party No. 2 is instructed to provide details of the fixed charges paid by the Opposite Party No. 1 for the aforementioned financial years.**

With regard to Prayer C:

35. This Forum has gone through the relevant paragraphs related to this prayer. Upon reviewing the relevant paragraphs related to this prayer, it is evident from the chart annexed by the Opposite Party No. 2 that the Complainant was not aware of the sanctioned load for the entire Society. It is noted that the sanctioned load for the Society, as approved by the Opposite Party No. 2 is 1880 kW. The Opposite Party No. 1, considering the occupancy within the Society, requested the release of the sanctioned load in a phased manner. This is further substantiated by the Recorded





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Demand Sheet provided by the Opposite Party No. 2, which confirms that the Society's load has never exceeded 965 kW (even after handing over to the Complainant) and remains within the released load limits. The general consensus among the members is that releasing the full sanctioned load is unnecessary if there is no actual demand. In case the consumer wants to enhance the load beyond the sanctioned load of 1880 kW, it can do so by applying for enhancement of load as per the provisions of the Supply Code, 2005.

In light of the above, this prayer is dismissed.

With regard to Prayer D:

36. This prayer pertains to the transfer of the electricity connection to the Complainant Association. The Complainant ought to have applied for the transfer of connection and mutation of names at the time of taking over the maintenance of the society. As a registered Association of Apartment Owners (AoA) under the relevant provisions, it was the duty of the Complainant to initiate the process of name mutation in its favor upon the handover of maintenance from the Opposite Party No. 1.

During the hearing, the Complainant raised concerns regarding the security deposit in the event of a transfer of connection and mutation of names. In response, the Opposite Party No. 2 clarified that the total sanctioned load for the society is 1880 kW and that Opposite Party No. 1 had deposited a sum of Rs. 17,84,303/- at the time of sanctioning the electricity connection. This security deposit is deemed sufficient for the sanctioned load of 1880 kW.

37. The Complainant shall apply for the transfer of the electricity connection in its name, subject to the fulfillment of the requisite formalities as per the provisions of the Supply Code, 2005 and submission of a No Objection Certificate (NOC) from Opposite Party No. 1. The Opposite Party No.1 has already submitted to this Forum they have no objection in case connection is transferred to the Complainant.

38. Further, the Hon'ble Commission, in order to permanently resolve these issues, has issued 13th Amendment to the U.P. Electricity Supply Code, 2005 for conversion from Single Point Connection to Multi-Point Connections. The Complainant and the Opposite Party No. 2 are hereby directed to co-ordinate with each other for conversion process as per the 13th Amendment of Supply Code, 2005. The



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Complainant shall extend its full cooperation to Opposite Party No. 2 and provide list of flat owners with their respective mobile numbers and email ids.

Therefore, in the light of the above observations, the Complaint is disposed of. No order as to the cost. Both the parties should be informed accordingly. Proceedings closed.

The Complainant, if aggrieved, by non-redressal of its grievance by the Forum may make a representation/appeal against this order, before the Hon'ble Electricity Ombudsman, Vidyut Niyamak Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow-226010 within one month from the date of receipt of this order.

Date: 26.03.2025

Place: Greater Noida


मध्यम
उपभोक्ता व्याघा निवारण फोरम
कम्पनी स्तर, ग्रेटर नोएडा

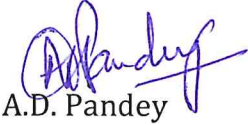
Sanjiv Kumar Goel

(Chairman)



D.S. Pandey

(Independent Member)



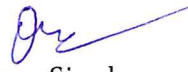
A.D. Pandey

(Second Nominated Member)



Devi Ram

(First Nominated Member)



Omveer Singh

(Prosumer)

