

## ORDER

### Representation of Shri Syed Mohd. Haseeb for extension on the post of Chairman, CGRF Lucknow

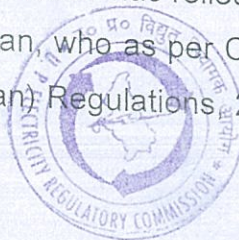
Shri Syed Mohd. Haseeb was appointed Chairman, CGRF Lucknow on 27 March 2018 for a period of 3 years. He joined the above post on 4<sup>th</sup> April 2018 accordingly, his tenure is coming to an end on 3<sup>rd</sup> April 2021. He submitted a representation dated 14<sup>th</sup> October 2020 for extension of his service as Chairman CGRF for a second term. The Representationist has relied upon the amended provisions of Clause 3.2 of UPERC (CGRF and Electricity Ombudsman) Regulations, 2007, which now reads as, "**Provided that keeping in view his conduct and performances at the present post, the Commission may consider for extension of his services for a period of a term, subject to the maximum age for occupying the post remains 65 years. Provided further that at least 6 months period is left for his second term**".

The Representationist also filed a writ petition WP No. 8364 (MB)/2021; Syed Mohd. Haseeb v. State of U.P. Through Principal Secy. Energy and Ors. before the Hon'ble High Court, Lucknow Bench. Hon'ble High Court disposed of the writ petition vide its order dated 23.03.2021, in terms whereof, a direction has been issued to the Commission to consider the case of the Petitioner, seeking extension of his services for another term strictly in accordance with the law applicable to the issue.

The Commission considered the Representation of Syed. Mohd. Haseeb, Chairman CGRF, Lucknow, while carefully examining the relevant documents and the law applicable to the issue and comes to the following conclusion: -

- (i) The foremost consideration for the Commission to consider the extension of services of the Representationist for a second term (subject to the maximum age of 65 years), is the conduct and performance of the Representationist on the Post held by him. On the threshold of the aforesaid consideration itself, the Commission finds the Representationist unfit to be considered for extension of his services for a second term on the post of chairman, CGRF, Lucknow, and is accordingly not inclined to grant him extension.

While coming to the said conclusion, the Commission has relied upon the Confidential Report/ Feedback of the Electricity Ombudsman, who as per Clause 10,11 and 12 of the UPERC (CGRF and Electricity Ombudsman) Regulations, 2007, has been placed

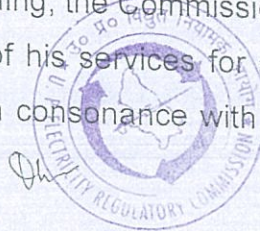




in a position of superintendence over the working and affairs of the CGRF [Refer to Clause 10.1(ii), 11(i) (a)(b), 11 (ii), 12.1 (i), 8.1, and 7.6] of the UPERC (CGRF and Electricity Ombudsman) Regulations, 2007. The Commission has further relied upon and considered the Periodical Reports and feedbacks provided to it under Clause 15.0 of the UPERC (CGRF and Electricity Ombudsman) Regulations, 2007.

Lastly, the Commission has in view of its duty under Clause 3.2 (vii) and Clause 3.3 (i) of the UPERC (CGRF and Electricity Ombudsman) Regulations, 2007, has duly scrutinized the quality of the work performed by the Representationist while carrying on his duties as the Chairman CGRF, Lucknow. Based on the confidential report of Electricity Ombudsman clearly indicating that Shri Haseeb has gone beyond his jurisdiction on numerous occasions, wherein his orders have been stayed by the Hon'ble High Court as he willfully and wantonly encroached upon matters related to Section 126 & 135 of Electricity Act 2003, wherein he has no mandated space to step in. Further, the Commission is also receipt of complaints wherein he entertained freelance complaint, which was not a consumer within the meaning of Regulation 2.1 (f) of UPERC (CGRF and Electricity Ombudsman) Regulations, 2007 thus, could not have been a complainant within the meaning of Regulation 2.1 (d) of aforesaid regulation. Chairman Lucknow CGRF was also advised orally on 26<sup>th</sup> November 2020 to proceed in such matters with abundant caution. There has been instance where Chairman, CGRF registered a new case/complaint in the same matter in which the appeal was pending before the Electricity Ombudsman and passed an order for an interim relief. In this matter, a notice dated 18.08.2020 was also issued by Electricity Ombudsman to the Chairperson of CGRF Lucknow under regulation no. 10.1 (ii) of the UP Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2007. Chairman Lucknow Forum, in his reply dated 20<sup>th</sup> August 2020 accepted the mistake and had stated that the error had been rectified and the interim order, passed in favor of complainant dated 9<sup>th</sup> January 2020, was taken back. Accordingly, it is clear that Representationist CGRF, Chairman has often ventured outside his mandated jurisdiction and has committed legal inconsistencies purportedly on extraneous considerations. Thus, the Commission is satisfied that the extension as sought by the Representationist is not desirable.

- (ii) That independent of the aforesaid finding, the Commission also finds that the prayer of the Representationist for extension of his services for a second term on the post of Chairman, CGRF,, Lucknow is not in consonance with the spirit of Clause 15 of the





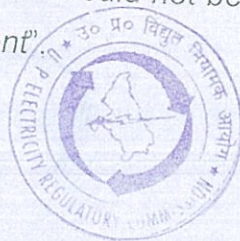
Electricity (Rights of Consumers) Rules, 2020, notified by the Central Government while exercising its powers under Section 176 (1) and Sub Section (2) (z) of the Electricity Act, 2003, wherein it has been provided that the CGRF's established by the Distribution Licensee's under Section 42(5) of the Electricity Act, 2003, shall be headed by an officer of appropriate seniority and shall be created to cater the needs of sub-division, division, circle, zone, company level of the licensee rather than the existing structure of CGRF at Commissionerate level. The relevant portion of Clause 15 of the Electricity (Rights of Consumers) Rules, 2020 is reproduced below –

*"15 (1) – The distribution license shall establish Consumer Grievance Redressal Forum (CGRF) under sub-section (5) of section 42 of the Act at different levels to cater the needs of the sub-division, division, circle, zone, company level. The forum shall be headed by an officer of the licensee of appropriate seniority. The forum shall be consist of officers of the licensee and have not more than four members as consumer and prosumer representatives. The Appropriate Commission shall nominate one independent member who is familiar with the consumer affairs. The forum may be assigned different types of grievances depending on the nature of the grievance and the level at which it can be resolved.*

*Provided that the manner of appointment and the qualification and experience of the persons to be appointed as member of the forum and the procedure of dealing with the grievances of the consumers by the forum and other similar matters would be as per the guidelines specified by the State Commission."*

The mandate of these Electricity (Rights of Consumers) Rules, 2020 and the fact that they statutorily supersede the UPERC (CGRF and Electricity Ombudsman) Regulations, 2007, has already been clarified in the legal opinion rendered by the Ld. Advocate General of the State of Uttar Pradesh. Ld. Advocate General has expressly opined that "Since Electricity (Rights of Consumers) Rules, 2020 have been framed by the Government of India, therefore, in view of constitutional provisions, the said Rules will prevail over the aforementioned Regulations of 2007, therefore Consumer Grievance Redressal Forums will have to be constituted as per Rule 15 of the Rules of 2020 read with Section 42 (5) of the Electricity Act 2003 .....I am of the opinion that provisions of Regulations 2007, which are inconsistent with the Rules of 2020 framed by the Central Government, will not continue to exist, however, the action taken and appointments made under Regulations, 2007 would not be affected by promulgation of Rules of 2020 by the Central Government"

*Sh-*



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Further, the supremacy of the Electricity (Rights of Consumers) Rules, 2020 of the Central Government vis-a-vis the existing Regulations of 2007, can also be concluded from a plain reading of Section 181(1) of the Electricity Act, 2003.

- (iii) That it is also to state that the Commission has already received a letter from Managing Director, UPPCL dated 26<sup>th</sup> March 2021 wherein it has been stated that all State-owned distribution companies are intending to create CGRF at sub-divisional, divisional, circle, zonal level to be headed by officers of the licensee in accordance with rule 15 of Electricity (Rights of Consumers) Rules, 2020. The letter also states that at company level the CGRF will be headed by a Chief Engineer nominated by Managing Director. In this reference, UPPCL has requested the Commission to expressly issue a guideline providing the manner of appointment and the qualification and experience of the persons to be appointed as member of the forum and the procedure of dealing with the grievances of the consumers by the Forum. In this context, the Commission has already started the work of preparing the guidelines in form of regulations for the above purpose.
- (iv) That it also requires mention that regulation 3.3 (vii) of UPERC (CGRF and Electricity Ombudsman) Regulations, 2007 expressly provides a concept of 'Link Officer' for the vacant post of Chairperson or Technical Member in a Forum so that there is no vacancy at any post and the functioning of CGRF is not affected adversely because of superannuation, death, resignation or removal of any Member, be it judicial or technical.

That in view of the foregoing observations and conclusions, the Commission hereby rejects the Representation of Shri. Syed Mohd. Haseeb, Chairman CGRF, Lucknow, seeking extension of his services for a second term considering all above aspects including the conduct and performance of Shri Syed Mohd. Haseeb, which has been underlined in para (i) of this order for disposal of his representation.

(Vinod Kumar Srivastava)  
Member

(Kaushal Kishor Sharma)  
Member

(Raj Pratap Singh)  
Chairman

Place: Lucknow  
Dated: 05-04-2021






I agree that Shri Syed Mohd. Haseeb should not be given extension of his services as Chairman of CGRF, Lucknow as per reasons noted in the para-1 of the order, but I do not agree with the reasons mentioned in para-2 of the order.

There is no impediment in giving extension to such member whoses tenures come to an end before new Central Government Rule 2020 are implemented. Particularly, when 10 of the 20 CGRFs will be vacant within the span of one month or two.

With the limited dissent as noted above, the order passed by Chairman and Member, UPERC is given consent to.



  
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Member (Law)



